Carolyn G. Goodman, Mayor (At-Large)
Stavros S. Anthony, Mayor Pro Tem (Ward 4)
Brian Knudsen (Ward 1)
Victoria Seaman (Ward 2)
Olivia Diaz (Ward 3)
Cedric Crear (Ward 5)
Michele Fiore (Ward 6)

City Manager Jorge Cervantes
City Attorney Bryan K. Scott
City Clerk LuAnn D. Holmes

City Council Agenda

Council Chambers · 495 South Main Street · Phone 702-229-6011
City of Las Vegas Internet Address: www.lasvegasnevada.gov

Facilities are provided throughout City Hall for convenience of persons with disabilities. For meetings held in the Council Chambers, sound equipment is available for persons with hearing impairments. Reasonable efforts will be made to assist and accommodate persons with disabilities or impairments. If you need an accommodation to attend and participate in this meeting, please call the City Clerk's office at 702-229-6311 and advise of your need at least 48 hours in advance of the meeting. Dial 7-1-1 for Relay Nevada.

December 2, 2020
9:00 AM
A lunch break may be taken at the discretion of the Mayor.

Should you choose to attend in person, a medical screening will be administered before you can enter the building. Alternatively, any and all persons are encouraged to send comments and written objections electronically prior to the meeting via e-mail to meetingcomments@lasvegasnevada.gov, by mailing to the City Clerk, 2nd Floor, City Hall, 495 South Main Street, Las Vegas, Nevada, 89101 or fax to (702) 382-4803. E-mails must contain the meeting name, date and item number in the subject. E-mails received up to an hour before the meeting will be considered public record, read during the meeting where appropriate and will be included in the backup. A time limit may be imposed on the e-mails read for the record.

Online comments can also be submitted via the City's website at www.lasvegasnevada.gov/councilcomment during the City Council meeting. All comments received during the meeting will be considered public record, read where appropriate and included in the backup. Comments received on a Public Hearing item after action has been taken will not be read but will be included in the backup. A time limit may be imposed on the comments read for the record.

Items listed on the agenda may be taken out of the order presented; two or more agenda items for consideration may be combined; and any item on the agenda may be removed or related discussion may be delayed at any time. Backup material for this agenda may be obtained from LuAnn D. Holmes, City Clerk, at the City Clerk's Office at 495 South Main Street, 2nd Floor or on the City's webpage at www.lasvegasnevada.gov.

The Mayor and City Council welcome your attendance, public comment related to the items on the agenda and citizen participation on items under the jurisdiction of the City Council at this meeting. If you wish to speak, we respectfully ask you to complete and submit a speaker card to the City Clerk. Cards are available online, in the Clerk's Office or at the front of the Chambers as you enter.

These proceedings are being video recorded as well as presented live on KCLV, Cable Channel 2, and are Closed Captioned for our hearing impaired viewers. Please note customers of CenturyLink and Cox

Communications can view this program in High Definition on Channel 1002 and in Standard Definition on Channel 2. You can also watch this meeting live on Apple TV, Roku and Amazon Fire TV on the Go-Vegas app. The City Council Meeting, as well as all other KCLV programming, can be viewed on the internet at www.kclv.tv/live. The proceedings will be rebroadcast on KCLV Channel 2 and the web the Wednesday of the meeting at 8:00 PM, and also on Friday at 4:00 AM, Saturday at 7:00 PM, Sunday at 7:00 AM and the following Monday at 5:00 PM.

Note: Cellular phones are to be turned off during the Council Meeting.

CEREMONIAL MATTERS

1. Call to Order
2. Announcement Regarding: Compliance with Open Meeting Law
3. Invocation - Pastor Khosrow “Koz” Alighchi, Evangelical Friends Church
4. Pledge of Allegiance

BUSINESS ITEMS - 9 A.M. SESSION

PUBLIC COMMENT

5. Public comment during this portion of the Agenda must be limited to matters on the Agenda for action. If you wish to be heard, come to the podium and give your name for the record. The amount of discussion, as well as the amount of time any single speaker is allowed, may be limited.

BUSINESS ITEMS - 9 A.M. Session

6. For Possible Action - Any items from the 9 a.m. session that the Council, staff and/or the applicant wish to be stricken, tabled, withdrawn or held in abeyance to a future meeting may be brought forward and acted upon at this time.
7. For possible action to approve the Final Minutes by reference of the November 4, 2020 Regular City Council Meeting

CONSENT AGENDA

Matters listed on the Consent Agenda are considered to be routine and have been recommended for approval by the Submitting Departments. All items on the Consent Agenda may be approved in a single motion. However, if a Council Member so requests, any consent item may be moved to the discussion portion of the agenda and other action, including postponement or denial of the item, may take place.

ADMINISTRATIVE - CONSENT

8. For possible action to approve an Interlocal Agreement between Clark County and the City of Las Vegas (Sub-recipient) for a grant award from Federal Fiscal Year 2021 Hazardous Materials Emergency Preparedness (HMEP) Mid Cycle Grant (CFDA #20.703) passed through from the Nevada State Emergency Response Commission (SERC) and Clark County for the receipt of funds in the amount of $18,214 for the Department of Fire and Rescue to conduct training for hazardous materials technicians in Southern Nevada - All Wards

CITY ATTORNEY - CONSENT

9. For possible action to approve a business impact statement regarding a proposed ordinance to update various provisions of LVMC Chapter 6.08 regarding the operational and franchise requirements for ambulance services, including the addition of provisions to permit the City Council to select one or more contract ambulance service providers through a competitive or other process. (This item is related to Bill No. 2020-40, which is located later on this agenda under New Bills)

FINANCE - PURCHASING AND CONTRACTS - CONSENT

10. For possible action to approve award of Contract No. 200231-PH, Annual Requirements Contract for Security

Guard Services - Las Vegas Municipal Court - Award recommended to: UNIVERSAL PROTECTION SERVICE LLC DBA ALLIED UNIVERSAL SECURITY SERVICES (Not-to-Exceed $500,000 Annually/Total Contract Amount Not-to-Exceed $3,000,000 - General Fund)

11. For possible action to approve award of Contract No. 210097-JH, Construction Manager as Agent Contract for Sewer Rehab Group J, located within Bradley Road, Jones Boulevard, Torrey Pines Drive, Rio Vista Street, Elkhorn Road, Ann Road, and Craig Road - Department of Public Works - Award recommended to: 4LEAF CONSULTING LLC ($410,000 - Sanitation Enterprise Fund) - Wards 4 and 6 (Anthony and Fiore)

12. For possible action to approve award of Contract No. 210100-JL, Prime Design Services Contract for Northwest Regional Park - Phase I, located at the northwest corner of Log Cabin Way and El Capitan Way - Department of Public Works - Award recommended to: LGA ARCHITECTS DBA LGA ($438,100 - Parks & Leisure Activity Capital Projects Fund) - Ward 6 (Fiore)

13. For possible action to approve award of Mutual Use Contract No. 210082-JL, Cisco Systems Equipment and Services - Department of Information Technologies - Award recommended to: CISCO SYSTEMS, INC. (Not-to-Exceed $2,000,000 Annually/Total Contract Amount Not-to-Exceed $12,000,000 - Various Funds)

PLANNING - BUSINESS LICENSING - CONSENT

14. For possible action to approve an Adult-Use Cannabis Distributor License for SERENITY WELLNESS PRODUCTS, LLC dba SERENITY WELLNESS PRODUCTS, LLC at 203 East Mayflower Avenue - North Las Vegas, Nevada

15. For possible action to approve a Liquor Manufacturer License for LOST SPIRITS DISTILLERY, INC. dba LOST SPIRITS DISTILLERY at 3202 West Desert Inn Road - Ward 1 (Knudsen)

16. For possible action to approve an Ancillary Craft Distillery License for LOST SPIRITS DISTILLERY, INC. dba LOST SPIRITS DISTILLERY at 3202 West Desert Inn Road - Ward 1 (Knudsen)

17. For possible action to approve a Temporary Tavern License for a Change of Ownership FROM: GRANITE GAMING GROUP I, LLC TO: MAKE IT HAPPEN HOSPITALITY, LLC dba BARRY'S DOWNTOWN PRIME at 8 Fremont Street - Ward 5 (Crear)

18. For possible action to approve a Temporary Tavern License for a Change of Ownership FROM: GRANITE GAMING GROUP II, LLC TO: VICTORY BURGER & WINGS COMPANY, LLC dba VICTORY BURGER & WINGS at 8 Fremont Street [Christopher Constentine Sotiropoulos, Managing Member] - Ward 5 (Crear)

19. For possible action to approve a Temporary Restaurant with Alcohol License for a Change of Ownership FROM: APPLE NEVADA, LLC TO: LAS VEGAS 3684, INC. dba IHOP at 1809 South Las Vegas Boulevard - Ward 3 (Diaz)

20. For possible action to approve an Alcoholic Beverage Caterer License for GET COZY OF LAS VEGAS, LLC dba BUBBLE AND BREWS VEGAS at 4255 Dean Martin Drive - Clark County, Nevada

21. For possible action to approve a Temporary Alcoholic Beverage Caterer License for MIXXIEMIXOLOGIST, LLC dba MIXXIEMIXOLOGIST at 915 Alper Center Drive, Suite #18108 [Jahlisa Nyiel-Hazel Williams, Managing Member] - Henderson, Nevada

22. For possible action to approve a Temporary Beer/Wine/Cooler On-Sale License for SE MITTEN GROUP, LLC dba SAGINAW'S DELICATESSEN at 8 Fremont Street - Ward 5 (Crear)

23. For possible action to approve a Temporary Beer/Wine/Cooler On-Sale License SOUL FOOD CAFE EXPRESS, LLC dba FAMILY SOUL at 2300 North Rainbow Boulevard, Suite #108 [Daniel David Chatman, Managing Member] - Ward 5 (Crear)

24. For possible action to approve a Restricted Gaming License for VIR SOHI, INC. dba 7-ELEVEN STORE #38276A at 835 North Martin Luther King Boulevard [Tanvir Singh Sohi, President, Treasurer, Secretary, Director, Shareholder] - Ward 5 (Crear)

25. For possible action to approve a Banquet or Event Establish-Liquor License for RAINBOW GARDENS, INC. dba RAINBOW GARDENS at 4125 West Charleston Boulevard - Ward 1 (Knudsen)

PUBLIC WORKS - CONSENT

26. For possible action to approve Interlocal Agreement No. 137480-A between the City of Las Vegas (CLV) and the Las Vegas Valley Water District (LVVWD) for water commitment services to be provided for the Health & Wellness Center Project generally located on Foremaster Lane, east of Main Street ($54,101 - General Capital Project Fund [CPF]) - Ward 5 (Crear)

27. For possible action to approve Interlocal Agreement No. 137453-A between the City of Las Vegas (CLV) and the Las Vegas Valley Water District (LVVWD) for water commitment services to be provided for the Charleston Heights Community Center and Park Project generally located on Maverick Street, north of Eugene Avenue ($83,796 - Parks and Recreation Capital Project Fund [CPF]) - Ward 5 (Crear)

28. For possible action to approve First Supplemental Interlocal Contract LAS25C20 between the City of Las Vegas (CLV) and the Clark County Regional Flood Control District (CCRFCD) to increase funding for the Las Vegas Wash - Stewart, Las Vegas Wash to Lamb Boulevard Project ($656,324 - Road and Flood Capital Project Fund [CPF]) - Ward 3 (Diaz)

YOUTH DEVELOPMENT AND SOCIAL INNOVATION - CONSENT

29. For possible action to approve the ratification of the City Manager's acceptance of a grant award in the amount of $950,000 from the Nevada Governor's Office of Science, Innovation and Technology to the City of Las Vegas for the Advanced Connectivity for Community and Economic Development (ACCED) Program, which will focus on providing wireless service to individuals within the Historic Westside neighborhood, the Corridor of Hope (home to social service facilities) and the Medical District who are seeking education, employment and job training to connect to these services at no charge - All Wards

RESOLUTIONS - CONSENT

30. R-53-2020 - For possible action to approve a Resolution consenting to the undertakings of the City of Las Vegas Redevelopment Agency (RDA) in connection with an Owner Participation Agreement between the RDA and Lindell Living LLC (Owner) to participate in a public/private partnership with the developer on land located at the southeast corner of Charleston Boulevard and Lindell Road (APNs 163-01-501-001 and 163-01-150-002) to be in compliance with and in furtherance of the goals and objectives of the RDA - Ward 1 (Knudsen) [Note: This item is related to RDA Item 5 (RA-9-2020)]

DISCUSSION/ACTION ITEMS

PLANNING - BUSINESS LICENSING - DISCUSSION

31. Discussion for possible action regarding a Tavern-Limited License DVAST, INC. dba ELITE (TASTE OF AFRICA) at 450 Fremont Street, Suite #295 - Ward 5 (Crear)

32. Discussion for possible action regarding a Temporary Package License for a Change of Ownership FROM: BUY LOW VEGAS, INC. TO: BUY LOW VEGAS, INC. dba FRESH AND LESS MARKET at 1061 West Owens Avenue - Ward 5 (Crear)

BOARDS AND COMMISSIONS - DISCUSSION

33. Discussion for possible action regarding the appointment of Councilwoman Michele Fiore to the Audit Oversight Committee

34. Discussion for possible action regarding the reappointment of members to the Youth Neighborhood Association Partnership Program (YNAPP) Grant Review Board from the following list of nominees: Deborah Reyes, Maria Fajardo, Andrew Sierra, Sarina Cervacio, Rebecca Richard, Lexie Wilder, Nigel Murray (Mayor's designees), Brianna Ramirez (Ward 2), Becky Skouson (Ward 4), Harry Williams (Ward 5), Chance Bonaventura (Ward 6), and the appointment of nominees: Melanie McNair, Desha Collins, Paris Mathews, Natalie Gonzalez (Mayor's designees), Karl Catarata (Ward 1) and Arlene Alvarez (Ward 3) - All Wards

35. Discussion for possible action regarding the reappointment of Melody Howard to a Ward 6 seat of the Parks and Recreation Advisory Commission

RECOMMENDING COMMITTEE REPORT - DISCUSSION

BILLS ELIGIBLE FOR ADOPTION AT THIS MEETING

36. Bill No. 2020-36 - For possible action - Updates LVMC Chapter 19.09, relating to Form-Based Code, and related provisions to adjust or establish standards pertaining to the Historic Westside District. Proposed by: Robert Summerfield, Director of Planning

BILLS ELIGIBLE FOR ADOPTION AT A LATER MEETING

There is no public comment on these items and no action will be taken by the Council at this meeting, except those items which may be stricken or tabled. Public testimony takes place at the Recommending Committee Meeting held for that purpose.

37. Bill No. 2020-37 - Amends LVMC Chapter 6.69, relating to the regulation of reflexology, to update and clarify a number of provisions so as to be consistent with State law, and to establish new recordkeeping and operational requirements for reflexology establishments. Proposed by: Robert Summerfield, Director of Planning

38. Bill No. 2020-38 - Amends various provisions of LVMC Chapter 6.52 to clarify licensing requirements for massage therapists, and establish new recordkeeping and operational requirements for massage establishments. Proposed by: Robert Summerfield, Director of Planning

39. Bill No. 2020-39 - Amends LVMC Chapter 6.50 to establish a new alcohol delivery support service alcoholic beverage license category, together with associated requirements and limitations, and expand the categories under which a business can exercise an ancillary alcoholic beverage license. Sponsored by: Councilman Stavros S. Anthony

NEW BILLS

There is no public comment on these items and no action will be taken by the Council at this meeting, except those items which may be stricken or tabled. Public testimony takes place at the Recommending Committee Meeting held for that purpose.

40. Bill No. 2020-40 - Updates various provisions of LVMC Chapter 6.08 regarding the operational and franchise requirements for ambulance services, including the addition of provisions to permit the City Council to select one or more contract ambulance service providers through a competitive or other process. Proposed by: Jeff Buchanan, Acting Chief of Fire and Rescue

HEARINGS - DISCUSSION

41. Public hearing and discussion for possible action regarding a request for a Waiver and/or Reduction of Fees for $6,892.25 in out-of-pocket costs and $24,100 in civil penalties for a total of $30,992.25 recorded against property at 6620 HARTMAN STREET - PROPERTY OWNER: 6620 HARTMAN TRUST FRIED ARMAND TRS - Ward 4 (Anthony)

PLANNING

The items listed below, where appropriate, have been reviewed by the various City departments relative to the requirements for storm drainage and flood control, connection to sanitary sewer, traffic circulation, and Building and Fire regulations. Their comments and/or requirements have been incorporated into the action.

PLANNING - DISCUSSION

42. 20-0222-ROC1 - REVIEW OF CONDITION - PUBLIC HEARING - TENTATIVE MAP - APPLICANT/OWNER: HARMONY HOMES NEVADA, LLC - For possible action on a Land Use Entitlement project request for a Review of Condition TO REVISE CONDITION NUMBER NINE (9) OF TENTATIVE MAP (TMP-77575) WHICH STATES, "DEDICATE 40 FEET OF RIGHT-OF-WAY ADJACENT TO THIS SITE FOR PULI ROAD AND 40 FEET FOR TROPICAL PARKWAY INCLUDING A TAPER ON THE FINAL MAP FOR THIS SITE. ADDITIONALLY, GRANT A 10-FOOT WIDE ROADWAY, SEWER, AND DRAINAGE EASEMENT ALONG THE EAST SIDE OF THE 40-FOOT PULI ROAD DEDICATION." AND TO REVISE CONDITION NUMBER TEN (10) WHICH STATES, "CONSTRUCT HALF-STREET IMPROVEMENTS ON CENTENNIAL PARKWAY AND TROPICAL PARKWAY (MATCHING THE APPROVAL TAPER) TO THE WEST EDGE OF THIS SITE AT A LOCATION ACCEPTABLE TO THE CITY TRAFFIC ENGINEER INCLUDING APPROPRIATE OVERPAVING AND TRANSITION PAVING IN LIEU OF HALF-STREET ON PULI ROAD, A LINEAR PARK SHALL BE CONSTRUCTED IN THE PULI ROAD RIGHT-OF-WAY TO A DESIGN AGREED UPON BY THE DEVELOPER AND THE CITY OF LAS VEGAS OF THE 40-FOOT PULI ROAD DEDICATION." on 30 acres located on the south side of Centennial Parkway, approximately 940 feet west of Shaumber Road (APN 126-25-201-010), R-TH (Single Family Attached) Zone, Ward 6 (Fiore). Staff recommends

APPROVAL.

REPORTS AND PRESENTATIONS

43. Report from Jorge Cervantes, City Manager, on Emerging Issues - All Wards

44. Report from Carolyn Wheeler, Executive Director of the Downtown Vegas Alliance, regarding the organization's activities and achievements throughout 2020 and their goals for 2021 - All Wards

SET DATE

45. Set date on any appeals filed or required public hearings from the City Planning Commission Meetings and Dangerous Building or Nuisance/Litter Abatements.

CITIZENS PARTICIPATION

46. Citizens Participation: Public comment during this portion of the agenda must be limited to matters within the jurisdiction of the City Council. No subject may be acted upon by the City Council unless that subject is on the agenda and is scheduled for action. If you wish to be heard, come to the podium and give your name for the record. The amount of discussion on any single subject, as well as the amount of time any single speaker is allowed, may be limited.

COUNCIL EMERGING ISSUES

Comments made by Council members during this portion of the agenda must refer solely to proposals for future agenda item topics to be brought before the Council for consideration and action at a later date. Any discussion must be limited to whether or not such proposed items shall be placed on a future agenda and no discussion regarding the substance of any such proposed topic shall occur. No action shall be taken.

47. Discussion regarding potential items for future City Council agendas - All Wards

COUNCIL MEMBER RECOGNITION

48. Council Member Recognition: Comments made by individual City Council Members during this portion of the agenda will not be acted upon by the City Council unless that subject is on the agenda and scheduled for action.

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THIS MEETING HAS BEEN PROPERLY NOTICED AND POSTED AT THE FOLLOWING LOCATIONS
IN ACCORDANCE WITH THE STATE OF NEVADA EXECUTIVE DEPARTMENT
DECLARATION OF EMERGENCY DIRECTIVE 006
The City of Las Vegas website – www.lasvegasnevada.gov
and
The Nevada Public Notice Website – notice.nv.gov

AGENDA SUMMARY PAGE

City Council
Meeting of: December 2, 2020

Agenda Item No.:
1

DEPARTMENT: City Clerk
DIRECTOR: LuAnn Holmes

SUBJECT:
Call to Order

AGENDA SUMMARY PAGE

City Council
Meeting of: December 2, 2020

Agenda Item No.:
2

DEPARTMENT: City Clerk
DIRECTOR: LuAnn Holmes

SUBJECT:
Announcement Regarding: Compliance with Open Meeting Law

AGENDA SUMMARY PAGE
City Council
Meeting of: December 2, 2020

Agenda Item No.:
3

DEPARTMENT: City Clerk
DIRECTOR: LuAnn Holmes

SUBJECT:
Invocation - Pastor Khosrow “Koz” Alighchi, Evangelical Friends Church

AGENDA SUMMARY PAGE

City Council
Meeting of: December 2, 2020

Agenda Item No.:
4

DEPARTMENT: City Clerk
DIRECTOR: LuAnn Holmes

SUBJECT:
Pledge of Allegiance

AGENDA SUMMARY PAGE

City Council
Meeting of: December 2, 2020

Agenda Item No.:
5

DEPARTMENT: City Clerk
DIRECTOR: LuAnn Holmes

SUBJECT:
Public comment during this portion of the Agenda must be limited to matters on the Agenda for action. If you wish to be heard, come to the podium and give your name for the record. The amount of discussion, as well as the amount of time any single speaker is allowed, may be limited.

AGENDA SUMMARY PAGE

City Council
Meeting of: December 2, 2020

Agenda Item No.:
6

DEPARTMENT: City Clerk
DIRECTOR: LuAnn Holmes

SUBJECT:
For Possible Action - Any items from the 9 a.m. session that the Council, staff and/or the applicant wish to be stricken, tabled, withdrawn or held in abeyance to a future meeting may be brought forward and acted upon at this time.

AGENDA SUMMARY PAGE

City Council
Meeting of: December 2, 2020

Agenda Item No.:
7

DEPARTMENT: City Clerk
DIRECTOR: LuAnn Holmes

SUBJECT:
For possible action to approve the Final Minutes by reference of the November 4, 2020 Regular City Council Meeting

AGENDA SUMMARY PAGE
City Council
Meeting of: December 2, 2020

Agenda Item No.:
8

DEPARTMENT: City Manager **CONSENT**
DIRECTOR: Jorge Cervantes

SUBJECT:
ADMINISTRATIVE:

For possible action to approve an Interlocal Agreement between Clark County and the City of Las Vegas (Sub-recipient) for a grant award from Federal Fiscal Year 2021 Hazardous Materials Emergency Preparedness (HMEP) Mid Cycle Grant (CFDA #20.703) passed through from the Nevada State Emergency Response Commission (SERC) and Clark County for the receipt of funds in the amount of $18,214 for the Department of Fire and Rescue to conduct training for hazardous materials technicians in Southern Nevada - All Wards

FISCAL IMPACT:
None

PURPOSE/BACKGROUND:
The interlocal agreement between Clark County and the City of Las Vegas will facilitate the transfer of $18,214 in grant reimbursement funds to the City of Las Vegas in support of the Las Vegas Fire and Rescue Hazardous Materials Response Program. This funding enables the City of Las Vegas to recover Las Vegas Fire and Rescue Department training expenses. The agreement shall be completed by August 31, 2021.

RECOMMENDATION:
Approval

BACKUP DOCUMENTATION:
1. Interlocal Agreement between Clark County and the City of Las Vegas

INTERLOCAL AGREEMENT
BETWEEN CLARK COUNTY AND
THE CITY OF LAS VEGAS

WHEREAS, Clark County, Nevada (the "County"), has entered into a grant agreement with State of Nevada, Department of Public Safety for participation in the FY 2021 SERC Hazardous Materials Emergency Preparedness (HMEP) Mid Cycle Grant funds; and

WHEREAS, the City of Las Vegas (the "Subrecipient"), located at 495 S Main St, Las Vegas, NV 89101 will conduct training on propane offloading.

WHEREAS, the 2021 HMEP Mid Cycle grant funds will reimburse the Subrecipient for training as listed in the Exhibit "A", "Expenditures Eligible for Reimbursement"; and

WHEREAS, NRS 277.180 permits one or more public agencies to contract with any one or more public agencies to perform any governmental service, activity or undertaking that any of the public agencies entering into the contract is authorized to perform by law.

NOW, THEREFORE, in accordance with NRS 277.180 and related regulations, the parties hereto agree as follows:

1. The City of Las Vegas shall purchase the training course listed in Exhibit "A." The County, though its Office of Emergency Management and Homeland Security, ("OEMHS") shall provide a maximum of EIGHTEEN THOUSAND TWO HUNDRED AND FOURTEEN DOLLARS ($18,214.00) from fiscal year 2021 funds from the SERC Hazardous Materials Emergency Preparedness (HMEP) Mid Cycle Grant Funds in accordance with subsection 2.

2. Subrecipient will provide OEMHS with documentation supporting any and all requests for payment of expenses against the funds encumbered and will provide any additional documentation requested by OEMHS that may be required in the administration of the grant funds.

3. Regardless of any termination of this agreement, Subrecipient shall comply with all Federal laws and regulations associated with the receipt of the grant funds as a Subrecipient of such funds for the project identified in this Contract. See Exhibit "B" for State and Federal Assurances required under this Contract.

4. It is specifically understood and agreed by Subrecipient that the County shall not be obligated to pay any monies to Subrecipient hereunder and hereafter in the event that such Federal funds for any reason are terminated or withheld from the County or are otherwise not forthcoming, and in such event, County may terminate this Contract.

5. This Contract is effective as of the last date any authorized signatory affixes his/her signature below ("Effective Date" until August 31, 2021, unless terminated earlier

by the Subrecipient or County. Either party may terminate this Agreement for any reason by giving sixty (60) days written notice

6. This Contract and its attachments constitute the entire understanding of the parties concerning the subject matter hereof. This contract may be amended solely by means of written agreement signed by both parties.

7. Subrecipient shall agree to provide evidence of financial accountability. A copy of subrecipient's most recent single audit report (OMB 2 C.F.R 200.500) or a letter stating that subrecipient expended less than $750,000 of Federal funds during the reporting period must be submitted to Clark County. Letters should be addressed to: Karen Taylor, Administrative Specialist, and Clark County Office of Emergency Management & Homeland Security. The Subrecipient shall allow Clark County Office of Emergency Management and Homeland Security to monitor annually all activities relating to this funding to maintain compliance to all federal OMB requirements and state grant guidance.

8. Subrecipient shall be responsible for the negligent acts of its employees, officers and agents/vendors in the administration of this agreement.

9. Nothing herein shall be construed to create an employer/employee relationship.

10. This Agreement shall not be construed as or deemed to be an agreement for the benefit of any third party or parties, and no third party or parties shall have a right of action hereunder.

11. This agreement may be executed in multiple counterparts, each of which be deemed an original, but which together shall constitute one instrument. Facsimile or electronic transmissions of documents and signatures shall have the same force and effect as originals.

[SIGNATURES ON NEXT PAGE]

ENTERED INTO this 6th day of October, 2020.

ATTEST:

By: Lynn Marie Goya
Lynn Marie Goya, County Clerk

Date: 10/6/2020

CLARK COUNTY

By: Marilyn Kirkpatrick
Marilyn Kirkpatrick, Chair
Board of County Commissioners

Date: Oct. 6, 2020

APPROVED AS TO FORM:

By: Lisa Logsdon
Lisa Logsdon, Deputy District Attorney

Date: 9/23/2020

CITY OF LAS VEGAS

By: _____
LuAnn Holmes, City Clerk

Date: _____

By: _____
Carolyn G Goodman, Mayor

Date: _____

APPROVED AS TO FORM:

Dimitri P. Dalacas
Deputy City Attorney

By: _____
Deputy City Attorney

Date: 11/2/2020

Exhibit "A"

EXPENDITURES ELIGIBLE FOR REIMBURSEMENT
CITY OF LAS VEGAS
FY21 SERC HAZARDOUS MATERIALS EMERGENCY PREPARDNESS
MID CYCLE GRANT

City of Las Vegas:

Training Course Propane Offloading	$ 18,214.00
Total Requesting	$ 18,214.00

EXHIBIT "B"

LOCAL, STATE and FEDERAL ASSURANCES

Clark County Emergency Management & Homeland Security
Financial and Project Activity Assurances

Upon acceptance of funding from the Clark County OEMHS the lead governmental unit hereby agrees to the following financial and project activity assurances governing the transfer of funds.

1. A quarterly Financial Report shall be submitted to Clark County Emergency Management & Homeland Security (OEMHS) no later than 15 days following the close of the quarter. Unless approved by Clark County OEMHS, late reports could delay reimbursement.

2. The final Financial Report must be submitted to Clark County OEMHS no later than 30 days following the end of the grant period. Unless approved by Clark County OEMHS, late reports could result in non-payment of final claim.

3. The Clark County OEMHS retains the right to terminate this contract for cause at any time before completion of the program when it has determined that the subgrantee has failed to comply with the conditions of this agreement.

4. Financial management must comply with the requirements of OMB 2 C.F.R. Part 200, whichever is applicable to your organization.

5. All grant expenditures are to be reasonable and allowable in accordance with OMB Part 200, whichever is applicable to your organization, and which are incorporated into this agreement by reference.

6. All grant expenditures are to be made in accordance with the interlocal contract. Modifications must be requested and approved in advance by submitting a Project Change Request form to Clark County OEMHS.

7. Grant revenue and expenditure records must be maintained and made available to the Clark County OEMHS for audit.

8. Subgrantees shall comply with the audit requirements of the Single Audit Act Amendment of 1986 and OMB 2 C.F.R. 200, which is incorporated into this agreement by reference, to include the required submission of the most recent annual independent audit.

9. Subgrantees that are institutions of higher education, hospitals or other non-profit organizations shall comply with the audit requirements of OMB 2 C.F.R 200.

10. Required documentation for the performance of internal audits must be provided to the Clark County OEMHS within 30 days of request. Grant closeout is contingent upon OEMHS audit and resolution of any discrepancies

11. The subgrantee agency is required to submit quarterly financial and project activity reports to Clark County OEMHS. Due dates for those reports are as follows:

January 15	-	(for reporting period October 1 to December 31)
April 15	-	(for reporting period January 1 to March 30)
July 15	-	(for reporting period April 1 to June 30)
October 15	-	(for reporting period July 1 to September 30)

The reports should be completed in accordance with the following format and standards:

12. **Project Activity Report** – A narrative status report describing program accomplishments with respect to meeting stated objectives and completing the projects approved in the allocation of funding. The subgrantee activities should be reported for the quarter and for the cumulative period from the grant award date. Report can be done in a memo format.

13. **Quarterly Financial Reports** – Complete and submit a Quarterly Financial Report form for all expenditures funded by the grant. Include copies of invoices.

14. **Project Change Request** – Grant expenditures are authorized only for purchases and activities approved by the SERC under the grant application process. Any change in the project, needs to be submitted to Clark County OEMHS for submission to SERC for approval.

15. **Equipment Inventory Form** – A completed Equipment Inventory Form is required with the final grant report.

17. Funds granted are to be expended for the purpose set forth in the grant award and in accordance with all applicable laws, regulations, policies, and procedures of the State of Nevada and the applicable federal granting agency.

18. No expenditures will be eligible for compensation if occurring after the term of the interlocal contract.

19. Any publication, invention, patent, photograph, negative, book, drawing, record, document, or other material prepared by the subgrantee in the performance of its obligations under this grant shall be the exclusive property of the State of Nevada and all such material shall be returned to the state upon completion or termination of this grant.

20. If this grant funds any form of written or visual material that identifies employees of SERC or Clark County Emergency Management & Homeland Security (OEMHS), prior approval must be obtained from the DEM and Clark County OEMHS before publishing or finalization.

21. The applicant assures the fiscal accountability of the funds received from the SERC will be managed and accounted for by the jurisdiction chief comptroller and internal control and authority to ensure compliance with County OEMHS documentation, record keeping, accounting, and reporting guidelines will reside with that individual.

22. The subgrantee shall neither assign, transfer nor delegate any rights, obligations or duties under this interlocal contract without prior approval of the Clark County OEMHS.

23. To the extent permitted by law the subgrantee will indemnify, save and hold the state, county, and its agents and employees harmless from any and all claims, causes of action or liability arising from the performance of this agreement by subgrantee or its agents or employees.

24. The applicant and its contractors will comply with the nondiscrimination requirements of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; and the American Disabilities Act of 1992.

25. The applicant will abide by audit requirements as specified in OMB 2 CFR 200, as applicable.

AGENDA SUMMARY PAGE
City Council
Meeting of: December 2, 2020

Agenda Item No.:
9

DEPARTMENT: City Attorney **CONSENT**
DIRECTOR: Bryan K. Scott

SUBJECT:
For possible action to approve a business impact statement regarding a proposed ordinance to update various provisions of LVMC Chapter 6.08 regarding the operational and franchise requirements for ambulance services, including the addition of provisions to permit the City Council to select one or more contract ambulance service providers through a competitive or other process. (This item is related to Bill No. 2020-40, which is located later on this agenda under New Bills)

FISCAL IMPACT:
None

PURPOSE/BACKGROUND:
This item is for Council approval of a business impact statement regarding a proposed ordinance to update various provisions of LVMC Chapter 6.08 regarding the operational and franchise requirements for ambulance services, including the addition of provisions to permit the City Council to select one or more contract ambulance service providers through a competitive or other process.

RECOMMENDATION:
It is recommended that the City Council approve the business impact statement.

BACKUP DOCUMENTATION:
1. Business Impact Statement

BUSINESS IMPACT STATEMENT
BILL NO. 2020-40
(Updates various provisions of LVMC Chapter 6.08 regarding the operational and franchise requirements for ambulance services, including the addition of provisions to permit the City Council to select one or more contract ambulance service providers through a competitive or other process)

This business impact statement was prepared pursuant to NRS 237.090 to address the impact of a proposed ordinance, Bill No. 2020-40, that will update various provisions of LVMC Chapter 6.08 regarding the operational and franchise requirements for ambulance services, including the addition of provisions to permit the City Council to select one or more contract ambulance service providers through a competitive or other process.

1. The following constitutes a description of the manner in which comment was solicited from affected businesses, a summary of their responses and an explanation of the manner in which other interested persons may obtain a copy of the summary.

Notification of the proposed ordinance was provided by mail to 4 businesses identified as possibly being interested in or affected by the proposal, and to 15 other organizations representing chambers of commerce and other community partners. The draft language of the proposed ordinance was made available on the City's website and at the main offices of the City's Department of Fire and Rescue. Recipients of the notification were invited to respond in writing and to submit to the City comments, data or arguments regarding whether the proposed ordinance would impose a direct and significant economic burden upon a business or directly restrict the formation, operation, or expansion of a business.

One written response was received. The response indicated support for the ordinance proposal, particularly the portion that authorizes additional means of obtaining ambulance services for the City.

The preceding paragraph describes the summary of the response received. The inclusion of that paragraph in this statement is the means by which the summary is made available to interested persons.

2. The estimated economic effect of the rule on businesses, including, without limitation, both adverse and beneficial effects, and both direct and indirect effects:

Adverse effects:

None identified.

Beneficial effects:

This ordinance is intended to benefit both the City and franchisees by bringing current a number of provisions regarding ambulance response times, authorizing franchisees to provide additional services, and updating the fee amounts a franchisee can charge to correspond to CPI-related increases that have taken place over the years. The ordinance would also provide an additional option to the City Council regarding the provision of ambulance services.

Direct effects:

See beneficial effects above.

Indirect effects:

None identified.

3. The following constitutes a description of the methods the local government considered to reduce the impact of the rule on businesses and a statement regarding whether any, and if so which, of these methods were used:

Not applicable.

4. The estimate of the annual cost to the local government for enforcement of the rule is:

No additional cost.

5. If the rule provides for a new fee or increases an existing fee, the total annual amount expected to be collected is:

Not applicable. Any increase in revenues following the adoption of the ordinance likely would take place independent and regardless of the ordinance.

6. If the rule provides for a new fee or increases an existing fee, the money generated by the new fee or increase in existing fee will be used by the local government to:

Not applicable. See Item 5 above.

7. If the rule includes provisions that duplicate or are more stringent than federal, state or local standards regulating the same activity, the following explains why such duplicative or more stringent provisions are necessary:

Not applicable.

8. The reasons for the conclusions regarding the impact of the rule on businesses:

The ordinance responds to current conditions and would not appear to impose additional burdens on any business.

CERTIFICATION

I certify that, to the best of my knowledge or belief, the information contained in this business impact statement was prepared properly and is accurate.

By: City Manager

Date: November 19, 2020

AGENDA SUMMARY PAGE
City Council
Meeting of: December 2, 2020

Agenda Item No.:
10

DEPARTMENT: Finance **CONSENT**
DIRECTOR: Venetta Appleyard

SUBJECT:
For possible action to approve award of Contract No. 200231-PH, Annual Requirements Contract for Security Guard Services - Las Vegas Municipal Court - Award recommended to: UNIVERSAL PROTECTION SERVICE LLC DBA ALLIED UNIVERSAL SECURITY SERVICES (Not-to-Exceed $500,000 Annually/Total Contract Amount Not-to-Exceed $3,000,000 - General Fund)

FISCAL IMPACT:
Budget Funds Available
Amount: Not-to-Exceed $500,000 Annually/Total Contract Amount Not-to-Exceed $3,000,000
Funding Source: General Fund
Dept./Division: Municipal Court

PURPOSE/BACKGROUND:
This contract provides up to $500,000 per year for purchase of security guard services for the new Las Vegas Municipal Courthouse, currently under construction at 100 East Clark Street. Services will primarily be provided at the main public entrance. The exact amount spent will depend on precise staffing levels and hours needed at any given time. The selection of Allied Universal Security Services was the result of a competitive request for proposals process. Universal Protection Service, LLC is a global company with offices in Nevada.

RECOMMENDATION:
Approve as recommended from date of award through December 31, 2022, with four (4) one-year options to renew, with signature authority granted to the Purchasing and Contracts Manager per R-20-2017.

BACKUP DOCUMENTATION:
1. Contract No. 200231-PH

ANNUAL REQUIREMENTS CONTRACT FOR SECURITY GUARD SERVICES
LAS VEGAS MUNICIPAL COURT

THIS Annual Requirements Contract for General Services is being entered into this _____ day of _____, _____ by and between the City of Las Vegas (the "City"), a municipal corporation in the State of Nevada, and Universal Protection Service, LLC dba Allied Universal Security Services (the "Company"), a Delaware limited liability company.

SECTION A – CONTRACT OVERVIEW

A-1 Summary of Contract [CAO - 08/22/2019]

(a) This Contract sets forth the terms and conditions for ordering and performance of the Services described herein, and the execution hereof by the parties hereto forms a legally binding contract. The City may order, and the Company is obligated to perform, the Services in accordance with the terms and conditions of this Contract. This is a non-exclusive contract.

(b) This Contract covers the City's estimated need for the Services on an annual basis. At the time of execution of this Contract, precise service levels cannot be fixed but will vary based on the City's annual needs, and the Contract is therefore based on the City's past annual usages. Notwithstanding the execution of this Contract, the City is under no obligation to order or maintain any minimum or maximum level of service under this Contract.

(c)

Contract Synopsis The Services to be procured are more fully defined in Section C	Security Guard Services		
Performance Dates The Performance Period is more fully defined in Section A-2	**Award Date** See first paragraph	**Expiration Date** December 31, 2022	**Option Periods** Four one-year periods
Contract Type	The contract type is Annual Requirements.		
Contract Amount	$500,000 per year	Not to Exceed	

(d)

Contract Exhibits / Attachments The following documents are hereby incorporated into this Contract
Exhibit A - Statement of Work Exhibit B – Excerpted Proposal

(e)

Contract Administrator Per Section D-4, (a)	**Name** Jack Eslinger	**Phone** (702) 229-4673	**Email** jeslinger@lasvegasnevada.gov
Company Representative Per Section D-5	**Name** Doug Huffmaster	**Phone** (702) 301-4993	**Email** douglas.huffmaster@aus.com

(f)

City Legal Notice Representative per Section E-1			
Company Legal Notice Representative Per Section E-1	**Name & Title** Tammy Nixon Regional Vice President	**Address** 4000 S. Eastern Avenue, Suite 210, Las Vegas, NV 89119	**Email** tammy.nixon@aus.com

A-2 Performance Period [CAO - 08/22/2019]

(a) The City may place orders against this Contract from the Award Date through and including the expiration date, unless extended in writing.

(b) The City may, at its sole discretion, exercise the option to renew the Contract for the periods set forth above. The City shall provide written notice to the Company of any such renewal, and the Company may not assume an automatic renewal. Exercise of an option does not commit the City to exercise further options.

(c) The City reserves the right to exercise an option to temporarily extend this Contract for up to one hundred eighty (180) calendar days from the expiration date, for any reason.

SECTION B – DEFINITIONS

B-1 Definitions [CAO - 01/20/2016]

The following definitions apply to this Contract:

(a) **Award Date**: The date that a Contract becomes effective. It is the date entered into the first paragraph of the Contract upon execution by an authorized representative of the City.

(b) **Contract**: This document, consisting of Sections A through E and the Exhibits and Attachments attached hereto, which is binding and effective only upon execution by the City.

(c) **Contract Amount:** The maximum amount of compensation that may be paid to the Company for performance of the Contract, which includes, without limitation, compensation for all direct and indirect expenses.

(d) **Prompt Payment Discount:** The price discount offered by the Company which applies to the purchase price of the Services if the City elects to pay an invoice in less than its normal thirty (30) day payment cycle time.

(e) **Purchase Order (or P.O.):** The administrative document issued by the City to facilitate the ordering of and payment for the Services purchased pursuant to this Contract.

(f) **Services:** The work to be performed by the Company, which is listed or described in Section C, “Statement of Work” and “Exhibit B – Excerpted Proposal”, attached hereto.

SECTION C – STATEMENT OF WORK

C-1 Statement of Work is set forth in "Exhibit A".

SECTION D - SPECIAL CONDITIONS

D-1 Pricing and Payment [CAO-4/2020]

(a) Payment to the Company will be made only for the actual Services performed and accepted by the City, upon receipt of an invoice submitted in accordance with Section D-3, “Invoices”.

(b) The City will pay the Company for Services accepted by the City in accordance with the following pricing schedule:

Category	Hourly Billing Rate – Unarmed Officer	Hourly Billing Rate – Armed Officer	Hourly Billing Rate – 1 Shift Lead	Hourly Billing Rate – 1 Site Supervisor
Regular Shift	$22.50	$26.50	$28.75	$30.50
Swing Shift	$22.50	$26.50	$28.75	$30.50
Overtime Shift	$33.75	$39.75	$43.13	$45.75

Holiday Shift	$33.75	$39.75	$43.13	$45.75
Emergency Shift	$33.75	$39.75	$43.13	$45.75

(c) The prices set forth herein include the costs and expenses associated with providing and performing the Services for the City including, without limitation, expenses for inspection, meeting warranty requirements and complying with all the terms and conditions of this Contract.

D-2 Pricing Revisions [CAO-4/2020]

(a) After the initial term of this Contract, pricing for the Services may be revised due to fluctuations in the cost of doing business incurred by the Company as set forth below:

(i) If a decrease occurs, the City shall receive the benefit of this change with a corresponding decrease in pricing to the City. If an increase occurs in the cost of doing business, the Company may request one (1) price escalation annually provided written justification is submitted to the City at least thirty (30) calendar days before the anniversary date of the Contract. The Company shall provide any supporting documentation requested by the City. The City shall, in its sole discretion, determine if the price revision is justified for any subsequent annual renewal option year or extension that may be exercised by the City.

(ii) In addition to the pricing revision permitted pursuant to subsection (i) above, the Company may request a price revision based upon changes in the Consumer Price Index-All Urban Consumers.

(b) Each pricing revision requested herein must be approved in writing by the Purchasing and Contracts Manager and, if approved, shall become effective thirty (30) days after notice of the change, or on such earlier or later date as may be agreed upon by the parties.

(c) Any pricing revision requested pursuant to this section may be delayed or denied if the Company fails to submit a timely request, or fails to provide adequate documentation in support thereof.

(d) Any approved pricing revision is not retroactive, and any invoice pending on the date of approval of the pricing revision shall be paid on the basis of the pricing in effect on the date the Services are ordered by the City.

(e) If the parties hereto fail to agree on a pricing revision after thirty (30) calendar days as permitted herein, either party may terminate this Contract after one hundred eighty (180) days' written notice to the other party in accordance with Section E-1, "Legal Notice". During said 180-day period, the Company shall continue to perform the Services and shall be paid on the basis of the pricing then in effect and not based on any pricing revision increase requested by Company pursuant to this section.

D-3 Invoices [CAO-4/2020

(a) The Company shall submit a detailed invoice to the City monthly, for Services provided and accepted. Each invoice shall contain the following information:

(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) the performance dates covered by the invoice.

(a) Upon reconciliation of all errors, corrections, credits, and disputes, payment to the Company will be made in full within thirty (30) calendar days. **Invoices received without a valid Purchase Order number will be returned unpaid.**

The Company shall submit the original invoice to:

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

(b) A duplicate copy of the invoice is to be sent to the City's designated representative at:
Las Vegas Municipal Court
Attn: Administrator
City of Las Vegas
PO Box 3960
Las Vegas, NV 89127-3960

(c) The City may subtract or offset from any unpaid invoice from the Company any claims, which the City may have incurred for failure of the Company to comply with the terms, conditions or covenants of this Contract, or any damages, costs and expenses caused by, resulting from, or arising out of the negligent act or omission of the Company in the performance of the Services under this Contract. Within ten (10) calendar days, the City shall provide a written statement to the Company of the off-set which has been subtracted from any payment to the Company along with appropriate documentation and receipts, if any, and a description of the failure, error or deficiency attributed to the Company. The Company may dispute the right or amount of the off-set made by the City by providing written notification to the City within ten (10) calendar days after receipt of the City's written notice. The City shall provide a written response to the Company within ten (10) calendar days of receipt of the Company's written dispute notice. If the Company disputes the City's determination, the Company may file a claim pursuant to Section E-2, "Disputes" of this Contract.

D-4 Performance Requirements [CAO - 08/22/2019]

(a) Service Coordination. All performance of Services must be coordinated with City staff listed on the Purchase Order. The City reserves the right to refuse service if advance notice is not given.

(b) Performance Schedule. Failure to meet the schedules specified in this Contract shall constitute a breach of contract.

(c) Failure to Perform. In the event that the Company fails to perform the Services in accordance with the terms and conditions of the Contract, the City shall have the option to either terminate the Contract or procure the Services from another supplier. If the Services are procured from another supplier, the Company shall pay the City any difference between the Contract price(s) and the price(s) paid to the other supplier plus any and all administrative costs incurred associated with the re-procurement.

(d) Inspection and Acceptance. The Services will be inspected at time of performance by an authorized representative of the City for compliance with the specifications, workmanship, appearance, and conformance to all other requirements of this Contract. In the event deficiencies are detected, the Services will be rejected to enable the Company to make the necessary repairs, adjustments or replacements. Payment will not be made and discount period (if applicable) will not commence until the corrective action is complete and the Services have been re-inspected and accepted by the City.

D-5 City/Company Representative [CAO - 08/22/2019]

(a) All routine Company inquiries should be directed to the person identified by the City on the Purchase Order.

(b) The Company Representative for this Contract is named in Section A-1 (e). The Company Representative shall have full authority to act for the Company on all matters arising under or relating to this Contact until written notice to the City is provided by the Company of any change in the person acting in this capacity.

D-6 Insurance [R]

(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 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 Contract in a policy limit of not less than $1,000,000 per occurrence and $5,000,000 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 policy shall be endorsed to include firearm coverage, and assault and battery coverage. The policy shall be endorsed to include coverage for "care-custody-control" of property of others. 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 up to the required insurance coverage amount herein.

(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 the vehicle to perform, the Commercial Automobile Liability Insurance requirements as described in this paragraph do not apply. The Company'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 up to the required insurance coverage amount herein.

(iv) Professional Liability Insurance (Errors and Omissions Coverage) protecting the Company from claims arising out of performance of professional services caused by a negligent act, error, or omission for which the insured is legally liable. Such coverage shall be in a minimum amount of $1,000,000, combined single limit and in the aggregate, for the period of time covered by this Contract. 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.

(v) A Fidelity Bond or Crime Insurance with limits of 50% of the estimated annual contract value or $50,000, whichever amount is greater. The bond or policy shall include coverage for all directors, officers, agents and employees of the Company. The bond or policy shall include coverage for third party fidelity. The bond or policy shall include coverage for extended theft and mysterious disappearance. The bond or policy shall not contain a condition requiring an arrest and conviction.

(b) The Company must provide compliant certificates of insurance and required endorsements to the City or its designated certificate tracking service immediately upon request. The Company shall maintain coverage for the duration of this Contract, and any renewal periods if applicable. The Company shall annually provide the City's designated certificate tracking service with a certificate of insurance and endorsements as evidence that all insurance requirements have been met.

(c) 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 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".

(d) 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 minimum rating of A- VII, A- VIII, A- IX, A- X, 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.

(e) All deductibles and self-insurance retentions shall be fully disclosed in the certificate of insurance. No deductible or self-insured retention may exceed $1,750,000 without the prior written approval of the City.

(f) **Companies requesting increased deductibles or self-insured retentions must provide the City a written request stating the desired amounts along with recent audited financial statements for review. The City will review the request and determine if the requested deductibles or self-insured retentions are acceptable. In the event the request for increased deductibles or self-insured retentions is denied, the Company is obligated to provide the deductibles or self-insured retentions established in the Contract at no additional expense to the City.**

(g) 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-5, "Event of Default", 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.

(h) 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.

(i) The Company is encouraged to purchase any additional insurance it deems necessary.

(j) The Company is required to remedy all injuries to persons and damage or loss to any property of the City to the extent caused by the Company, its subcontractors or anyone employed, directed, or supervised by the Company.

D-7 Warranty [CAO-4/2020]

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.

This Warranty Section will survive termination or expiration of this Contract for any reason.

D-8 RESERVED

D-9 RESERVED

D-10 RESERVED

D-11 RESERVED

D-12 RESERVED

D-13 Purchase Orders [CAO-4/2020]

A Purchase Order will be issued for the acquisition of the Services, specifying a single scheduled performance or multiple scheduled performances of the Services. The time allotted for performance of the Services under the Purchase Order commences on the date the City successfully electronically transmits or faxes the Purchase Order to the Company, or three (3) days after the mailing date of the Purchase Order to the Company. Any Purchase Order issued hereunder incorporates the terms and conditions of this Contract.

D-14 Telephone Orders [CAO - 01/20/2016]

The ordering of Services by telephone **is not** permitted. The Company shall not accept telephone orders, unless explicitly authorized in writing by the City's Purchasing and Contracts Manager.

D-15 RESERVED
D-16 RESERVED
D-17 RESERVED

D-18 Holidays/Weekends [R]

Unless coordinated in advance with the City Project Manager, the Company is excused from performance on weekends and the following legal holidays (on the actual day the holiday is observed):

Martin Luther King's Birthday (observed)
President's Day
Memorial Day
Independence Day
Labor Day
Nevada Admission Day
Veterans Day

Thanksgiving Day and Friday After
Christmas Day
New Year's Day

D-19 Liquidated Damages [CAO - 01/20/2016]

Assessment of liquidated damages does not apply to this Contract.

SECTION E- GENERAL CONDITIONS

E-1 Legal Notice [CAO-4/2020]

(a) Any notice required to be given hereunder shall be deemed to have been given when written notice is (i) received by the party to whom it is directed by personal service; (ii) three (3) days after deposit with the United States Post Office, by registered or certified mail, postage prepaid and addressed to the party to be notified at the address for such party; (iii) one (1) day after deposit with a nationally recognized air courier service such as FedEx; or (iv) by an email sent to the email address of the recipient stated in this Section. All notices shall be effective upon receipt by the party to which notice is given or if it is delivered by email, when the recipient acknowledges having received that email, with an automatic "read receipt" not constituting acknowledgment of an email for notice purposes. Either party hereto may change its address by giving ten (10) days advance notice to the other party as provided herein. Phone and fax numbers, if listed, are listed for information only:

FOR THE CITY:
Manager, Purchasing and Contracts
City of Las Vegas
495 South Main Street, 4th Floor
Las Vegas, Nevada 89101-2986
Fax: (702) 384-9964
Email: purchasing@lasvegasnevada.gov

With copy to:

Court Administrator or Designee
Las Vegas Municipal Court
PO Box 3960
Las Vegas, Nevada 891127-3960

FOR THE COMPANY: As Noted in Section A-1 (f) of the Contract:

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

(c) 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.

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

E-2 Disputes [CAO-4/2020]

(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 sole 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 the validity, construction, performance, and effect of this Contract, without giving effect to its conflict of law provisions. If arbitration is selected, each party hereto consents to, and waives any objection to, venue being the offices of the American Arbitration Association located in Las Vegas, Nevada, or other venue mutually agreed by the parties. If litigation is selected, each party hereto consents to, and waives any objection to, the State courts located in the County of Clark, State of Nevada as the proper and exclusive venue for any disputes arising out of or relating to this Contract or any alleged breach thereof. Each party hereby waives trial by jury in any action, proceeding or counterclaim brought by either of them against the other on any matters whatsoever arising out of or in any way connected with this Contract.

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 [CAO - 08/22/2019]

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 goods and services requested by the City and actually performed by the Company.

E-5 Event of Default [CAO-4/2020]

(a) If, during the term of this Contract, the Company (i) fails to deliver Services that comply with the specifications, (ii) fails to deliver the Services within the time specified in the Purchase Order or any extension thereof, (iii) fails to make progress so as to endanger the performance of this Contract, (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 Contract, then any of the aforementioned failures shall constitute an "Event of Default" under this Contract.

(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 (10) 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 (10) day period and is diligently pursued to completion but in no event later than thirty (30) days after such written notice. Said time period may be extended at City's sole discretion. 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 [CAO-4/2020]

(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 Contract in whole or in part.

(b) If this Contract 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 Contract only in part, the Company shall continue to perform the un-terminated obligations or portions of this Contract.

(c) The Company shall not be liable for any excess costs if the failure to perform the Contract 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/pandemics, (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 sixty (60) days. If the foregoing circumstances result in a delay greater than 60 days, the City may terminate the affected portion of the Contract 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 insurance, and/or bonding, 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 Contract, 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 Contract. During the period of such resolution, the Company shall continue with its performance under the Contract.

E-7 Limitation of Funding/Non-Appropriation [CAO-4/2020]

The Company acknowledges that City is a governmental entity and the Contract's validity is based upon the availability of public funding under its authority. 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. In addition, and without prejudice or liability to the City, if funds are not appropriated or otherwise made available to support continuation in any fiscal year succeeding the first fiscal year, this Contract will be deemed to have been terminated automatically when appropriated funds expire and are not available. The City shall notify Company in writing of any such non-allocation of funds at the earliest possible date and shall pay Company any reasonable fees earned and costs incurred in performing this Contract for any period prior to such notice.

E-8 Changes - Fixed-Price Goods or Services [CAO-4/2020]

(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 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 Contract, the Company shall provide current, complete, and accurate documentation to the City in support of any request for equitable adjustment.

(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, or shall otherwise be barred and shall have waived any right to an adjustment under this clause.

(d) The parties shall negotiate a timely requested equitable adjustment by mutual written agreement and the change will be effected by purchase order revision. 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 Contract as changed.

E-9 Entire Contract, Section and Paragraph Headings [CAO-4/2020]

(a) This Contract represents the entire and integrated agreement between the City and the Company. It supersedes all prior and contemporaneous understandings, negotiations, 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-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 Contract 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 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-12 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-13 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-14 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-15 Indemnification [R]

(a) In addition to the insurance requirements set forth in Section D-6, “Insurance”, and not in lieu thereof, the Company shall protect, defend, indemnify and hold harmless the City, its elected officials, officers, employees, agents, and consultants (collectively herein the “City”) from and against any and all claims, liabilities, damages, losses, suits, actions, decrees, arbitration awards 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, to the extent caused by (i) any negligent or intentional act or omission on the part of the Company, its officers, employees, independent contractors, vendors, suppliers, consultants, or agents in the performance of the terms, conditions and covenants of the Contract; or (ii) a breach of any agreement between the Company and its employees, vendors, independent contractors, suppliers, consultants or agents; or (iii) any default in the performance of any obligation on Company’s part to be performed under the terms of this Contract, regardless of whether the Liabilities were caused in part by the City. Company agrees that it is assuming the sole risk of any Liabilities related to the contraction by Company’s officers, employees, vendors, suppliers, agents, independent contractors, and consultants of any viral infection or other disease, including, without limitation, COVID 19, related to the Company’s performance of this Contract and that Company’s indemnity obligations contained herein cover any such Liabilities. In no event shall the language in this Section constitute or be construed as a waiver or limitation of the City’s rights or defenses with regard to sovereign immunity, governmental immunity, or other official immunities and protections as provided by the Federal and State Constitutions or by law.

(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 at Company's expense, by legal counsel reasonably satisfactory to 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. Company's indemnity obligations herein are not intended to nor shall they relieve any insurance carrier of its obligations under policies required to be carried by Company pursuant to the provisions of this Contract. Company's obligations under this Section shall survive any termination of this Contract.

E-16 Patent Indemnity [CAO-4/2020]

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 contract 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 Contract. The Company shall, at its sole expense, by legal counsel reasonably satisfactory to City, 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 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: (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-4/2020]

(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 will use at least

the same standard of care and exercise equivalent security measures to maintain the confidentiality of the City's information that it uses to maintain the confidentiality of its own confidential information; provided in no event shall such standard be less than reasonable care. 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. City shall be and remain the sole owner of such confidential information. Nothing contained in this Contract shall be construed as granting or conferring any right or license in the City's information or in any patents, software, or other technology, either expressly or by implication to the Company. 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. Company is required to employ the highest ethical standards and shall avoid those actions that are inconsistent with the City's best interest.

(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-4/2020]

The Company shall at all times be in compliance with Las Vegas Municipal Code 1.08.050, and shall 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. The City logo shall not be used without the prior written consent of the City.

E-20 Intellectual Property Rights [CAO-4/2020]

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 shall have no property interest in, and may assert no claim or lien on, or right to withhold from the City, or right to use said data other than in performance of its obligations pursuant to this Contract, any data it receives from, receives access to, or stores on behalf of the City. At any time during the term of this Contract, and within thirty (30) days of the expiration or termination of this Contract, the Company will upon request return the data to the City at no charge in the format held by Company. On City request, the Company will delete all City data and will provide appropriate certification to the City to document the disposal. The Company shall promptly notify the City if the Company becomes aware of any unauthorized access, acquisition, disclosure, use, modification, destruction or other misuse of the City's data or other confidential information, and shall fully cooperate with the City in any legal action taken by the City to enforce its rights therein. This Section shall survive termination or expiration of this Contract.

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

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 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 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.

(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 Contract.

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 Contract.

E-25 Conforming Services [CAO-4/2020]

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-26 Independent Contractor [CAO-4/2020]

In the performance of its obligations 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. Accordingly, Company shall be responsible for payment of all taxes including federal, state and local taxes arising out of the Company's activities in accordance with this Contract, including by way of illustration but not limitation, federal and state income tax, Social Security tax, unemployment insurance taxes, and any other taxes or business license fees as required under existing or subsequently enacted laws, rules or regulations. Company shall not be entitled to any benefits afforded to City's employees, including without limitation worker's compensation, disability insurance, health insurance, vacation, or sick pay. Company shall be responsible for providing, at Company's expense, and in Company's name, unemployment, disability, worker's compensation, and other insurance, as well as licenses and permits usual or necessary for performance of its obligations pursuant to this Contract. Company shall hereby defend, indemnify, and hold the City harmless from any claims, losses, costs, fees, attorney's fees, liabilities, damages or injuries suffered by the City arising out of Company's failure with respect to its obligations in this Section. Company, upon request, shall furnish evidence satisfactory to the City that any or all of the foregoing obligations have been fulfilled. During Company's contacts with third parties they shall identify themselves as an independent party and not as an employee for the City. Company understands and agrees that they do not have the power or authority to bind City in any capacity. 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-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 Contract, 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 Contract.

E-28 Conflict of Interest (City Officials) [CAO-4/2020]

(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.

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 Contract 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 Contract, it is expressly understood that the City shall in no way be liable for the obligations of the joining governmental entity.

E-31 Certification – No Israel Boycott [CAO – 4/2020]

By signing this Contract, the Company certifies that it is not engaged in, and agrees for the duration of the Contract not to engage in, a boycott of the State of Israel per NRS 332.065.

"Boycott of Israel" means refusing to deal or conduct business with, abstaining from dealing or conducting business with, terminating business or business activities with or performing any other action that is intended to limit commercial relations with Israel; or a person or entity doing business in Israel or in territories controlled by Israel, if such an action is taken in a manner that discriminates on the basis of nationality, national origin or religion. It does not include an action which is based on a bona fide business or economic reason; is taken pursuant to a boycott against a public entity of Israel if the boycott is applied in a nondiscriminatory manner; or is taken in compliance with or adherence to calls for a boycott of Israel if that action is authorized in 50 U.S.C. § 4607 or any other federal or state law.

"Company" means any domestic or foreign sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited-liability partnership, limited-liability company, or other domestic or foreign entity or business association, including, without limitation, any wholly owned subsidiary, majority owned subsidiary, parent company or affiliate of such an entity or business association, that exists for the purpose of making a profit.

A violation of this Section by Company shall be considered an incurable Event of Default of this Contract, thereby allowing the City to immediately terminate this Contract upon giving Legal Notice to Company.

E-32 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-33 Miscellaneous [CAO – 4/2020]

(a) In the event of a dispute under this Contract which results in litigation or other formal dispute resolution proceedings, the prevailing party shall be entitled to reimbursement of its or their actual reasonable attorney's fees and costs in connection with such proceeding.

(b) Time is of the essence of the Contract and each of its provisions.

E-34 Limitation of Liability

Save and except for the Company's indemnification obligations for third party claims stated in this Contract, should a party be found liable for any losses hereunder for any reason, the sole and exclusive monetary remedy of the other party in any situation, whether in contract or tort, or otherwise, shall be limited to the affected party's actual and direct damages,. Save and except for the Company's indemnification obligations for third party claims stated in this Contract, under no circumstances will either party be liable to the other party, for consequential, incidental, indirect or punitive damages, or for lost profits.

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

CITY OF LAS VEGAS

ABBE YACOBEN Date
Acting Manager, Purchasing & Contracts

ATTEST:

LUANN D. HOLMES, MMC Date
City Clerk

APPROVED AS TO FORM:

Dimitri P. Dalacas
Deputy City Attorney

11/3/2020

Deputy City Attorney Date

ALLIED UNIVERSAL SECURITY SERVICES

STEVE CLATON Date
President, Southwest Region

EXHIBIT A - STATEMENT OF WORK

I. Background:

The Company shall provide armed uniformed security guards to provide security services at the Las Vegas Municipal Courthouse at 100 East Clark St, Las Vegas, NV 89101.

Security guards shall be responsible for the protection of City of Las Vegas property and equipment as well as the safety and protection of customers and of employees and their property while on City premises. Security Officers shall assist in emergency situations and be able to identify conflict and intervene expeditiously and courteously. Security Officers are a visual deterrent to possible problems at City facilities. Their degree of response can be described as 'mild confrontation·. The Security Officer's actions in breaking up a physical disturbance are limited to a visual and vocal presence. Security officers are not to become embroiled in any altercation that cannot be quelled by their presence or words. If those efforts fail, then the police are to be notified. Security Officers are responsible for efficient performance of their duties under normal and emergency conditions. Weapons, if any, are to be used only in immediate, life threatening situations. Weapons are not to be used in, and Security Officers will not engage in, pursuit of suspects. Under no circumstances are weapons to be used to intervene in a crime against property, such as theft or burglary.

The scope requires sufficient personnel to:

A, Staff up to two (2) screening stations at the single public point of entry to the new Las Vegas Municipal Courthouse at 100 East Clark St, Las Vegas, Nevada. Each screening station consists of a walk-through metal detector and a belted x-ray device;

Average foot traffic volume is anticipated to be as follows:

Monday AM	600
Monday PM	400
Tuesday AM	600
Tuesday PM	400
Wednesday AM	600
Wednesday PM	400
Thursday AM	500
Thursday PM	400

B. Provide an appropriate level of supervision for staff on site;

C. Accommodate for continued staffing of screening station(s) during breaks;

The officers will predominantly work the scanning lines at the single entrance to the courthouse on the North end. When traffic gets slow, they will walk the perimeter of the facility, both inside and out. Officers must keep logs of patrol and scanning activities on forms provided by the Las Vegas Municipal Court Marshal supervisor.

Services will commence on a date specified by the City after building completion, currently anticipated in March, 2021.

II. Minimum Qualifications

a. Company must remain appropriately licensed pursuant to Nevada Revised Statutes (NRS) 648.060, and in compliance with all requirements of Nevada Administrative Code (NAC).
b. Company shall be licensed by the State of Nevada to do the type of work required under this proposal in accordance with Nevada State laws. Proposals received from those not licensed at the time of proposal opening will be rejected. All licenses shall be in effect at the time of proposal opening. In the case of a dispute, the decision of the licensing authority is final.

III. Minimum Guard Qualifications

a. Capable of serving as an Armed Security Guard where there is possible adversarial public contact.

b. The City expects only the most experienced career security guards to be stationed at the Municipal Courthouse.
c. Security guards must not be wanted, convicted, under investigation, or on release pending criminal charges for any felony, crime of moral turpitude, or other criminal act inconsistent with the Municipal Court's mission.
d. Security guards must be authorized to work in the United States, must have the ability to read, write and speak English, and must be at least 21 years old with a high school diploma or G.E.D.
e. Security guards must be familiar with their current respective post orders, able to perform the physical duties of the job, and have completed at least the minimum training required by NRS and NAC Chapter 648.
f. Ability to maintain a clean, neatly groomed and professional appearance.
g. Ability to maintain a positive attitude and work ethic.
h. Possess above average communication skills in order to effectively interact with patrons and staff.
i. Have prior Security Guard experience with training on Company's company policies and procedures as well as how to respond to emergency situations.
j. Possess binocular vision correctable to 20/30.
k. Must be licensed and qualified to carry a firearm in the course of duty. The requirement to actually carry firearms at any given post will be solely at the discretion of the Las Vegas Municipal Court, and may change from time to time for the duration of this contract.
l. Required to wear a full duty belt, to include firearm, secondary weapons (baton, OC Spray), handcuffs and a flashlight. It is strongly recommended to wear a protective/ballistic vest but this is not a requirement. Vests to be provided solely at the expenses of the vendor or vendor employee, but must meet applicable law enforcement standards for ballistic vests if utilized.
m. Able to discriminate among standard colors.
n. Capable of hearing ordinary conversation at 20 feet and whispered conversation at 10 feet with each ear.
o. For all Security Guards, physical fitness to be evidenced by an annual medical examination and drug screening conducted within 90 days prior to reporting for duty. An annual physical and drug screening for each guard to be performed within 30 days of the anniversary date of the previous examination. Company will supply the City with a certificate from a physician stating that the officer meets the above minimum physical conditions. Written consent of the officer to the medical examination will be attached to the certificate and forwarded to the City.
p. The Company shall submit documentation of compliance with all security guard minimum qualifications to the City Project Manager before assignment of the individual, and shall submit renewed documentation as applicable or as requested by the City Project Manager.
q. It shall be the Company's responsibility to ensure that any employee assigned to serve on this contract is registered as required by the State. This is to include, but not be limited to, the possession of a valid Sheriff's card, gun certification card (white card), and gun registration (blue card) while on duty. The security officer shall be the registered owner of the firearm carried and their gun certification card shall certify the security officer for the same type of firearm.
r. Be fully capable of performing normal and emergency duties that include:
    i. Standing or walking for the entire shift;
    ii. Climbing stairs or ladders;
    iii. Lifting or carrying objects weighing up to 50 pounds;
    iv. Running for short distances; and
    v. Self-defense.
s. Successful completion of the Las Vegas Municipal Court background process (NCIC/NCJIS/SCOPE). Note: prior criminal convictions or any ongoing involvement with a criminal or civil court matter may be cause for denial. Security guards must be professional, courteous, and responsible to the satisfaction of the City's Project Manager. The City's Project Manager, in his or her sole discretion, may require replacement of any security guard assigned to the City who does not meet the standards required of City personnel.

IV. Service Location(s)

a. All services will be performed at the new Las Vegas Municipal Court House located at 100 East Clark Avenue in downtown Las Vegas.
b. Security guards may be posted at the main entrance, loading dock or after-hours entrance of the new Las Vegas Municipal Courthouse.
c. Security guards may be required to patrol the exterior of the new Las Vegas Municipal Courthouse, or adjacent City facilities.

V. Service Shifts and Hours

a. Under normal circumstances, the City Project Manager will provide the Company with a minimum of 48 hours' notice of any significant change in service and/or scheduling are required.
b. Under normal circumstances, the City anticipates requiring approximately 5 security guards for approximately 8 hours per day (between 6:30 am and 10:00 pm) for a minimum of 4 days per week and as many as 5 days per week. Specific schedules will be determined by the City Project Manager prior to Contract Award.
c. Regular Shifts are pre-scheduled hours as requested at least 14 days in advance by the City. Regular Shifts will not be paid as overtime regardless of the number of hours during a day, week, or pay period.
d. Overtime Shift is a non-scheduled shift, call back, or an extension of a regular shift in which the City requires a specific security guard to stay on duty.
e. Holiday Shift applies to Regular Shifts which fall on a City-observed holiday as described in the Sample Services Contract Section D-18.
f. Emergency Shift is an urgent staffing need required by the City less than 48 hours in advance. Any scheduled shifts within this 48 hour time-frame from the City request to the start of the shift may be billed as an Emergency Shift.
g. There will be a four (4) hour minimum billing charge. If a security guard is asked to cover an assignment of any duration, and is actually only needed for less than four hours, the Company may bill four (4) hours for that assignment.

VI. Equipment Requirements

a. All Security guards shall carry a radio or mobile phone while on duty. These phones and radios are to be provided by the Company at no additional cost to the City. The City of Las Vegas will under no circumstances accept or pay for hours of service provided by a guard who does not have a functioning radio or cell phone while on duty.
b. All Security officers will have an equipment belt supplied with a functioning pepper spray or mace-type tear gas canister and will be fully trained in its use and the use of force continuum.
c. All Security officers will have an equipment belt supplied with a baton and will be fully trained in its use and in the use of force continuum.
d. All Security Officers shall undergo annual training on subjects as required by the Las Vegas Municipal Court Marshal supervisor.
e. In keeping with City of Las Vegas standards, only the following weapon types will be acceptable: 9MM, .38, .40, or .45 caliber, by the following manufacturers: Beretta, Colt, Glock, Sig Sauer, H & K or Smith and Wesson. The weapon must be carried in a triple retention holster. Ammunition must be hollow point issue only.
f. All Security officers will have an equipment belt supplied with a flashlight.

VII. Log Books

a. The Company shall furnish the following logbooks: Check In/Check Out, Activity Report, and Incident Report. These log books shall be located at the designated security desk at the facility and shall be maintained by the security personnel. The Company shall be responsible for the creation, maintenance, and review of the logs. These log books will be forwarded to the Las Vegas Municipal Court Project Manager on a weekly basis.
b. The Check In/Check Out Log Book shall include, at a minimum, the date; employee's name, destination, and phone number; the check in and out time; and the security guard's name. This log shall be used to document when individuals are checking in and out on off-shifts, weekends, and holidays.
c. The Activity Report Log Book shall include, at a minimum, the date, shift, guard's name, daily activity, time of activity, and any items that need to be documented that have been identified while the security guard is on duty. This log shall be used to document the activities that are being performed by each security guard while on duty.
d. The incident Report Log Book shall include, at a minimum, the date, time, and shift of incident occurrence; the guard's name; City of Las Vegas personnel contacted; and a complete written report of the incident. This log shall be used to document the events that took place relative to a given incident. This log shall be used only to document situations that are unusual or out of the ordinary.

VIII. Changes in Job Descriptions

a. The City reserves the right to make any desired changes in the job specifications, after the same is agreed upon by the Company. These changes, when furnished in writing, shall become a supplement to the contract.

IX. Addition or Deletion of Guards

a. The City reserves the right to add or delete guards as necessary at the hourly rates specified on the Pricing Proposal page. Medium to long-term changes with no tier changes will be accompanied by a new schedule and will be implemented within seven (7) days. New schedules with Tier changes will be implemented within fourteen (14) days. Short-term changes (such as a single day) will be accompanied by an 'Additional Service Request Form' and will be implemented with 72 hours.
b. The City further reserves the right to add additional locations, hours, as well as guards, as the need arises.
c. The City reserves the right to request replacement of any guard that does not comply with the Special Conditions and technical specifications found in this RFP document.

X. Scope of Services

a. During assigned working hours, security guards shall perform all necessary services to establish order and safeguard employees, property, clients, and the public while on City premises;
b. Security guards shall be familiar with non-violent resolutions to conflict;
c. Security guards shall assist in emergency situations, identify conflicts, intervene courteously, defuse potential problems, and perform other security-related functions as required by the City;
d. Security guards shall immediately report potentially hazardous conditions and items in need of repair to the City Project Manager.
e. In the event of an emergency, notify Municipal Court Marshal supervisor then the City Project Manager, and take all appropriate action until assistance arrives.

XI. Supervision of Employees

a. The Company shall furnish, at its expense, all supervision required to ensure the necessary management of his personnel and the functions involved in the specifications. Supervisory personnel must be on duty 24 hours a day, 7 days a week and all holidays. The Company shall provide periodic audits of the performance of the personnel. These audits shall be documented in log form and shall include, at a minimum, the date of the audit, the time of the audit, the facility, personnel, the auditor, the location, and the audit findings, at no additional cost to the City. Audits shall take place at least two times per month on random days at random times. The audit forms shall be available for City review upon request. City will perform additional audits it deems necessary. Supervisor is to be equipped with radio or cellular phone and shall respond when requested within one hour.

XII. Management Requirements

a. The Company shall be directly responsible for the supervision of all security guards. Supervisors must make on-site reviews at least once per week, and interface weekly with the City Project Manager.
b. The Company must supply a 24 hour telephone number for immediate response for significant personnel issues, emergencies, or urgent matters.
c. The Company must promptly report to the City Project Manager any pending disciplinary proceedings brought forward by an administrative licensing agency.
d. The Company shall resolve any disciplinary problems with assigned security guards by, at minimum, instituting corrective action, reporting to the City Project Manager, and increasing the amount of on-site supervision dedicated to that security guard.

XIII. Reporting Requirements

a. The Company shall submit monthly invoices for completed work to the City Project Manager.
b. The Company shall submit a Quarterly Report, in a format reasonably acceptable to the City, summarizing hours worked, charges, issues encountered, and any unusual events occurring within the quarter. Quarterly Reports are due no later than the 20th of the month following each calendar quarter.

XIV. Standards of Conduct

A high standard of conduct is expected of Security Officers working under Contract for the Las Vegas Municipal Court. Examples of unacceptable conduct include, but are not limited to:

a. Vacating post without authority.
b. Eating on post during non-meal period, and/or eating other employees' food.
c. Leaning against walls, doors, etc.

d. Idle talk and gossip with other contract personnel, City employees, or customers.
e. Gambling.
f. Drinking intoxicants while on duty or immediately before reporting for duty; use of narcotics or habit-forming drugs. Reporting for duty under the influence of alcohol or drugs is strictly prohibited and shall be cause for immediate removal from the Facility and termination from assignment within a Court Facility.
g. Carrying of any weapon except those required by the post orders and designated tier.
h. General inefficiency or incompetence; discourtesy, insolence, or the use of profanity.
i. Sleeping on duty.
j. Insubordination; neglect of duty or failure to perform duties fully; making false statements and/or reports.
k. Unauthorized use of City phones, computers, coffee pots, microwaves, radios, televisions, VCR's, refrigerators, calculators, printers, fax machines, copy machines, cell phones, vehicles of any kind, and any other City property.
l. Willful neglect of City property.
m. Failure to report known violations of City policies, procedures, rules, and regulations, unlocked doors and windows on buildings and cars.
n. Reading on any post (except materials related to Security functions).
o. Use of excessive force.
p. Sexual harassment of any kind.
q. Any act of commission or omission contrary to good order and discipline or constituting a violation of County policies, procedures, rules, and regulations or state, local and federal laws.

AGENDA SUMMARY PAGE
City Council
Meeting of: December 2, 2020

Agenda Item No.:
11

DEPARTMENT: Finance **CONSENT**
DIRECTOR: Venetta Appleyard

SUBJECT:
For possible action to approve award of Contract No. 210097-JH, Construction Manager as Agent Contract for Sewer Rehab Group J, located within Bradley Road, Jones Boulevard, Torrey Pines Drive, Rio Vista Street, Elkhorn Road, Ann Road, and Craig Road - Department of Public Works - Award recommended to: 4LEAF CONSULTING LLC ($410,000 - Sanitation Enterprise Fund) - Wards 4 and 6 (Anthony and Fiore)

FISCAL IMPACT:
Budget Funds Available
Amount: $410,000
Funding Source: Sanitation EF
Dept./Division: Public Works

PURPOSE/BACKGROUND:
The contract provides construction manager services for sewer rehabilitation work to include approximately four (4) cast in place pipe (CIPP) sectional liners, repair and/or coating of ninety (90) manholes, replacement of grade rings and covers of 48 manholes. Award of this project is recommended by the City of Las Vegas consultant selection committee based upon the 2018 Statement of Qualification process. This item is exempt from the competitive bidding process pursuant to NRS 332.115.1(b), Professional Services. 4LEAF Consulting LLC is located in Las Vegas, Nevada.

RECOMMENDATION:
Approve as recommended with signature authority granted to the Purchasing and Contracts Manager per R- 20-2017.

BACKUP DOCUMENTATION:
1. Contract No. 210097-JH
2. Certificate - Disclosure of Ownership-Principals

CONSTRUCTION MANAGER AS AGENT CONTRACT
FOR
SEWER REHAB GROUP J

THIS CONTRACT is made and entered into this _____ day of _____, _____, by and between the CITY OF LAS VEGAS, a municipal corporation within the State of Nevada (herein the "City") whose address is 333 North Rancho Drive, Las Vegas, Nevada 89106, and **4LEAF Consulting LLC**, (the "Consultant"), **a Limited Liability Corporation**, whose address is **125 East Reno Ave No. 3, Las Vegas, Nevada 89119.**

PROJECT DESCRIPTION:

LOCATION:
1. The sewer rehabilitation work is located within Bradley Road, Jones Boulevard, Torrey Pines Drive, Rio Vista Street, Elkhorn Road, Ann Road, and Craig Road. The sewer rehabilitation portion of this project is located within City of Las Vegas, Nevada Department of Transportation (NDOT), and Clark County rights-of-way and easements.

2. New replacement sewer construction is located at the Craig Road and Rancho Drive intersection and at the Craig Road and Jones Boulevard intersection. The new replacement sewer construction lies within NDOT and City of Las Vegas rights of way.

3. Additional paving work is located on the entire south portion of the Craig Road/Jones Boulevard intersection and the Craig Road eastbound approach starting at the beginning of the left turn pocket.

B. SCOPE OF WORK:

1. The sewer rehabilitation Work includes approximately four (4) CIPP Sectional Liners, repair and/or coating of 90 manholes, and replacement of grade rings and/or frame and covers of 48 manholes.

2. The open-cut sewer replacement Work is described below:

a. Rancho Drive and Craig Road Intersection: The existing subject sewer in Rancho Drive is 21-inch diameter in size with invert depths ranging from approximately 9 feet to 12 feet. From the diversion manhole (RA-880), the sewer is either diverted southeast in Rancho Drive or east in Craig Road. Under normal operating conditions, the diversion structure diverts flow east in Craig Road. When flow is diverted southeast in Rancho Drive, the downstream system surcharges and capacity becomes limited due to a segment of pipe with negative slope. The capacity limiting pipe is 15-inch diameter and is located between manholes RA-40 and RA-39, immediately west of the Craig/Rancho intersection. The proposed improvement consists of approximately 277 linear feet of new 21-inch sanitary sewer pipe in addition to two (2) 60-inch and one (1) 72-inch sanitary sewer manholes. The proposed discharge manhole RA-38 was recently installed and is anticipated to be core drilled. The existing 15-inch sewer will be abandoned in place. Relocation of a 16-inch ACP waterline is required for the sewer improvements. Relocation of a 16-inch steel encased
duct bank for CenturyLink utility is required for the sewer improvements. The work area lies within NDOT rights of way.

b. Jones Boulevard and Craig Road Intersection: The existing sewer in Craig Road between Rancho Drive and Jones Boulevard is 21-inch in diameter with invert depths ranging from approximately 10 to 13 feet. The sewer was constructed in 2006. The pipeline flows east along Craig Road to manhole LT-4379, located at the Jones Blvd intersection, and turns 90 degrees to the south. The pipeline continues flowing south along Jones Blvd for approximately 105 feet to manhole LT-4380 and turns 90 degrees to the west and immediately discharges into an existing 36-inch HDPE sewer flowing south along Jones Blvd. The system has history of surcharging due to poor hydraulics at manhole LT-4380. The proposed improvements include abandoning manhole LT-4381 and installing a new manhole approximately 15 feet downstream the current manhole location to allow for better hydraulics as the 21-inch sewer discharges into the 36-inch. A new 21-inch sewer will be installed to replace the existing sewer and will be extended into the Craig/Jones intersection (NDOT ROW). Additional proposed improvements include the elimination of the 90-degree bend at the intersection of Craig Road and Jones Boulevard to improve hydraulics and prevent potential odor issues by maintaining air flow through the system. The 90-degree bend in manhole LT-4379 will be replaced with two manholes with 45-degree bends. The existing sewer to be abandoned will be excavated and removed. The work area lies within NDOT and CLV rights of way.

3. NDOT Paving Work on Craig Road/Jones Boulevard is approximately 450 feet along Craig Road and includes the entire south portion of the Craig/Jones intersection and the Craig eastbound approach starting at the beginning of the left turn pocket. The work involves milling up to 3 ¾-inch of plantmix bituminous surface then filling with 3-inch plantmix bituminous surface (dense grade) and ¾-inch plantmix bituminous open-graded surface.

W I T N E S S E T H:

WHEREAS, the City intends to construct the Sewer Rehab Group J (herein the "Project"); and

WHEREAS, the Consultant is properly licensed pursuant to NRS Chapter 338, 623, 623A, 624, or 625, whichever is legally required for the services to be provided within the State of Nevada, and if applicable to the Consultant's business organization, is in compliance with NRS 623.349 for architects, interior designers, and residential designers and NRS 623A.250 for landscape architects, which requires that control and no less than two-thirds ownership of the business organization or association be held by persons registered or licensed in the State of Nevada pursuant to NRS Chapters 623, 623A, or 625, and possesses the knowledge, skills and experience to perform the services hereinafter set forth within the time required under this Contract;

WHEREAS, with respect to the Project, the City intends to retain a qualified and licensed contractor (herein the "Contractor") to construct the Project having been designed and engineered by professional architects and engineers;

WHEREAS, the Consultant has not and will not take part in the design or construction of the Project;

WHEREAS, the Consultant will not be assuming the Contractor's overall responsibility for ensuring the Project is completed in a satisfactory manner, or the Contractor's responsibility for the cost, quality or timely completion of the construction;

WHEREAS, the City desires to retain the services of a qualified consultant to assist the City in the management of the construction of the Project; and

NOW, THEREFORE, in consideration of the above premises, the parties hereto agree to the following terms, conditions and covenants set forth in Sections One through Ten hereof:

1.0 CONSULTANT RESPONSIBILITIES

1.1 ***Description of Consultant's Services.*** For the compensation set forth in Section Seven, the Consultant hereby agrees to perform the basic services set forth in the Scope of Services, Exhibit "A" attached hereto and incorporated herein as a part of this Contract and, if so requested, the additional services set forth in the Compensation, Exhibit "E" attached hereto and incorporated herein as a part of this Contract and to provide the submittals described in the Required Submittals Exhibit "B," attached hereto.

1.2 ***Performance Standards.*** In performing the services set forth in this Contract, the Consultant shall follow the practices consistent with the generally accepted standards in the profession of the services being provided to the City pursuant to this Contract.

1.3 ***Document Review.*** The Consultant shall review each document prepared by the Consultant and its subconsultants including, without limitation, the plans, drawings and specifications for conformance with quality control requirements, Project standards and applicable federal, state and local laws and other regulations. Consultant shall also review each document for violations or infringements upon any patent rights.

1.4 ***Waiver.*** The City's approval of any documents or services furnished by the Consultant shall not in any way relieve the Consultant of responsibility for the professional and technical accuracy of its documents or services. The City's review, approval, acceptance or payment for any of the Consultant's services shall not be construed to operate as a waiver of any rights enjoyed by the City under this Contract or of any cause of action arising out of the performance of this Contract. The Consultant shall remain liable for any damages to the City caused by the Consultant's negligent act or omission committed in the performance of this Contract.

1.5 ***Designation of Consultant's Representative.*** The Consultant's representative is the individual identified in the Key Personnel List, Exhibit "F" attached hereto (the "Consultant Representative") to act in that capacity, who shall be responsible for the services required under this Contract. The services specified by this Contract shall be performed by the personnel identified in the Key Personnel List provided that such associates and employees perform under the personal supervision of the Consultant Representative.

If any person or subconsultant who is expected to provide any of the services required under this Contract is objectionable to the City for any reason, the Consultant shall replace such person or subconsultant with someone acceptable to the City.

If the Consultant's personnel are unable to complete their responsibilities for any reason under this Contract, or the Consultant desires for any reason to substitute personnel assigned to the Project, the Consultant agrees to obtain the approval of the City for the substitution. The City shall not unreasonably deny approval unless the City adjudges the substitution to not be in the interest of the City or the Project.

If the Consultant fails to make an acceptable replacement within thirty (30) days, the City may terminate this Contract for default as provided in Section 10.03 of this Contract.

1.6 ***Correspondence Review.*** The Consultant shall furnish the City Representative draft copies of each correspondence to be sent to any contractor involved with the Project, and to any regulatory agencies, for approval and review prior to mailing such correspondence.

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

2.0 CITY RESPONSIBILITIES

2.1 ***City Representative.*** The Director of Public Works or his authorized representative identified in the Key Personnel List is hereby designated as the City's representative (the "City Representative") with respect to this Contract. The City Representative shall have complete authority to transmit instructions, receive information, interpret and define the City's policies and decisions with respect to the services of the Consultant. The City Representative is not authorized to change or waive any of the provisions set forth in Sections 1.0 through 10.24 of this Contract.

2.2 ***Review of Consultant's Services and Documents.*** The services to be performed by the Consultant shall be subject to periodic review by the City Representative. To prevent an unreasonable delay in the Project, the City Representative will endeavor to examine and comment in writing on the documents furnished by the Consultant including, without limitation, test results, evaluations, and reports within twenty-one (21) days of receipt of such documents, unless the Contract provides for a different review time with respect to the document.

2.3 ***Access to Records*****.** The City shall, without charge, furnish a copy to, or make available for examination or use by, the Consultant, as it may request, any documents and data which the City has available including, without limitation, reports, maps, plans, specifications, surveys, records, ordinances, codes, regulations, and other documents related to the services required under this Contract. The City shall assist the Consultant in obtaining data and documents from public agencies and from private citizens and business firms whenever the City determines that such material is necessary for the completion of the services required by this Contract.

2.4 ***Cooperation with Consultant.*** The City agrees that its officers and employees will cooperate with the Consultant in the performance of this Contract and will be, with advance notice, available for consultation with the Consultant at such reasonable times as to not conflict with the Consultant's other responsibilities. The City shall provide access to the Consultant on to the Project site as may be required to perform the services under this Contract.

3.0 CHANGES TO CONSULTANT'S SERVICES

3.1 ***Requested Changes.*** The City may at any time, by written order of the City Representative, make a change in the services to be performed by the Consultant under this Contract.

3.2 ***Adjustment of Compensation.*** If the change requested by the City causes an increase or decrease in the maximum cost or time required to perform any of the services required under this Contract, an equitable adjustment shall be made in the maximum compensation to be paid to the Consultant under Section Seven, or in the performance schedule under Section Eight, or both, and this Contract shall be modified in writing accordingly. Each claim for adjustment under this Section must be asserted in writing within thirty (30) days from the date of receipt by the Consultant of written notification of the change, unless the City grants in writing an extension. Provided proper notice has been given to the City as required herein, the claim for an adjustment shall be handled pursuant to the provisions of 10.19.2 and 10.19.3 of this Contract. The failure to provide notification of the claim within the time required herein shall constitute a waiver of the right to seek any equitable or legal adjustment in compensation with respect to that change.

4.0 ADDITIONAL SERVICES OF CONSULTANT

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

4.2 ***Attendance at Meetings or Public Hearings.*** The Consultant shall notify the City in advance of any estimated costs which may be incurred prior to attending any meetings or public hearings as may be necessary in connection with the services performed by the Consultant under this Contract.

5.0 *SUBCONSULTANT CONTRACT*

5.1 ***Subconsultant Provisions.*** If, with the approval of the City as required pursuant to Section 10.7, the Consultant enters into an Contract with a subconsultant for the performance of any of its obligations under this Contract, the Consultant agrees to include in each subconsultant Contract a provision that:

5.1.1 the Consultant agrees to pay the subconsultant when paid by the City for that portion of the services provided to the City and that no liability arises on the part of the Consultant for payment of the subconsultant services until payment has been made by the City. If the City has paid the Consultant for the subconsultant services, the subconsultant's only recourse is against the Consultant and not against the City, either through the institution of legal or equitable action or the attachment of any lien,

5.1.2 the subconsultant shall have no more rights against the City than that of the Consultant,

5.1.3 the subconsultant agrees to be bound by the terms, conditions and obligation of this Contract unless the City has approved any deviation, change or modification in writing, and

5.1.4 unless otherwise approved in writing by the City Representative, the subconsultant shall obtain and maintain professional liability insurance (Errors and Omissions coverage) in connection with the subconsultant services in an amount equal to that required of the Consultant in this Contract.

6.0 TERM OF CONTRACT

6.1 ***Term.*** This Contract shall commence on the day it is approved by the City (which date shall be inserted in the introductory paragraph of this Contract) and shall remain in force and effect until the Project is completed unless terminated earlier pursuant to Section 10.2 or 10.3 of this Contract. Such termination shall not release either party from any of its continuing obligations under this Contract. The City reserves the right to exercise an option to temporarily extend this Contract for up to thirty (30) calendar days from the expiration date, for any reason.

6.2 ***Disputes.*** This Section shall not be construed to preclude the filing of any dispute arising out of the performance of this Contract or in connection with the subject matter hereof, nor shall this Section be construed to change the date or the time on which a cause of action arising out of the performance of this Contract or in connection with the subject matter hereof, would otherwise accrue under the statutes of limitation or doctrines of law.

7.0 COMPENSATION AND TERMS OF PAYMENT

7.1 ***Compensation: Basic Services***. For the services to be performed by the Consultant under this Contract and set forth in the Scope of Services, the City agrees to pay the Consultant on the basis of Consultant's direct salary, times a Multiplier, as defined in Section 7.2 plus City approved reimbursable expenses identified in Section 7.04. In no event shall the fee exceed the fee identified in the Fee Breakdown, Exhibit "D" and direct salary rates, Exhibit "E," attached hereto, pursuant to invoices submitted in accordance with Section 7.5 of this Contract.

7.2 ***Multiplier. Exhibit D, Section 400.2.*** provides the multiplier established for this contract. The multiplier includes costs associated with, but not limited to: overhead, general and administrative costs, profit, vehicles, printing, and travel, unless directly identified as reimbursable per Contract Section 7.4 and Exhibit E. Documentation used to establish this multiplier is considered part of the project records and shall be maintained in accordance with Section 9.01.

7.3 ***Compensation: Additional Services.*** For any services not set forth in the Scope of Services, the City shall pay to the Consultant on the basis of Consultant's direct salary, times the multiplier set forth in Exhibit D in accordance with Exhibit E, provided prior written approval for such services is given by the City Representative.

7.4 ***Compensation: Reimbursable Expenses.*** Direct reimbursable expenses incurred by the Consultant for work performed under this Contract eligible for reimbursement include subconsultant or subcontractor services (provided the Owner has authorized, in writing, said services) and additional line items specified in Exhibit E. The Consultant agrees that all of its authorized reimbursable expenses associated with the performance of this Contract shall be billed at the actual cost incurred by the Consultant without mark-up of any kind.

7.5 **Payment Invoicing.** The Consultant may submit an invoice for payment for the services provided by the Consultant based on the manner or method of payment set forth in Exhibit A, Section 101 (Preliminary and General Items and Exhibit D (Fee Breakdown). The City Representative will notify the Consultant of any problems regarding the invoice within fourteen (14) days from receipt thereof. If no response is received from the City Representative within the aforementioned period of time, the Consultant may expect payment within a period of (60) days from the date of receipt by the City. If payment has not been received within the sixty (60) days, the Consultant agrees to contact the City Representative to resolve the problem causing the delay. If resolution of the delay is not satisfactory to the Consultant, the Consultant may submit a claim pursuant to Section 10.19.1 of this Contract.

7.6 ***Right to Off-Set.*** The City Representative may subtract or offset from any unpaid invoice from the Consultant any claims, which the City may have incurred for failure of the Consultant to comply with the terms, conditions or covenants of this Contract, or any damages, costs and expenses caused by, resulting from, or arising out of the negligent act or omission of the Consultant in the performance of the services under this Contract including, without limitation, any error or deficiency in the report or other documents prepared by the Consultant. Within seven (7) days, the City Representative shall provide a written statement to the Consultant of the off-set which has been subtracted from any payment to the Consultant along with appropriate documentation and receipts, if any, and a description of the failure, error or deficiency attributed to the Consultant. The Consultant may dispute the right or amount of the off-set made by the City by providing written notification to the City within fourteen (14) days after receipt of the City's written notice. The City Representative shall provide a written response to the Consultant within seven (7) days of receipt of the Consultant's written dispute notice. If the Consultant disputes the City Representative's determination, the Consultant may file a claim pursuant to Section 10.19 of this contract. Should the City's damages, costs or expenses arising out of the negligence act or omission of the Consultant exceed the off-set amount retained by the City, the City reserves all rights and remedies under law and equity to recover any damages, costs or expenses arising out of the negligence act or omission of the Consultant.

7.7 ***Final Payment***. Upon completion of the services required under this Contract, and acceptance thereof by the City (which acceptance will not be unreasonably withheld), the Consultant will, within sixty (60) days of the City's acceptance, be paid the balance of any money due for such services.

8.0 PERFORMANCE SCHEDULE

8.1 ***Performance Schedule.*** The Consultant shall perform and complete the services required under this Contract according to the schedule (the "Performance Schedule") set forth in the Schedule of Performance, Exhibit "C" attached hereto. If the performance of services is delayed or submittals are not delivered in the time period as outlined in the Performance Schedule, the Consultant shall notify the City Representative in writing of the reasons for the delay and include a plan which brings the Consultant's performance into compliance with the Performance Schedule.

9.0 AUDIT: ACCESS TO RECORDS

9.1 ***Records.*** The City shall have the right to audit the Consultant's books, records and other documents directly pertinent to the performance of this Contract. The Consultant agrees to maintain books, records and other documents directly pertinent to performance of this Contract in accordance with generally accepted accounting principles and practices. The Consultant shall also maintain the financial information and data used to prepare or support the invoices submitted to the City. Audits conducted pursuant to this provision shall be in accordance with generally accepted auditing standards, procedures and guidelines of the City, or its designated representative. The City, or its duly authorized representatives, shall have access to such books, records, and documents for the purpose of inspection, audit and copying. The Consultant will provide proper facilities for such access and inspection.

9.2 ***Disclosure.*** The Consultant shall be afforded the opportunity for an audit entrance and exit conference and an opportunity to comment and submit any supporting documentation on the pertinent portions of the draft audit report, and that the final audit report will include the written comments, if any, of the Consultant.

9.3 ***Period of Maintenance.*** The books, records and other documents under Sections 9.1 and 9.2 of this Contract shall be maintained for six (6) years after the date of the final payment for the services under this Contract, unless additional retention is required based on funding-specific requirements. In addition, those records and other documents which relate to any arbitration, litigation or the settlement of any claim arising out of this Contract, or to which an audit exception has been taken, shall be maintained and made available until three (3) years after the date that the arbitration, litigation or exception has been resolved.

9.4 ***Subcontract Provisions.*** The Consultant agrees to include Sections 9.1 through 9.3 of this Contract in all its subcontracts directly related to performance of services specified in this Contract which are in excess of $10,000.

10.0 MISCELLANEOUS PROVISIONS

10.1 ***Suspension.*** The City may suspend, without cause, the performance by the Consultant under this Contract for such period of time as the City, in its sole discretion, may prescribe by providing written notice to the Consultant. The suspension shall be effective as of the date set forth in the written notice. With such suspension, the City agrees to pay to the Consultant the amount of compensation earned as of the effective date of suspension less all previous payments. The Consultant shall not provide any further services under this Contract after the effective date of suspension until otherwise notified in writing by the City. In no event shall the City be liable to the Consultant for services in excess of the hourly wages or reimbursable costs directly related to execution of the Contract at the time of suspension.

If, after notice to resume performance has been given by the City, the suspension was for a period in excess of ninety (90) days, which has resulted in an increase in the performance of this Contract to the Consultant and:

10.1.1 the Consultant was not a contributing cause for the suspension,

10.1.2 the Consultant has not received an equitable adjustment under another provision of this Contract, and
10.1.3 the Consultant could not mitigate the increase in the performance cost,

then the Consultant's fee shall be reviewed by the City and, if justified, equitably adjusted to provide for any additional expenses resulting from the suspension.

10.2 ***Termination for Convenience.*** The City reserves the right to terminate this Contract without cause or default on the part of the Consultant with ten (10) days' prior written notification to the Consultant served pursuant to Section 10.18 of this Contract. In the event of termination, without cause or default, the City agrees to pay to the Consultant the reasonable value for the services performed as of the date that notification of termination is received by the Consultant. In no event shall the City be liable to the Consultant for services in excess of the percentage completed at the time of termination.

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

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

10.3.1.1 defaults in the due observance and performance of any term, condition or covenant contained in this Contract,

10.3.1.2 (i) voluntarily terminates operations or consent to the appointment of a receiver, trustee or liquidator of the Consultant for all or a substantial portion of its assets, (ii) is adjudicated bankrupt or insolvent or files a voluntary petition in bankruptcy, or admits in writing to the inability to pay its debts as they become due, (iii) make a general assignment for the benefit of creditors, (iv) file a petition or answer seeking reorganization or an arrangement with creditors or take advantage of any insolvency law, or (v) if action shall be taken by the Consultant for the purpose of effecting any of the foregoing,

10.3.1.3 allows any warrant, execution or other writ to be issued or levied upon any property or assets of the Consultant which continues unvacated and in effect for a period of thirty (30) days, or

10.3.1.4 fails, in the judgment of the City, to provide the services hereunder properly and with proper dispatch in accordance with the time schedule set forth in this Contract,

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

10.3.2 ***City's Rights.*** Upon the occurrence of an Event of Default, and without prejudice to any other right or remedy it may have at law or equity, the City may:

10.3.2.1 terminate this Contract, suspend payment of all pending invoices otherwise due to the Consultant hereunder, and finish this Contract by such means as deemed appropriate by the City, reserving the right to deduct from any balance due Consultant the cost of completing this Contract. In the event the cost of finishing the Consultant's performance of this Contract exceeds the balance due the Consultant, the excess shall be paid by the Consultant to the City within thirty (30) days of invoicing by the City,

10.3.2.2 terminate this Contract, and the obligations imposed hereunder, including the obligation of any further payment for the services of the Consultant except for the reasonable value for the services performed to the date of termination, or

10.3.2.3 continue with performance by the Construction Manager as Agent and serve within a reasonable time after completion of this Contract a notice of claim or dispute pursuant to the procedure set forth in Section 10.19.

In the event that the City elects to implement 10.3.1 (i) above, the costs and expenses of completing this Contract shall be computed and audited by the City's designated representative. The audit shall be conducted in accordance with generally accepted accounting principles and the cost thereof shall be paid by the City.

10.4 ***Ownership of Documents***

The Consultant agrees that all documents of any kind whatsoever, and in whatever medium expressed, prepared by the Consultant and the Consultant's subconsultants in connection with the Project or otherwise pursuant to this Contract (collectively, the "Documents") and all rights therein (including without limitation trademarks, trade names, rights or use and reuse, copyrights and/or all other proprietary rights) shall be and remain the sole property of the City (regardless of whether the City or Consultant terminates this Contract for any reason whatsoever). The Consultant hereby agrees that the Documents are or shall be deemed to be "Works for Hire" within the meaning of Section 101 of the Copyright Act, and the Consultant hereby assigns to the City all right, title, and interest therein. If for any reason the Documents should not be considered a "Work for Hire" under applicable law by a court or other tribunal of competent jurisdiction, then it is mutually agreed that that under this Section 10.4, the Consultant shall hereby be deemed to have transferred to the City, its successors and assigns, the Consultant's entire right, title and interest in and to the Documents and the legal rights therein including, but not limited to, copyright, included therein.

The Consultant further agrees that neither it nor any of its employees shall exercise any of the rights embodied in the copyrights in or to such Documents, unless authorized to do so by the City under the terms of a separate written Contract executed by the Consultant and the City. The Consultant shall place a conspicuous notation upon each such Document that indicates that the copyright thereto is owned by the City.

City agrees to waive any and all claims against the Consultant and to defend, indemnify, and hold the Consultant harmless from and against any and all claims, losses, liabilities and damages arising out of or resulting from the City's use, reuse, or alteration by any new consultant or other agent of the City, of the Documents. The Consultant shall be entitled to retain a reproducible copy of the Documents furnished to the City; however, the Consultant shall not sell, license, or otherwise market the Documents in any way.

10.4.1 ***Delivery of Documents.***

10.4.1.1 In the event of the completion of this Contract and upon the City's payment in the services rendered by the Consultant, the City shall have the right to require delivery of any and all of the plans, drawings, specifications, and all other documents (including, without limitation, design concepts and sketches, test results, evaluations, reports and studies), including the magnetic or electronic media of the aforementioned documents, not in the possession of the City.

10.4.1.2 In the event of the suspension or termination of this Contract, the Consultant shall have the right to invoice the City to request full payment for all services performed or furnished in accordance with this Contract through the suspension or termination date. Any dispute regarding the amount of any payment to be made by the City under this Contract shall not diminish, restrict or limit the right of the City to promptly receive delivery of any and all plans, drawings, specification, and all other documents (including without limitation, design concepts and sketches, test results, evaluations, reports and studies), including the magnetic or electronic media of the aforementioned documents, not in possession of the City. The Consultant may file a claim pursuant to Section 10.19 of this Contract for any disputed payment claims.

10.4.2 ***Confidentiality.*** The plans, drawings, specifications and other documents (including, without limitation, design concepts and sketches, test results, evaluations, reports and studies) (including the magnetic or electronic media of the aforementioned documents) which are prepared or assembled by the Consultant, or its subconsultants, under this Contract shall not be made available to any individual or organization without the prior written consent of the City. Except for marketing pamphlets and submittals to clients, the Consultant shall not publish, submit for publication, or publicly display the Project without the written consent of the City. The obligations of confidentiality shall survive the termination of this Contract.

10.4.3 ***Contractual Rights.*** Notwithstanding the provisions of 10.4.2 above, the City is hereby licensed to use all design concepts developed by the Consultant and subconsultants under this Contract, including the right to construct derivative works of the Project, and to use the design concepts for other projects of the City. Provided, that however, none of the documents or materials are intended or represented by Consultant to be suitable for reuse by the City, or others on extension of the project or on any other project. Any reuse without written verification or

adaptation by Consultant for the specific purpose intended will be at City's sole risk and without liability or legal exposure to Consultant. The City agrees to indemnify, defend and hold harmless Consultant for any claims related to the City's or City's authorized use of the design concepts developed by the Consultant. The design concepts include, but are not limited to, the form, aesthetic appeal, site layout, the arrangement and composition of spaces and elements, the use of colors and materials, system designs, construction methods and interior design.

10.5 ***Insurance***

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

10.5.1 ***Industrial/Workers' Compensation Insurance*** protecting the Consultant and the City from potential Consultant 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 Consultant is a sole proprietor, it will be required to submit an affidavit indicating that the Consultant 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 Consultant's Workers' Compensation policy shall have a waiver of subrogation endorsement in favor of the City of Las Vegas.

10.5.2 ***Commercial General Liability Insurance*** (bodily injury, property damage) with respect to the Consultant's agents assigned to the activities performed under this Contract in a policy limit of not less than One Million Dollars ($1,000,000) per occurrence and Two Million Dollars ($2,000,000) 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 Consultant'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.

10.5.3 ***Commercial Automobile Liability Insurance*** of limits no less than One Million Dollars ($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 Consultant and any auto used in the performance of services under this Contract. The policy must insure all vehicles owned by the Consultant and include coverage for hired and non-owned vehicles. If the services requested do not require the use of the vehicle to perform, the Commercial Automobile Liability Insurance requirements as described in this paragraph do not apply. The Consultant'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.

10.5.4 ***Professional Liability Insurance*** (Errors and Omissions Coverage). This insurance shall protect the Consultant from claims arising out of performance of professional services caused by a negligent act, error, or omission for which the insured is legally liable. Such coverage shall be in a minimum amount of $1,000,000 for the period of time covered by this Contract.

10.5.5 The Consultant must provide compliant certificates of insurance and required endorsements to the City or its designated certificate tracking service immediately upon request. The Consultant shall maintain coverage for the duration of this Contract, and any renewal periods if applicable. The Consultant shall annually provide the City's designated certificate tracking service with a certificate of insurance and endorsements as evidence that all insurance requirements have been met. 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 or it's designated certificate tracking service if so requested.

10.5.6 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 Consultant and/or insurance carrier shall provide the City with a 30-day advance notice of a material reduction in policy coverage, cancellation or erosion of insurance limits, sent by certified mail "return receipt requested".

10.5.7 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 minimum rating of A- VII, A- VIII, A- IX, A- X, or higher. The adequacy of the insurance supplied by the Consultant, including the rating and financial health of each insurance carrier providing coverage, is subject to the approval of the City.

10.5.8 All deductibles and self-insurance retentions shall be fully disclosed in the certificate of insurance. No deductible or self-insured retention may exceed Twenty-Five Thousand ($25,000) without the prior written approval of the City.

10.5.9 Consultants requesting increased deductibles or self-insured retentions must provide the City a written request stating the desired amounts along with recent audited financial statements for review. The City will review the request and determine if the requested deductibles or self-insured retentions are acceptable. In the event the request for increased deductibles or self-insured retentions is denied, the Consultant is obligated to provide the deductibles or self-insured retentions established in the Contract at no additional expense to the City.

10.5.10 If the Consultant fails to carry the required insurance, the City may (i) order the Consultant to stop further performance hereunder, declare the Consultant in breach, pursuant to Section E-5, 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 Consultant or charge the replacement insurance costs back to the Consultant.

10.5.11 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.

10.5.12 The Consultant is encouraged to purchase any additional insurance it deems necessary.

10.5.13 The Consultant is required to remedy all injuries to persons and damage or loss to any property of the City caused in whole or in part by the Consultant, its subcontractors or anyone employed, directed or supervised by the Consultant.

10.5.14 ***Period of Coverage.*** If the insurance coverage is underwritten on a "claims made" basis, the retroactive date shall be prior to or coincident with the date of this Contract and the Certificate of Insurance shall state that coverage is "claims made" and the retroactive date. The Consultant shall maintain all insurance coverages specified in Section 10.05 for the duration of this Contract. Claims made insurance (Professional Liability-10.05 D) shall be kept in place after construction of the Project is substantially complete until the "Statute of Repose" in the State of Nevada has expired. In the event if a claims made policy has a lapse or cancellation of coverage before the Statute of Repose has expired, the Consultant shall be responsible for any claim made in the absence of valid collectable insurance.

10.6 ***Indemnity***

10.6.1 ***Claims Not Based Upon or Arising out of Professional Services.*** Notwithstanding any of the insurance requirements set forth in Section 10.5, and not in lieu thereof, the Consultant shall defend, indemnify, and hold the City, its Mayor, Councilmen, officers, employees, and agents (herein the "Indemnities"), harmless from any and all claims (including, without limitation, patent infringement, and copyright claims), damages, losses, expenses, suits, actions, decrees, judgments, arbitration awards, or any other form of liability (including, without limitation, reasonable attorney fees and court costs) (collectively herein the "Claims") to the extent that such Claims are caused by the negligence, errors, omissions, recklessness, or intentional misconduct of the Consultant, its employees, subcontractors, agents, or anyone employed by the Consultant's subcontractors or agents (herein the "Consultant Parties"), which are not based upon or arising out of the professional services performed by the Consultant Parties in the performance of this Contract.

As part of its obligation hereunder, the Consultant shall, at its own expense, defend the Indemnitees against the Claims brought against them, or any of them, which is caused by the negligence, errors, omissions, recklessness, or intentional misconduct of the Consultant, its employees, subcontractors, or agents, for and against which the Consultant is obligated to indemnify the Indemnitees pursuant to this Section, unless the Indemnitees, or any of

them elect to conduct their own defense which, in such case, shall not relieve the Consultant of its obligation of indemnification set forth herein. If the Consultant or the Consultant's insurer fails to defend the Indemnities as required herein, the Indemnitees shall have the right, but not the obligation, to defend the same and, if the Consultant is adjudicated by the trier of fact to be liable, the Consultant agrees to pay the direct and incidental costs of such defense (including reasonable attorney fees and court costs) which is proportionate to the liability of the Consultant.

10.6.2 ***Claims Based Upon or Arising out of Professional Services.*** Notwithstanding any of the insurance requirements set forth in Section 10.05, and not in lieu thereof, the Consultant shall indemnify and hold the Indemnities, harmless from any and all claims (including, without limitation, patent infringement and copyright claims), damages, losses, expenses, suits, actions, decrees, judgments, arbitration awards, or any other form of liability (including, without limitation, reasonable attorney fees and court costs) (collectively herein the "Professional Liability Claims") to the extent that such Professional Liability Claims are caused by the negligence, errors, omissions, recklessness, or intentional misconduct of the Consultant Parties, which are based upon or arising out of the professional services performed by the Consultant Parties in the performance of this Contract.

If the Consultant Parties are adjudicated to be liable by a trier of fact, the trier of fact shall award reasonable attorney's fees and costs to be paid by the Consultant to the Owner, as reimbursement for the attorney's fees and costs incurred by the Owner in defending the Professional Liability Claims, in an amount proportionate to the liability of the Consultant.

As used in this Section 10.6, "agents" means those persons who are directly involved in and acting on behalf of the City or the Consultant, as applicable, in furtherance of the contract or the public work to which the Contract pertains.

10.7 ***Assignment.*** The City and the Consultant each bind itself and its partners, successors, administrators and assigns to the other party of this Contract and to the partners, successors, executors, administrators and assigns of such other party in respect to all covenants of this Contract, except the Consultant shall not assign, sublet or transfer any obligation or benefit under this Contract without the written consent of the City. Nothing contained herein shall be construed as creating any personal liability on the part of any officer or agent of the City.

10.8 ***Waiver.*** No consent or waiver, express or implied, by either party to this Contract, or of any breach or default by the other in the performance of any obligations hereunder, shall be deemed or construed to be a consent or waiver of any other breach or default by such party hereunder. Failure on the part of any party hereto to complain of any act, or failure to act of the other party, or to declare that other party in default hereunder, irrespective of how long such failure continues, shall not constitute a waiver of the rights of such party hereunder. Inspection, payment, or tentative approval or acceptance by the City or the failure of the City to perform any inspection hereunder, shall not constitute a final acceptance of the work or any part thereof and shall not release the Consultant of any of its obligations hereunder.

10.9 ***Consultant Warranties.*** The Consultant hereby represents and warrants that:

10.9.1 it is financially solvent, able to pay its debts as they mature, and is possessed of sufficient working capital to complete this Contract; that it is experienced, competent, qualified and able to furnish the plant, tools, materials, supplies, equipment and labor which is used to perform the services contemplated by this Contract, and that it is authorized to do business in the City of Las Vegas and the State of Nevada,

10.9.2 it holds a license, permit or other special license to perform the services included in this Contract, as required by law, or employs or works under the general supervision of the holder of such license, permit or special license,

10.9.3 its computer hardware, software, and firmware will continue functioning without interruption, and will continue to accurately process date, time, and data necessary to the performance of this Contract, and

10.9.4 it has, pursuant to the requirements of Resolution 79-99 adopted by the City Council on August 4, 1999, (effective October 1, 1999), as amended by resolution 105-99 (adopted by the City Council on November 17, 1999), disclosed on the form attached hereto as Exhibit "H" (Disclosure of Ownership/Principals) all of the principals, including partners, of the Consultant, as well as all persons and entities holding more than a one percent (1%)

interest in the Consultant or any principals of the Consultant. If the Consultant, or its principals or partners, are required to provide disclosure under federal law (such as Securities and Exchange Commission or the Employee Retirement Income Act) and current copies of such federal disclosures are attached to Exhibit "H," the requirements of this Section shall be deemed satisfied. During the term of this Contract, the Consultant shall notify the City in writing of any material change in the above disclosure on Exhibit "H" within fifteen (15) days of such change.

10.10 ***Consultant's Employees.*** The Consultant shall be responsible for maintaining satisfactory standards of competency, conduct and integrity, of personnel assigned to the Project, and shall be responsible for taking such disciplinary action with respect to such personnel as may be necessary. In the event the Consultant fails to remove any employee from the work of this Contract whom the City deems incompetent, careless or insubordinate, or whose continued employment on the work is deemed by the City to be contrary to the public interest, the City reserves the right to require such removal as a condition for the continuation of this Contract.

10.11 ***Independent Contractor.*** It is hereby expressly agreed and understood that in the performance of the services required herein, the Consultant and any other person employed by him hereunder shall be deemed to be an independent contractor and not an agent or employee of the City.

10.12 ***Applicable Law.*** This Contract shall be construed and interpreted in accordance with the laws of the State of Nevada.

Compliance with Laws. The Consultant shall in the performance of its obligations hereunder comply with all applicable laws, rules and regulations of all governmental authorities having jurisdiction over the performance of this Contract including, without limitation, the Federal Occupational Health and Safety Act and all state and federal laws prohibiting and/or related to discrimination by reason of race, sex, age, religion or national origin.

10.13 ***Certification – No Israel Boycott.*** By signing this Contract, Company certifies that, at the time of Contract signature, it is not engaged in, and agrees for the duration of the Contract, not to engage in a boycott of the State of Israel.

"Boycott of Israel" means, refusing to deal or conduct business with, abstaining from dealing or conducting business with, terminating business or business activities with or performing any other action that is intended to limit commercial relations with Israel; or a person or entity doing business in Israel or in territories controlled by Israel, if such an action is taken in a manner that discriminates on the basis of nationality, national origin or religion. It does not include an action which is based on a bona fide business or economic reason; is taken pursuant to a boycott against a public entity of Israel if the boycott is applied in a nondiscriminatory manner; or is taken in compliance with or adherence to calls for a boycott of Israel if that action is authorized in 50 U.S.C. § 4607 or any other federal or state law.

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

10.15 ***Confidentiality.*** The Consultant shall treat the information relating to the Project, which has been produced by the Consultant or provided by the City, as Confidential Information of the City and shall not permit its release to other parties or make any public announcement or publicity release without the City's written authorization. The Consultant shall also require each subconsultant to comply with this requirement. The submission or distribution of documents to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication relieving the Consultant of its confidentiality obligation imposed herein.

10.15.1 ***Definition*****.** The term "Confidential Information" shall mean any confidential or proprietary business, technical, financial or other non-public information or materials in a tangible or electronic format of a party ("Disclosing Party") provided to the other party ("Receiving Party") in connection with the Project, whether orally or in physical form, that is not generally known or available to others and shall include the terms of this Contract. However, Confidential Information shall not include information (i) previously known by Receiving Party without an obligation of confidentiality; (ii) acquired by Receiving Party from a third party which was not, to Receiving Party's knowledge, under an obligation of confidentiality; (iii) that is or becomes publicly available through no fault of Receiving Party;

or (iv) that Disclosing Party gave written permission to Receiving Party to disclose, but only to the extent of such permitted disclosure.

10.15.2 ***Requirements***. Except as required by applicable law, each Receiving Party agrees that (i) it will use Confidential Information of Disclosing Party solely for the purpose of the Agreement; and (ii) it will not disclose the Confidential Information of the Disclosing Party to any third party other than the Receiving Party's employees or agents, on a need-to-know basis, who are bound by obligations of nondisclosure and restricted use at least as strict as those contained herein, provided that Receiving Party remains liable for any breach of the confidentiality provisions of this Contract by its employees or agents. The Receiving Party will protect the Confidential Information of the Disclosing Party in the same manner that it protects the confidentiality of its own proprietary and confidential information, but in no event using less than a reasonable standard of care. In the event Receiving Party receives a subpoena or other administrative or judicial demand for any Confidential Information of Disclosing Party, Receiving Party will give Disclosing Party prompt written notice of such subpoena or demand and allow Disclosing Party to assert any available defenses to disclosure. Upon request by Disclosing Party, Receiving Party will return or destroy all copies of any Confidential Information of the Disclosing Party. Confidential Information will at all times remain the property of the Disclosing Party. The provisions of this Section will expire three (3) years after the expiration or termination of the Agreement, except with respect to Confidential Information that constitutes "trade secrets" under applicable law for which this Section shall survive indefinitely.

10.15.3 ***Nevada Public Records Act.*** Consultant acknowledges that City is a government entity subject to the public records laws of the State of Nevada as set forth in Chapter 239 of the Nevada Revised Statue ("NPRA") and that certain Confidential Information may be subject to the NPRA. Therefore, notwithstanding anything to the contrary contained in this Agreement or that (i) the City is subject to the requirements and obligations for disclosure of the NPRA; (ii) certain records of the City are subject to inspection and reproduction by the general public, Consultant shall nevertheless continue to treat all Confidential Information confidential pursuant to the terms of this Agreement. Consultant, therefore agrees (i) that any disclosure of Confidential Information by the City pursuant to the NPRA shall not be a violation, waiver, and/or a default whatsoever of this Agreement by the City; and (ii) any disclosure of Confidential Information by the City pursuant to the NPRA is permitted under this Agreement and shall not waive or relieve Consultant's ongoing contractual obligations under this Agreement. For the avoidance of doubt, any Confidential Information disclosed by the City pursuant to the NPRA shall still remain subject to the confidentiality obligations stated in this Agreement. In the event City receives any subpoena, demand, or request under the NPRA or other public records law for any Confidential Information or other data or information received by City from Consultant that was received in connection with any services performed by Consultant, City will immediately notify Consultant of such subpoena, demand or request and reasonably cooperate with any efforts by Consultant to assert any available defenses to disclosure. In no event shall City make disclosure of such information before ten (10) business days have elapsed from the date City notifies Consultant of the subpoena, demand, or request in order to provide Consultant with a reasonable opportunity to seek judicial intervention concerning the potential disclosure of Consultant's Confidential Information and/or trade secret information. If Consultant informs City in writing of Consultant 's intent to seek a court order barring disclosure, City agrees to withhold the requested information, to the extent permitted by the NPRA, pending court resolution of the matter, or interim order by a court. Whenever a requesting party pursues legal action to compel disclosure of Confidential Information or other data or information received by City from Consultant, Consultant will bear responsibility for all costs of defending such legal action.

10.16 ***Site Inspection.*** The Consultant represents that it has visited the location of the Project and has satisfied itself as to the general condition thereof and that the Consultant's compensation as provided for in this Contract is just and reasonable compensation for performance hereunder including reasonably foreseen and foreseeable risks, hazards and difficulties in connection therewith based on such above-ground observations.

10.17 ***Modification.*** All modification, amendments, and change orders to this Contract are null and void unless reduced in writing and signed by the parties hereto.

10.18 ***Notice.*** Any written notice required to be given under Sections 1.0 through 10.24 of this Contract shall be deemed to have been given when the written notice is (i) received by the party to whom it is directed by personal service or (ii)

deposited with the United States Postal Service, postage prepaid, addressed to the City Representative or the Consultant Representative, whomever is the proper recipient, and mailed to the address set forth in the introductory paragraph to this Contract.

10.19 ***Prohibition Against Contingent Fees.*** The Consultant warrants that no person or entity has been employed or retained to solicit or secure this Contract with the agreement or understanding that a commission, percentage, brokerage or contingent fee would be paid to that person. For breach or violation of this provision, the City shall have the right to annul this Contract without liability or, in its discretion, to deduct from the compensation to be paid to the Consultant, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

10.20 ***Claim or Dispute Resolution***

10.20.1 ***Notice of Claim or Dispute***. For each claim or dispute which the Consultant has against or with the City (except for any claim for an equitable adjustment under Section 3.2 which is subject to the 30-day limitation set forth therein), notice thereof must be submitted in writing to the City Representative within a reasonable time after the claim or dispute arises, but no later than thirty (30) days after final payment is made to the Consultant. The purpose of written notification is to place the City on notice so that proper measures can be taken to properly defend against the claim or dispute, and the failure to give such notice shall preclude the Consultant from subsequently mediating that particular claim or dispute pursuant to Section 10.20.3 of this Contract, and the Consultant shall have no further recourse against the City. Pending a final decision on the claim or dispute under Sections 10.20.2 or 10.20.3, the Consultant shall proceed diligently with the performance of this Contract.

10.20.2 ***Resolution by Management. The*** City Representative and the Consultant Representative shall meet within a reasonable time after receipt of the written notice received pursuant to Section 10.20.1 in an attempt to resolve the claim or dispute to the mutual satisfaction of the parties. If the matter is not disposed of by mutual agreement between the City Representative and the Consultant Representative, the claim or dispute shall be decided by the Director of Public Works, whose decision shall be reduced to writing and mailed or otherwise furnished to the Consultant. The decision of the Director of Public Works shall be final and conclusive unless, within thirty (30) days after the date on which the Consultant receives its copy of such decision, the Consultant mails or otherwise furnishes to the Director of Public Works a written request to mediate the claim or dispute, in which event the parties shall proceed pursuant to provisions of Section 10.20C. The failure to make such request shall preclude the Consultant from proceeding any further on the claim or dispute, and the Consultant shall have no further recourse against the City.

10.20.3 ***Resolution by Mediation.*** Upon receipt of the request to mediate authorized pursuant Section 10.3.2 or Section 10.20.2, the City and the Consultant shall come to an agreement as to the appointment of a mediator for purposes of hearing the appeal. If the parties cannot agree upon an independent private mediator within 45 days after notice of the receipt of the request to mediate, the party may proceed to file a judicial action with the Eighth Judicial District Court, Clark County, Nevada. The mediation shall take place in Clark County, Nevada, unless otherwise agreed to by the parties. The fees and expenses of the mediator shall be equally shared by both parties. Each party is responsible for their own costs, expenses, consultant fees and attorney fees incurred in the presentation or defense of any claim, dispute or controversy that is subject to mediation between the parties. The decision of the mediator shall be non-binding.

10.20.4 ***Right of Judicial Action.*** Any claim, dispute, or other matter in question between the parties concerning any provisions of this Contract that cannot otherwise be resolved between the parties through the use of mediation required herein may be submitted for judicial action. Prior to the exercise of this right, the party seeking judicial relief shall have provided the other party 30 days prior written notice before filing such judicial action.

10.21 ***Attorney Fees.*** The City or the Consultant as the prevailing party that brought any litigation or arbitration to enforce the provisions of this Contract shall be entitled to reasonable attorney fees and court costs.

10.22 **Calendar Day.** All references in this Contract to days are to calendar days unless otherwise indicated.

10.23 Exhibits. All exhibits referenced in this Contract are hereby incorporated by this reference as a part of this Contract. Any conflict between the provisions of this Contract and the Exhibits incorporated herein shall be governed by the provisions of this Contract.

10.24 Counterparts; Electronic Delivery. This Contract may be executed in any number of counterparts, each of which shall be an original and all of which shall together constitute one and the same instrument. It shall not be necessary for any counterpart to bear the signature of all parties hereto. Executed copies hereof may be delivered by facsimile or e-mail, pursuant to NRS 719.240, and upon receipt will be deemed originals and binding upon the parties hereto, regardless of whether originals are delivered thereafter.

10.25 Contract Version. This document reflects the current standard provisions for the City's Professional Services Contract updated as of August 2020.

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

CITY OF LAS VEGAS

By: _____
Abigail Yacoben, Acting Manager Purchasing & Contracts

ATTEST

By: _____
LuAnn D. Holmes, MMC
City Clerk

APPROVED AS TO FORM

By: John S. Ridilla 11/4/2020
Deputy City Attorney

John S. Ridilla
Deputy City Attorney

CONSULTANT

By: _____ 11/5/20
Mike Leeper, Vice President

LIST OF EXHIBITS

EXHIBIT " A " SCOPE OF SERVICES

EXHIBIT " B " REQUIRED SUBMITTALS

EXHIBIT " C " PERFORMANCE SCHEDULE

EXHIBIT " D " FEE BREAKDOWN

EXHIBIT " E " COMPENSATION

EXHIBIT " F " KEY PERSONNEL LIST

EXHIBIT " G " CERTIFICATE OF DISCLOSURE

EXHIBIT A
SCOPE OF SERVICES

100 PROJECT OVERVIEW

100.1 DESCRIPTION OF PROJECT

100.1.1 LOCATION:

1. The sewer rehabilitation work is located within Bradley Road, Jones Boulevard, Torrey Pines Drive, Rio Vista Street, Elkhorn Road, Ann Road, and Craig Road. The sewer rehabilitation portion of this project is located within City of Las Vegas, Nevada Department of Transportation (NDOT), and Clark County rights-of-way and easements.

2. New replacement sewer construction is located at the Craig Road and Rancho Drive intersection and at the Craig Road and Jones Boulevard intersection. The new replacement sewer construction lies within NDOT and City of Las Vegas rights of way.

3. Additional paving work is located on the entire south portion of the Craig Road/Jones Boulevard intersection and the Craig Road eastbound approach starting at the beginning of the left turn pocket.

100.1.2 SCOPE OF WORK:

1. The sewer rehabilitation Work includes approximately four (4) CIPP Sectional Liners, repair and/or coating of 90 manholes, and replacement of grade rings and/or frame and covers of 48 manholes.

2. The open-cut sewer replacement Work is described below:

a. Rancho Drive and Craig Road Intersection: The existing subject sewer in Rancho Drive is 21-inch diameter in size with invert depths ranging from approximately 9 feet to 12 feet. From the diversion manhole (RA-880), the sewer is either diverted southeast in Rancho Drive or east in Craig Road. Under normal operating conditions, the diversion structure diverts flow east in Craig Road. When flow is diverted southeast in Rancho Drive, the downstream system surcharges and capacity becomes limited due to a segment of pipe with negative slope. The capacity limiting pipe is 15-inch diameter and is located between manholes RA-40 and RA-39, immediately west of the Craig/Rancho intersection. The proposed improvement consists of approximately 277 linear feet of new 21-inch sanitary sewer pipe in addition to two (2) 60-inch and one (1) 72-inch sanitary sewer manholes. The proposed discharge manhole RA-38 was recently installed and is anticipated to be core drilled. The existing 15-inch sewer will be abandoned in place. Relocation of a 16-inch ACP waterline is required for the sewer improvements. Relocation of a 16-inch steel encased duct bank for CenturyLink utility is required for the sewer improvements. The work area lies within NDOT rights of way.

b. Jones Boulevard and Craig Road Intersection: The existing sewer in Craig Road between Rancho Drive and Jones Boulevard is 21-inch in diameter with invert depths ranging from approximately 10 to 13 feet. The sewer was constructed in 2006. The pipeline flows east along Craig Road to manhole LT-4379, located at the Jones Blvd intersection, and turns 90 degrees to the south. The pipeline continues flowing south along Jones Blvd for approximately 105 feet to manhole LT-4380 and turns 90 degrees to the west and immediately discharges into an existing 36-inch HDPE sewer flowing south along Jones Blvd. The system has history of surcharging due to poor hydraulics at manhole LT-4380. The proposed improvements include abandoning manhole LT-4381 and installing a new manhole approximately 15 feet downstream the current manhole location to allow for better hydraulics as the 21-inch sewer discharges into the 36-inch. A new 21-inch sewer will be installed to replace the existing sewer and will be extended into the Craig/Jones intersection (NDOT ROW). Additional proposed improvements include the elimination of the 90-degree bend at the intersection of Craig Road and Jones Boulevard to improve hydraulics and prevent potential odor issues by maintaining air flow through the system. The 90-degree bend in manhole LT-4379 will be replaced with two manholes with 45-degree bends. The existing sewer to be abandoned will be excavated and removed. The work area lies within NDOT and CLV rights of way.

3. NDOT Paving Work on Craig Road/Jones Boulevard is approximately 450 feet along Craig Road and includes the entire south portion of the Craig/Jones intersection and the Craig eastbound approach starting at the beginning of the left turn pocket. The work involves milling up to 3 ¾-inch of plantmix bituminous surface then filling with 3-inch plantmix bituminous surface (dense grade) and ¾-inch plantmix bituminous open-graded surface.

100.2 CONDITIONS

100.2.1 Contract Documents as used herein refers to the documents referenced in the construction contract that describes the Contractor's scope of work. This may include, but is not limited to, drawings, specifications, general conditions, special provisions, reference standards, geotechnical data, surveys, reports, addenda, and change orders.

100.2.2 Consultant Proposals. If any Consultant proposal or other documents prepared by anyone other than the City is attached to this Contract or included by reference, the terms of this Contract shall govern any conflicts between the documents and this Contract, and any such attachments or references shall only be utilized to compliment this Contract in describing the detail of the scope of work described in this Contract, except that the scope shall not be less than the requirements in this Contract, to avoid rep-typing standard schedules of hourly rates for personnel, rates for material tests and additional services, and similar standard rate schedules. All other terms, conditions, and uses of any such attachments or references are to be ignored in connection with this Contract, even if such attachments or references are signed by the parties to this Contract.

100.2.3 Regulatory Authorities. The Consultant does hereby acknowledge, understand and agree that the City Engineer Division, acting as the City's representative for purposes of the Project, does not have control, authority or influence over the decisions or requirements of other departments of the City acting in a regulatory capacity including, but not limited to, the Building Department, Fire Department, and Planning Departments of the City of Las Vegas, plus Clark County and other agencies. The City' representative acts in a capacity similar to that of a representative working for a private property owner, which is to ensure that the City receives a quality product, delivered on schedule, for a fair price. Furthermore, the City Engineer Division does not speak or act for any regulatory authority, nor does any regulatory authority speak or act for the City Engineer Division. The Consultant agrees that its relationship with the regulatory authorities having jurisdiction over the Project is separate from its relationship with the City, and that the Consultant's interaction with each regulatory authority is to be conducted without assistance from the City.

100.2.4 Certifications. To the extent certifications and special qualifications are required by regulatory authorities, laws, regulations, or this Contract, the Consultant shall provide personnel with the proper credentials during the term of this Contract. Should the Consultant or the Consultant's personnel be removed from qualification, certification, or otherwise be limited in their ability to perform their duties and responsibilities under this Contract, the Consultant agrees to subcontract their responsibilities to a properly qualified and certified subconsultant at no additional cost to the City, who shall have the right to approve any such subconsultant prior to use.

100.2.5 Capital Improvement Project (CIP) Software. Upon City request, Consultant shall utilize the City's CIP software (MasterWorks) as the primary means of communication with the City for this Project including, but not limited to, correspondence, contract changes, claims, reports, schedules, invoices, photos, drawing and specification submittals, and construction administration.

- The City shall provide:
  - A limited training manual for the MasterWorks software and a maximum of two hours of MasterWorks software training for up to four people at the City's offices.
  - The cost of any software licenses required by the MasterWorks software manufacturer or distributor.
  - User accounts for Consultant's access to the MasterWorks software.
- The Consultant shall provide:
  - Training of Consultant personnel required to utilize the MasterWorks software, except as provided by the City above.
  - Information using the forms, screen views, and information fields provided in the software and training materials.
  - Electronic notification in the MasterWorks software of any submittals that cannot be transmitted electronically, such as material samples.
  - Large format scanning capabilities with file size, resolution, and file naming convention as directed by the City.

- Computer hardware, software, peripheral equipment, accessories, and Internet access as needed to integrate with and fully utilize the MasterWorks software, such as Adobe Acrobat, Internet Explorer, and Microsoft Word.
- Frequent monitoring of the MasterWorks software.

100.2.6 Documents approved in the MasterWorks software shall have the same effect as ink-signed originals. Accordingly, the Consultant is required to safeguard his usernames and passwords, particularly those that have been given the rights within the MasterWorks software to provide approvals, and no excuse will be entertained by the City for unauthorized MasterWorks software access that uses the Consultant's assigned usernames. The Consultant shall ink-sign documents, in addition to or instead of the MasterWorks approvals, upon City request.

100.3 *REFERENCE STANDARDS*

100.3.1 All Project work and services performed by the Consultant, Contractor, and others shall be in full compliance with applicable codes, ordinances, standards, and regulatory requirements.

100.3.2 The latest edition of the following reference materials, as applicable, shall be used as standards for inspection, coordination, project control, and other work performed under this Contract:

- Design and Construction Standards for Wastewater Collection Systems from Clark County Water Reclamation District (formally Clark County Sanitation District)
  - Nevada Department of Transportation (NDOT) references (most current editions):
  - Road Design Division Manual, Parts 1 & 2.
  - Standard Specifications for Road and Bridget Construction (NDOT Silver book).
  - Standard Plans for Road and Bridge Construction.
  - Standard Construction Plan Symbols and Design Layout and Drafting Methods
  - Bridge Design and Procedures Manual
  - Nevada Work Zone Traffic Control Handbook
  - Design and Construction Standards for Wastewater Collection
- Manual on Uniform Traffic control Devices for Streets and Highways (MUTCD)
- Traffic Control Devices Handbook
- Roadside Design Guide
- American Society for Testing and Materials (ASTM)
- A Policy on Geometric Design and Highway and Streets (AASHTO)
- Clark County Regional Flood Control District's Policies and Procedures.
- Clark County Regional Flood Control District's Hydrologic Criteria and Drainage Design Manual
- Uniform Standards Plans and Specifications for Public Work's Construction Off-Site Improvements, Clark County Area (Standard Specifications)
- American Concrete Institute (ACI)
- The Asphalt Institute
- Portland Cement Association (PCA)
- City of Las Vegas Building Codes:
  - International Building Code (IBC)
  - International Energy Conservation Code (IECC)
  - National Electric Code (NEC)
  - Southern Nevada Pool Code
  - Uniform Administrative Code
  - Uniform Mechanical Code (UMC)
  - Uniform Plumbing Code (UPC)
  - Uniform Fire Code, NFPA 1
  - City amendments to the above codes
  - City of Las Vegas Municipal Code Title 18 Subdivision Ordinances
  - City of Las Vegas Municipal Code Title 19 Zoning Code
- Accessibility Laws, Codes, Standards, and Guidelines:

- Architectural Barriers Act
- Rehabilitation Act
- Americans with Disabilities Act (ADA)
- Telecommunications Act (Section 255)
- Rehabilitation Act Amendments
- Access Board Guidelines
  - ADDAG (2004 or later) ADA-ABA Accessibility Guidelines
  - Recreation Facilities Guidelines
  - Outdoor Developed Area Guidelines
  - Play Area Guidelines
  - Building Elements Designed for Children's Use
  - State and Local Government Facilities
  - Public Right-of-Way Guidelines (Enforced by the USDOT Federal Highway Administration)
  - Electronic and Information Technology Accessibility Guidelines

- ANSI 117.1
- NRS 338.180.4 for building signage
- NRS 484.408 and City Municipal Code for parking signage
  - Consumer Product Safety Commission Handbook for Public Playground Safety
  - Utility Company Design Standards
- Las Vegas Valley Water District
- NV Energy
- CenturyLink
- Cox Communications
- Southwest Gas
- Republic Service of Southern Nevada
- Clark County Department of Air Quality and Environmental Management air quality regulations including Dust Control Permits and Supplemental Dust Control Permits, and Stationary Source Permits regulations for cooling towers, tanks, boilers including swimming pool heaters, gasoline pumps, and generators
- Southern Nevada Health District design standards including food facilities, swimming pools, and underground tanks
- Nevada Department of Environmental Protection regulations including General Discharge Permit for Oil/water Separators, National Pollutant Discharge Elimination Permit including construction dewatering, Construction Storm Water Permit, and Temporary Permit for Working in Waterways
- Resources Conservation and Recovery Act (RCRA) regulations for hazardous waste disposal including mercury containing light bulbs, PCB ballasts, and lead paint
- Toxic Substance Control Act (TSCA) regulations for asbestos containing materials

101 CITY RESPONSIBILITIES

101.1 The City will be responsible for performing all work necessary to complete their obligation to the Consultant to allow the Consultant to complete their work.

101.2 The City shall provide the Consultant with:

101.3 Any other information required to complete the work, as available, which is not in the Consultant's Scope of Services.

102 CONSULTANT RESPONSIBILITIES

102.1 ***SCOPE OF SERVICES.*** The Consultant shall provide the following scope of services, as more fully described below:

102.1.1 CONSTRUCTION MANAGEMENT AS AGENT SERVICES

- Pre-Construction Procedures
- Construction Procedures

- Close-Out Procedures

102.1.2 MATERIAL TESTING SERVICES

- This scope is to be considered preliminary and may be altered at the direction of the City Representative as the Project develops.
- If increased scope or workload is encountered, the Consultant is to notify the City in writing and receive written confirmation to proceed prior to the performance of any work related to the increased scope or workload.
- Consultant services, duties, and responsibilities stated in any part of this Exhibit "A" are applicable to all parts (pre-construction, construction, close-out).

102.2 STAFFING REQUIREMENTS

102.2.1 The Consultant shall provide the following minimum personnel for the services to be performed under this Contract. Reference the entire Contract for additional staffing requirements.

102.2.2 Construction Manager. The Consultant shall provide a qualified Construction Manager to be in responsible control of the Project. The Construction Manager shall possess an active contractors, civil engineer, or architect license in the State of Nevada pursuant to NRS 624, 625 and 623, respectively. The Construction Manager shall have a minimum of four years of post-licensure/registration progressively responsible experience in managing and administering large construction projects, preferably on public sector construction projects of similar size and scope to the Project, and a OSHA 30 hour Construction training course certificate from the U.S. Department of Labor.

102.2.3 Responsible control requires at least: a) weekly on-site field observations of the Project, b) supervision of staff's' work, and c) review of pertinent Project documents to ensure the success of the Project.

102.2.4 Construction Coordinator. The Consultant shall provide a qualified Construction Coordinator to oversee the daily construction administration, inspection and testing for the Project and to ensure timely submissions and processing of Project documents. The Construction Coordinator shall possess, at a minimum, a OSHA 30 hour Construction training course certificate from the U.S. Department of Labor and one of the following:

102.2.5 A four year college degree in architecture, construction management or engineering discipline; or

102.2.6 Possess a CCMA, PMI, or any nationally recognized construction management program certification in lieu of a four year college degree; or

102.2.7 An equivalent combination of relevant education, training and construction experience totaling ten years or more in construction project management under the supervision of a licensed contractor, civil engineer, or architect.

102.2.8 Construction Inspector. The Consultant shall provide a qualified Construction Inspector to perform inspections as necessary to ensure the Contractor work is in compliance with the Contract Documents. The Construction Inspector shall possess certification(s) in one or more of the following: NICET, ICC, ICBO, IAS or ACI Field Inspector or any national recognized inspection program, preferably in a specialty related to the scope of work of the Project, and a OSHA 10 hour Construction training course certificate from the U.S. Department of Labor.

102.2.9 Document Administrator. The Consultant shall provide an experienced Document Administrator or Inspector to assist the Construction Coordinator in preparing and maintaining all correspondence and documents (i.e. submittals, daily reports, requests for information, change orders, etc.) required by this Contract. Reference the computer software requirements of this Exhibit for the technical skill requirements of this position.

102.2.10 Qualifications. The Consultant shall furnish a resume for each staff person assigned to the Project, including proof of licensure, registration, and /or certifications. In addition to the resume, the City may require references, request an in-person interview, or other means to confirm qualifications and experience of proposed Project staff. The determination of the qualification of proposed Project staff shall be at the sole discretion of the City. Any proposed Project staff that do not meet the aforementioned qualifications and experience requirements shall be promptly replaced with staff acceptable to the City.

102.2.11 Subconsultants. Services may be performed by subconsultants of the Consultant if the subconsultant is listed in Exhibit "F" Key Personnel List or approved in writing by the City prior to the subconsultant providing services. Otherwise all services will be performed by employees of the Consultant, who are approved in advance by the City. The City reserves the right to require the Consultant to replace any employee or subconsultant at any time for any reason.

102.3 EQUIPMENT REQUIREMENTS

102.3.1 Equipment. The Consultant shall provide all equipment needed to provide the scope of services and to ensure compliance with the Contract Documents including, but not limited to:

- Vehicles as needed to travel the Project site and provide services, which shall be conspicuously marked so as to identify personnel of the Consultant for the benefit of the public.
- A cellular telephone for each Consultant staff member assigned to the Project to facilitate communication with the City and the public.
- Computer and communications systems required to manage the Project.
- Surveying and GPS equipment, devices to measure lighting levels, coating thickness, material thickness gages, horizontal and vertical dimensions, slopes, flashlights, calculators, a level/transit, and camera.
- Personal safety equipment for each Consultant staff member while on site including hard hats, safety vests, ear and eye protection, and safety shoes.
- A library of reference standards applicable to the Project, see list above.

102.4 Software

- The Consultant's documentation shall, to the maximum extent possible, be prepared using MasterWorks software accessed via an Internet connection to the City system. No software purchase is required of the Consultant for this access and use.
- Where MasterWorks documentation capabilities are limited, provide documents in the following software formats: AutoCAD 2018, Microsoft Office 2007 and Microsoft Project 2000, or more recent versions.
- Verify that digital electronic entries and submittals are free of electronic "viruses", "worms", "Trojan horses", and other malicious code using commercially available software with current virus definitions.

102.5 Photos. The requirement for the Consultant to obtain a City issued Film Permit to photograph the Project is waived for the Term of this Contract. Photographs of the Project taken by the Consultant after final Consultant payment will again require a City issued Film Permit. Reference 10.04, E. Confidentiality for the allowed uses of Consultant photographs.

103 CONSTRUCTION MANAGEMENT AS AGENT SERVICES - PRE-CONSTRUCTION PROCEDURES

103.1 DOCUMENT CONTROL

103.1.1 Document Setup & Review. The Consultant shall:

- Provide a copy of their policy and procedure manual for construction management to the City for review and approval to use on the Project.
- Setup the MasterWorks software, files, and forms in compliance with the City filing standards, enter in MasterWorks all initial available information, and provide copies of the completed information to the City Representative, including contact information of all Project participants and all Project correspondence received and generated.
- Conduct a thorough review of the Project to determine all permits that are required for the Project and verify the permits have been obtained.
- Perform a review of the Project documents and forward any review comments to the City Representative.
- Documents. Minimum documents to review include, as applicable to the Project:
  - Construction Contract, Plans, General Conditions, Specifications, Special Provisions, and Addenda.
  - Geotechnical report and site survey.
  - Utility construction drawings including NV Energy, Phone, Cox Cable, SW Gas, and others.
  - LEED points to achieve for new building construction.
  - Hazardous material surveys, environmental phase 1 and 2 reports, and historical, paleontological, cultural, biological, endangered species surveys, if conducted.
  - Contractor's Dust Permit and Dust Mitigation Plan; Supplemental Dust Control Permit for demolition, relocation, or remodeling.
  - Contractor's Storm Water Permit and Storm Water Pollution Prevention Plan.
  - Contractor's Traffic Control Plan.
  - Contractor's trench safety plans and competent person submittal for OSHA compliance.
  - National Pollutant Discharge Elimination System Permit for groundwater discharge including construction dewatering (NPDES).
  - General Discharge Permit for Oil/Water Separators and Best Management Plan.

- Air Pollution New or Modified Stationary Source Permit for cooling towers, boilers including swimming pool heaters, generators, gasoline distribution, and storage tanks.

- Review. Minimum review of documents shall include:
  - A review for clarity, completeness, economic feasibility, buildability, errors and inconsistencies, omissions and missing information, inadequate detailing, dimensional accuracy and consistency, cross-references between various drawings and between drawings and specifications, and a cross-check between various design discipline drawings for conflicts.
  - A review of the contractual terms to determine the requirements for contract administration and enforcement.
  - A review of Performance Specifications for completeness, gaps in the scope of work, and the required coordination between trades.
  - A thorough comparison of the documents to the visual pre-construction site conditions including a review of the adjacent site conditions beyond that included in the documents.
  - A review of the Project site activities including such items as the construction limits and fencing locations, deliveries, traffic control, laydown and storage areas, field office and parking areas, temporary utilities, neighboring land interface, children's movement to and from the schools in the area, site security, safety, noise impacts, physical limitations for construction equipment and building components, drainage plan, and construction phasing.
  - A review of city furnished items for interface with the Contractor's work and schedule delivery.
  - A review of multiple owner construction contracts, if any, for coordination and interface.
  - Identification of activities that will benefit from pre-construction conference meetings and checklists such as major concrete pours and building roofing installations. Compile and distribute the list of required pre-construction conference meetings, and prepare checklists and meeting agendas for use in the meetings. Submit the Consultant's list of recommended pre-construction conference meetings to the City for approval.
  - A review of the common code complaint areas such as ADA slopes and electrical gear clearances.

103.1.2 Backups. The Consultant and his sub-consultants at all tiers agree to maintain copies of the latest version of the MasterWorks database for the Project and each project document prepared and processed under this CONTRACT, backed up no less frequently than daily, in a secure off-site location and to restore these documents upon need and to provide them to the City upon request. This backup obligation shall beginning upon notice to proceed and extend continuously until one year after final payment of this CONTRACT has been made.

103.1.3 Substitutions. The Consultant shall:

- Receive all requests for substitutions from the Contractor and review them for Contract Document compliance, log them into MasterWorks , reject or forward them to the City Representative and designer for review and approval.
- In the event Substitution Requests are submitted after the allowable time period, and the Contractor has not provided evidence that the product is no longer available through no fault of the Contractor, the Consultant shall forward a written notice of rejection to the City Representative for review and approval.

103.1.4 Contractor Submittals. The Consultant shall:

- Prepare a master list of all contractually required submittals in MasterWorks and distribute copies.
- Receive all Submittals from the Contractor and review each for Contract Doument compliance. In the event the submittal is received in a manner contrary to the Contract Documents, the Consultant shall forward a notice of rejection to the Contractor, designer and the City Representative for review and record. No disclaimers are allowed on any document submittals.
- Generate a submittal log in MasterWorks showing each submittal, the date received, date forwarded to the designer, number of days with the designer, date returned, designer's response, and the date returned to Contractor.
- All submittals that are received in accordance with the Contract Documents shall be logged into MasterWorks and forwarded to the designer for review and approval or rejection.
- Re-Submittals shall be handled in the same manner as the original submittal.
- Prepare a list of deferred submittals provided for in the Contract Documents. Require a schedule for these submittals from the Contractor and track each deferred submittal to insure the Contractor submits and receives approval so as not to impact the Project schedule.

103.2 PROJECT CONTROL

103.2.1 Meetings. The Consultant shall participate in preconstruction meetings, job conferences, public information meetings, and other related preconstruction meetings. Generate and distribute minutes of all such meetings.

103.2.2 Partnering Meetings. Participate in an initial and periodic "Partnering Meetings" with the City and the Contractor for discussion of shared goals, processes, and procedures during the construction process, which shall be attended by a Consultant team member who has high-level decision-making authority, and require the same in all subconsultant contracts. Meeting dates, times, and place will be determined by the City.

103.2.3 Material Deliveries. The Consultant shall ensure that material deliveries match the approved submittals, and that material handling and storage complies with manufacturer's recommendations, industry practices, and the Contract Documents.

103.3 TIME AND BUDGET

103.3.1 Preliminary Project Schedule. The Consultant shall: 1) review in detail and report to the City Representative on the compliance with the Contract Documents of the Contractor's preliminary progress schedule, baseline schedule, and schedule reports, 2) ensure that the Contractor's baseline schedule adequately depicts all of the significant work activities with reasonable timelines, and 3) provide a written analysis report of the Contractor's baseline schedule.

103.3.2 Contractor Payment Format. The Consultant shall review the Contractor's payment request format, quantities, schedules, and line items for compliance with City requirements and the Contract Documents.

103.3.3 Project Status Reports. The Consultant shall review with the City the required format and schedule of the periodic Project status updates to be provided by the Consultant over the course of the work.

104 CONSTRUCTION MANAGEMENT AS AGENT - CONSTRUCTION PROCEDURES

104.1 DOCUMENT CONTROL

104.1.1 The Consultant shall create and maintain in MasterWorks the daily reports, submittals, requests for information, field directives, construction change directives, change orders, correspondence, and any other documents generated. Logs shall show the date each document was received, the content of the document, the date forwarded to whom, the date returned, the number of days with the reviewer, the response, and the date returned to the Contractor.

104.1.2 The Consultant shall maintain a list of names, addresses, and emergency telephone numbers of all contractors, subcontractors, agencies, and major suppliers of materials and equipment and provide an up-to-date list to the City Representative.

104.1.3 Prepare and maintain all documents required to meet regulations.

104.1.4 Use acid free paper for Project documents that will become the permanent record for the Project.

104.1.5 **Daily Reports**. The Consultant shall:

- Be responsible for producing, in MasterWorks and separate from the Contractor's daily report requirement, a report for each day describing the events which took place, including any relevant conversations, construction conflicts and site meetings.
- Ensure that the Contractor develops its own daily report and will obtain such reports for the Consultant field office and City record daily.
- Ensure that the Consultant's and Contractor's daily reports include all of the items required in the Contract Documents, including:
- Working and non-working hours on the Project site,
- The weather conditions and possible weather related delays,
- Name of contractors, suppliers and distributors on site and number of workers for each listed by skill level,
- Deliveries made and the quantity of each delivery,
- Equipment on site by model, and year if possible and whether it was active or idle,
- Inspections and tests conducted, including the station, offset and nearest cross street, and the amount of inspector time spent on site,
- Construction activities conducted and work completed including daily quantities,
- Traffic controls in place,

- Description of any controversy and how or if the dispute was settled; any problems that may have delayed the progress and the reasons for the delay together with the amount of time, personnel and equipment that were idled due to the problem; dates relative to questions of extras or deletions,
- Instructions given and received and how and to whom the instruction was transmitted (field directive, change order, etc.),
- Any accidents on site and in the general vicinity; safety concerns and actions taken,
- Full descriptions of any utility conflicts or hits encountered together with actions taken and resources idled.
- Review the Contractor's daily reports and if the Consultant determines that any are inaccurate, incomplete or contain potential claim information, the Consultant shall generate a response, in MasterWorks , detailing any concerns and requested changes and shall forward these documents to the City Representative for review and approval.

104.1.6 As-Builts. The Consultant shall:

- Maintain a complete set of as-built drawings and specifications for the Project, independent of the Contractor's as-builts.
- Verify that the Contractor is maintaining as-built drawings and specifications in accordance with the Contract Documents.

104.1.7 Photographs. Provide daily photographic documentation of Project site, on CD ROM, prior to and during construction, and make special note of any pertinent situations.

104.1.8 Project Status Reporting. The Consultant shall:

- Provide periodic project status updates in accordance with city management reporting frequencies and as instructed by the City Representative.
- Prepare a monthly progress and summary report and submit it to the City with the Consultant's monthly invoice for services.

104.2 PROJECT CONTROL

104.2.1 The Consultant shall have a representative on-site at all times during construction activity to ensure that activities are performed in accordance with the Contract Documents.

104.2.2 Authority.

- The Consultant has the authority to:
- Issue Notices of Non-Compliance, after consultation with the City.
- Reject delivered non-compliant materials.
- Issue clarifications not resulting in cost, time or esthetic changes, after consultation with the City.
- Issue Field Directives for emergencies and situations that require immediate response, after making every effort to immediately consult with the City about the directive.
- ***The Consultant does not have the authority to:***
    - Sign Construction Change Directives.
    - Sign Construction Change Orders.
    - Sign the Certificate of Substantial Completion.
    - Revise the design or approve alternate materials.
    - Inspect any work other than that for which they are specifically certified.
    - Make public news releases or other information about the Project available to the public or news media.
    - Sign or initial any paperwork generated by the Contractor, including verifications of work completed or quantities removed or delivered. All such work verifications and other Contractor paperwork issues shall be noted in the Consultant's Daily Reports. The exception to this policy is the receipt of documents, samples, drawings, and similar items received from the Contractor, which may be signed for as received.
- ***Meetings.*** The Consultant shall:
    - Organize and lead all progress and pre-placement meetings in accordance with the Contract Documents.
    - Record all meeting minutes in MasterWorks and distribute copies for review and approval, and make any reasonable and merited adjustments to the meeting minutes when requested.
    - Participate in periodic partnering meetings and draft minutes from such with copies forwarded to the City Representative for review and approval.

- ***Coordination***. The Consultant shall:
  - Coordinate with agencies and City staff on all aspects of the Project.
  - Keep agencies informed of the City's public information program.
  - Work with the City public information officer in coordinating groundbreaking and grand opening events, and emergency situations.
  - Work with homeowners, businesses and the public at large to resolve issues and provide updated information as required to give notice of upcoming work activity that may impact them.
  - Monitor any utility work required on the Project, maintain 24 hour phone numbers for utility company contacts, ensure that the proper notices to property owners have been delivered for shutdowns, and coordinate the work with the respective utility agencies and companies.
  - Coordinate the activities of any environmental monitoring required for the Project.
  - Work with the Contractor to resolve coordination issues.
- ***Material Testing.*** The Consultant shall:
  - Assist in, be aware of the Contractor's schedule of, and note in the daily report on the Contractor's coordination with the on-site quality inspections, special inspections, and material testing services provided by the City's consultants.
  - Ensure that all testing required by the Contract Documents are conducted and the results are distributed.
  - Review and respond to all inspections and test results provided by the Contractor and forward copies of each to the City Representative and designer for review and approval.
- ***Issues Management.*** The Consultant shall:
  - Track and analyze all Project issues, disputes, and claims. In MasterWorks link and attach all of the reference documents relating to each issue.
  - Identify and immediately notify the City Representative of any items that have the potential to result in additional project time or cost impact.
  - Consult with and advise the City as to possible change orders; prepare and issue change orders as requested by the City.
  - Report immediately to the City upon the occurrence of any accident or safety concern and document information observed and corrective actions taken. Prepare incident reports for all accidents, regardless of the parties involved.
  - Monitor the Contractor's compliance with any NPDES permits and applicable Best Management practices, issue Notices of Non-Compliance, and notify the applicable enforcement agency, as appropriate.
  - Monitor and respond to all traffic control issues.
- ***Notices of Potential Claim.*** The Consultant shall:
  - Forward any and all Notices of Potential Claim to the City Representative for review and record.
  - Develop a summary of events and submit it with the Notices of Potential Claim.
  - Draft a response to any Notices of Potential Claim and forward to the City Representative for review and approval.
  - Report any verbal notices of claim to the City Representative and advise the Contractor that written notice is required by the Contract Documents. If written notice is not provided by the Contractor within 48 hours, issue a letter to the Contractor requesting the Contractor's position on the issue in writing.
- ***Communication.***
  - All construction communication between the Contractor's team and the City's team must be funneled to and conducted between the Consultant/City Representative and the Contractor's superintendent/project manager.
  - All directions to the Contractor shall be in writing except that verbal direction may be provided 1) when safety violations are observed which could threaten life or property, or 2) when a potential delay can be averted by directing the Contractor to proceed. Any verbal directions must be followed by written confirmation to the Contractor within 24 hours.
  - The Consultant shall not provide verbal interpretations of the technical portions of the drawings and specifications, but rather refer such questions to the designer or City Representative for an answer.
  - The Consultant shall note in its Daily Report any verbal or written instructions given or received.

104.3 INSPECTION

104.3.1 General. The Consultant shall:

- Provide inspection of all construction to ensure conformance with the Contract Documents, including the following as applicable to the Project.
- Verify that all materials match the approved submittals, upon delivery and prior to installation.
- Verify that the construction matches the dimensions in the Contract Documents.
- Request verification of the Contractor for any work that appears mislocated on the site either horizontally or vertically. Notify the City Representative if the Contractor does not satisfy the Consultant about the issue so additional surveying may be conducted.
- Verify that all inspections for permits, code, regulations, and Contract Document compliance have been approved prior to the Contractor concealing any work. This includes, but is not limited to, inspections by agencies, utilities, Public Works, Building and Safety, and Special Inspectors.

104.3.2 Roadway. The Consultant shall ensure that:

- Utilities are marked.
- A licensed surveyor provides construction staking showing cut and fill elevations to subgrade and limits of roadway.
- The Contractor provides someone to perform grade checking as they excavate or place borrow.
- After Contractor's grade checker verifies the finished grade elevation for subgrade, a licensed Nevada surveyor provides hubs verifying the subgrade elevation at 50 foot intervals. At a minimum, the hubs are to be placed at the back of curb and roadway crown locations.
- The City material testing consultant provides field density testing of the subgrade material for conformance to the Contract Documents.
- The licensed surveyor provide hubs at 50 foot intervals after the Contractor completes the placement of aggregate base course material and has the grade checker verify the finished grade elevation. At a minimum the hubs are to be installed at the back of curb and roadway crown locations.
- The field density testing of the aggregate base placement acceptable for grade and surface tolerances has been satisfactorily met.
- The Contractor has approved submittals for aggregate base courses and geotech tile material, if applicable, prime and tack coat, and AC plant mix prior to Contractor placing material.
- The Contractor place tack coat and prime coat, if applicable, prior to placing bituminous plant mix surfacing.
- The proper AC mix is used and collect AC tickets while Contractor places AC plant mix.
- The AC plant mix placement surface is compliant for required texture and tolerance.

104.3.3 Traffic Control. The Consultant shall maintain copies of approved barricade plans and perform a daily traffic zone review for compliance.

104.3.4

104.3.5 Concrete Structures. The Consultant shall ensure that:

- The Contractor submittals including mix designs have been approved prior to installation.
- The Pre-placement Inspections have been completed including:
- Lines and Grades including location, elevation, dimensions, shape, drainage, preparation of surface, and bearing.
- Forms including specified type, location, dimensions, tolerances, alignment, stability, surface preparation, tightness, chamfer strips, inspection openings, cleanliness, temperature, and accessories.
- Reinforcing Steel including size (diameter, length, bends, anchorage), grade, location (number of bars, spacing, cover), splices (overlap, mechanical splice, welded joint, welder qualifications and welder procedures), stability (wire ties, chairs, spacers), cleanliness (no loose rust, oil, paint, dried mortar, concrete), and protective coating.
- Prestressing Steel (pre- and post-tensioned) including strand, wire, or bar placement, size, location, grade, anchorage, tensioning sequence, loading and elongation measurements, concrete stressing strength verification, cleanliness, condition of sheathing and protective coating, grouting of post-tensioned tendons, and sealing of the end anchors.
- Embedments including location, size, and condition.
- Blockouts including location, size, and condition.
- The Placement Inspections have been completed including:

- Conditions including coordination of concrete delivery, protection against sun, rain, hot, cold, lighting and power.
- Field Tests of Concrete including use of specified mix, field water additions, slump (ASTM C143), temperature (maximum and minimum as specified), air content (pressure or volumetric, ASTM C231, C173), unit weight (ASTM C138), yield (ASTM C138), cylinder specimens (identification, mix, location, date), discharge of ready-mix concrete truckload before 300 revs or 90 minutes (ASTM C94), and initial curing of cylinder specimens, i.e. field curing (ASTM C31).
- Conveyance of Concrete including nonreactive materials, prevention of segregation and loss of materials, prevention of contamination, condition of conveying equipment (smooth surfaces, no holes, cleanliness), and use of drop-chutes or funnel hoses to contain freefall.
- Placement of Consolidation of Concrete including preparation of contact surfaces, ability of conveying method to place concrete in all areas of the placement, mortar bedding (use of starter mix), prevention of segregation (no chuting or dropping against forms or reinforcement), depth of layer (maximum limit), external vibration (spacing to prevent dead spots), internal vibration (depth of insertion, spacing, time, vertical insertion, no movement of concrete by vibration), even layering around openings and embedments, removal of bleed water, and removal of temporary ties and spacers.
- The Post-Placement Inspections and Tests have been completed including:
- Finishing, curing, and formwork and shore removal including specified finish, protection of surfaces from cracking due to rapid drying, proper curing temperature, form removal (field cured cylinder tests or other approved tests), curing compound (ASTM C309), and finish of formed surfaces (patching and repairs).
- Shoring Removal including location, time of removal, and sequence of removal.
- Tests of Hardened Concrete including curing of specimens (ASTM C31), preparation of concrete cores (ASTM C42), capping (ASTM C617), tests for compressive strength (ASTM C42), tests for split tensile strength (ASTM C496), air dry unit weight of lightweight concrete (ASTM C567), flexural strength (ASTM C293, ASTM C78), specific gravity, absorption, and voids (ASTM C642), first crack strength and toughness fiber reinforcing (ASTM C1018), and nondestructive tests.

104.3.6 Underground Utilities. The Consultant shall ensure that:

- The Contractor is notifying all utilities affected to have their underground utility lines and substructures marked prior to construction.
- The Contractor is delivering and installing materials that match the approved submittals.
- The Contractor has notified the City five days in advance of construction that he has reviewed the locations and potholed all existing underground utilities that may have a conflict with any portion of the work.
- The Contractor has notified all affected property owners 48 hours in advance of any scheduled utility shutdowns.
- The Contractor is in compliance with OSHA Construction Standards and the Contract Documents for trench safety and excavations. Consultant shall perform a daily review of any open trenching for compliance. The Consultant shall be thoroughly knowledgeable with OSHA Construction Standards 29 CFR Part 1926 Subpart P Excavations and the City's Safety Policy/Procedure for Excavations, and immediately notify the Contractor and City Representative of any safety concerns.

104.3.7 On-Site Construction. In addition to the code inspections being conducted by Building and Safety, Special Inspectors, and the City's traffic equipment field personnel for site electrical and streetlights, the Consultant shall ensure that the constructions is compliant with the Contract Documents, including:

- Site Work including survey, rough grading, parking lot, lighting, walkways, landscape, irrigation, utilities, ADA accessibility, and site specialties.
- Building Work including structural, mechanical, plumbing, electrical, fire sprinklers, communication systems, alarm systems, architectural finishes, ADA accessibility, and specialties.
- At a minimum, verify and measure the following items, if specified:
- Exterior concrete flatwork is at least ¼ inch below finished floor slab elevation.
- Metal gauges of flashings, roofing, doors and frames.
- Exterior metal surfaces are galvanized including hollow metal doors and frames.
- Sheet metal backing is provided on sidewalls of exterior doorways.
- Exterior door hardware is stainless steel.
- Paint thicknesses and minimum number of coats.

- Wood door tops and bottoms are painted.
- Powder-coated painted surfaces are powder-coated.
- Sidewalks not more than 5% and handicap parking spaces not more than 2% slopes.
- Wheelchair space concrete slab area next to the end of benches is provided.
- Five foot diameter clear space in every room for wheelchair turnaround.
- Thresholds and storefront window sills are set in mastic.
- That the roofing manufacturer's representative is present during installation and approves the installation.
- Ceramic tile joints align with structural joints, with sealant and backer rod.
- Six foot minimum clearance from top of totlot equipment to fabric shade.
- Concrete slabs slope to drains. Slabs recessed for floor finishes.
- THW cu wire is used for all exterior electrical.
- Exterior light poles have oversized handholes per city standards.
- Electrical clearances around installed gear meet code.
- Electrical circuit, panel, and equipment labeling meets city standards.

104.3.8 Traffic Signals and Streetlights. The Consultant shall ensure that:

- The construction is complete and accurate prior to the Contractor calling for inspection by the City's traffic equipment field personnel.
- Recurrent problems are not occurring, including:
- Foundations at the wrong elevation, location, orientation, or bolt size,
- Pull box lids incorrectly marked, street lighting,
- Items missing such as street name signs, block # signs, pole and arm caps, and video cameras,
- Traffic signal heads loose or turned, and
- Underground conduit size incorrect.
- The Public Works construction services inspection checklist has been reviewed by the Consultant and Contractor prior to calling for inspection including:
- Traffic Signal luminaries, poles, signal mast arm, luminare arm, signal head, opticom, pedestrian heads, J-boxes, push buttons, auto-scope, street name sign, pole base, pull boxes, inductive loops, wire and cabling, signal cabinet, crash caps, signage, and road markings.
- Streetlight luminaries, poles, foundations, pull boxes, crash caps, conduits, and wire and splices.

104.4 TIME AND BUDGET

104.4.1 Contractor Payments. The Consultant shall:

- Review all applications for payment to ensure that all invoices reflect actual work completed in accordance with the Contract Documents.
- Verify that all submittals required from the Contractor with each Application for Payment are attached. Request any items from the Contractor that are required but have not been provided and hold application until all required items are provided.
- In regard to each payment application, issue a recommendation (approval or denial) to the City Representative as to why. The City Representative will then have the responsible charge of either forwarding the application for payment or rejecting it accordingly.
- Complete the City's standard pay request form and maintain a pay request funding source tally if requested by the City Representative.
- Provide the written notice required by NRS 338.525 to the Contractor within 20 days for each payment that is less than the amount claimed by the Contractor, and deliver the notice to the Contractor in accordance with NRS 338.455.

104.4.2 Prevailing Wage Records. The Consultant shall:

- Review the Contractor's monthly prevailing wage records for completeness and accuracy.
- Notify the City Representative of any reported or discovered prevailing wage violations.
- Forward all reviewed prevailing wage records to the City for archiving.

104.4.3 Quantities. The Consultant shall monitor bid quantities for construction overruns and notify the City Representative if quantities are exceeding the bid amount.

104.4.4 Change Orders. The Consultant shall:

- Create a Change Order Request (COR) log in MasterWorks ; receive and log all Contractor submitted CORs.
- Review all CORs and forward them to the City Representative and designer. The Consultant shall generate a summary of the events/circumstances surrounding the COR that includes the Consultant's recommendation regarding each matter.
- Assist in the negotiations of Change Order pricing.
- Draft rejections of CORs as deemed appropriate and forward them to the City Representative for review and approval.
- Prepare the application form and present change orders before the City Change Order Committee for approval.
- Coordinate and seek the signatures for approval from the City Representative, designer and Contractor for all approved change orders.
- In the event a change is required but pricing is unable to be mutually agreed upon, the Consultant shall draft a Construction Change Directive to the Contractor and forward copies to the City Representative and designer for review and approval.
- Track Construction Change Directive (force account) work in sufficient detail to properly evaluate the work effort for payment.

104.4.5 Schedule Submittals. The Consultant shall:

- Monthly. Review the Contractor's monthly submitted updated schedules during the course of construction for slippage's, logic revisions, changes from previous schedules, incorporation of changed conditions, reasonableness, resource loading, and compliance with the Contract Documents.
- Revised. Ensure that the Contractor submits revised schedules more frequently than monthly whenever conditions warrant or the Contract Documents require.
- Recovery. When required by the Contract Documents or requested by the City Representative, require a recovery schedule from the Contractor that is acceptable to the City. Review, monitor, and advise the City on the revised schedule and the course of the recovery.

104.4.6 Schedule Reporting. The Consultant shall:

- Report all schedule changes to the City within ten working days.
- Generate a response to the Contractor, which either approves or rejects each Contractor's monthly progress schedule submittal.
- Provide a monthly written analysis report of the Contractor's monthly update schedule to the City Representative for review and approval.

104.4.7 As-built Schedule. The Consultant shall maintain an as-built schedule on site and update it monthly to accurately represent completed work, plus the Contractor's latest schedule for future work. Provide these schedules to the City Representative each month.

105 CONSTRUCTION MANAGEMENT AS AGENT - CLOSEOUT PROCEDURES

105.1 DOCUMENT CONTROL

105.1.1 General. Provide a complete record of Project documentation to the City Representative for Project closeout.

105.1.2 Equipment Verification. The Consultant shall:

- Ensure that all equipment is demonstrated by the Contractor (to the City) to be operational in accordance with the Contract Documents.
- Ensure that all related equipment manuals and warranties are accounted for and delivered to the City Representative.
- Verify that all spare parts and materials are provided and accounted for in accordance with the Contract Doument requirements.

105.1.3

105.1.4 As-Builts. The Consultant shall:

- Review the Contractor's as-built drawings and specifications for accuracy and completeness, compare to the Consultant's as-built set, and consolidate the variations into a single set of documents.
- Verify that the Contractor has provided accurate monument pre-tie sheet and post-tie sheet information acceptable to the City Surveyor and include in the as-built set of documents.
- Delivery the coordinated set of as-builts to the City Representative.

105.1.5 Final Report and Delivery of Project Documentation. The Consultant shall:

- Prepare a final Project summary report.
- Complete the City's Contractor evaluation form.
- Deliver all electronic and MasterWorks files on computer disk (DVD) and hard copy. See Exhibit "B".
- Place and label Project files in standard stackable cardboard file storage boxes 12x15x10 with lids.
- Deliver to the City Representative the complete Project record within 30 days of final payment to the Contractor.
- Maintain copies of Project files for three years.

105.2 PROJECT CONTROL AND INSPECTION

105.2.1 Punchlists and Substantial Completion. The Consultant shall:

105.2.2 Upon receiving a Notice of Substantial Completion request from the Contractor, the Consultant shall coordinate and participate in the walk through with the City Representative, designer, and Contractor.

105.2.3 For projects with permits issued by Building and Safety, collect from the Contractor and forward the Certificate of Occupancy to the City Representative and file a copy in the Project records. The Certificate of Occupancy is a minimum prerequisite to requesting the Substantial Completion walk through.

105.2.4 Develop in MasterWorks a punchlist generated from the walk through and forward it to the City Representative and designer for review and approval prior to forwarding to the Contractor.

105.2.5 Upon a finding by the City Representative that the Project is Substantially Complete, the Consultant shall prepare in MasterWorks and issue a Certificate of Substantial Completion for signature by the City Representative and designer. Forward fully signed copies to the City Representative and designer for record.

105.2.6 Observe and verify that all punchlist items are completed in accordance with the Contract Documents.

105.2.7 Upon proper completion of the punchlist items, the Consultant shall ensure that the City Representative is properly and promptly notified to allow for Contractor payment.

105.2.8 If requested by the City Representative, assist the facility occupants in coordinating their move in, re-keying, utility services and building system maintenance and security contracts.

105.3 TIME AND BUDGET

105.4 ***Claims.*** The Consultant shall evaluate outstanding claims by the Contractor and others and make recommendations concerning each to the City, and work with the City to resolve each.

105.5 ***Permits.*** The Consultant shall verify that all permits issued have been completed, signed off by all parties, and filed with the issuing agency; assist the City and Contractor in closing open permits as needed. This includes, but is not limited to, City of Las Vegas, Clark County, Clark County Department of Air Quality and Environmental Management, Southern Nevada Health District, Nevada Division of Protection, Nevada Department of Transportation, and Federal NEPA permits.

105.6 ***Final Quantities.*** The Consultant shall determine the final quantities for unit price items and forward a summary to the City Representative for review and record.

105.7 ***Withholding.*** The Consultant shall determine the proper amounts to withhold for improper, defective, incomplete, and other punch list work and notify the Contractor in accordance with NRS 338.525 and 338.455. Immediately notify the City Representative when withheld work is satisfactorily completed so payment can be made within 30 days as required by NRS 338.525.

105.8 ***Liquidated Damages.*** The Consultant shall determine the amount to subtract from the Contract Amount for Liquidated Damages due to late Project completion and other items contained in the Contract Documents and advise the City Representative, including the following as applicable:

105.8.1 On-Site Work:

- Section 01700, Work Required Complete Prior to Substantial Completion
- Section 01700, Punchlist Completion

105.8.2 Right-of-Way Work:

- Section 108, Punchlist Completion
- Section 624, Traffic Control Plan Deficiency - Maintenance
- Section 624, Traffic Control Plan Deficiency - Safety
- Section 623, LVACTS/FAST Cable Damages

105.8.3 Final Payment. The Consultant shall:

- Collect the required affidavits and related documents required to accompany the final payment and forward them to the City Representative including for all projects:

- Certificate of Substantial Completion
- Consent of Surety to Final Payment
- Consent of Surety and Increase of Penalty
- Affidavit of Payment of Debt and Claims
- And for particular projects as applicable:
- Building and Safety: Final Grading Report, Pad Certification, Finish Floor Elevation Certificate, and Drainage Compliance Report.
- Offsite Inspection: R-Value Verification Report, Select Backfill Letter, and Final Grading Report.
- State Engineer Dam Safety Permission to Impound submittal package.
- Review the Final Payment request for the proper accounting of all change orders, modifications, final quantity reconciliation, permanent withholding, liquidated damages, and other adjustments made to the Contract Sum over the course of the Project.
- Obtain the Final Payment approval from the City Representative.

106 MATERIAL TESTING SERVICES

106.1 GENERAL

- The Consultant shall provide staffing and AASTHO certified lab services to provide quality control testing and inspection during construction. The Consultant shall be responsible for reviewing documentation including test reports to ensure compliance with the Contract Documents.
- All terms and conditions contained in the Construction Management as Agent Services section of this Contract also apply to the Material Testing Services and personnel.
- Upon discovery the Consultant material testing personnel shall immediately reject unacceptable materials during delivery or installation, and so notify the Contractor verbally and in writing within 24 hours, without prior consultation with the City Representative. Notify the City Representative as soon as practical and enter in the Daily Report.

106.2 DOCUMENTATION

- The Consultant's field testing personnel shall notify the City Representative when establishing the time of arrival and departure from the site, or the Consultant's Construction Coordinator if the City Representative is not on site.
- The Consultant shall prepare Daily Reports noting the following minimum information over the course of the Project:
- Time beginning inspection and testing
- Time ending inspection and testing
- Total man-hours for each pay rate spent for each day
- Tests or inspections performed and document the station, offset and nearest cross street location
- Rejected materials, failed tests or inspections, re-inspections conducted, uncorrected work
- The Consultant shall immediately report to the City Representative verbally and in writing any:
- Testing or inspection that fails specifications or requirements.
- Missed testing or inspections.
- Testing where there is a reasonable doubt that the future test results may not meet the specifications.
- Construction that proceeds without the required testing or inspection.
- Construction that proceeds after uncorrected failed test results or doubtful future results.
- Construction that is not in compliance with the Contract Documents.
- Structural failure or collapse.
- Disciplinary actions taken by regulatory authorities against the Consultant or Contractor.

106.3 SAMPLING AND TESTING CRITERIA

106.3.1 FIELD TESTING

- The Consultant shall provide field testing for soil, aggregate, concrete, and asphalt required by the Contract Documents.
- The Consultant shall review and maintain field-testing data and reports for contract compliance.

106.3.2 LABORATORY TESTING

- The Consultant shall provide laboratory testing for soil, aggregate, concrete, asphalt, and pipe lining required by the Contract Documents.
- The Consultant shall maintain all source testing data and reports, including retesting of failed tests.

106.3.3 LABORATORY TEST RESULTS

- ***Soil Tests***
  - The Consultant shall perform relative compaction test of subgrade, aggregate base grade and trench backfill for verification of compliance with the project specifications when directed by the City and follow testing frequencies as shown in Item 4 – Testing Requirements. Test results shall be reviewed and delivered to the City's Representative prior to the Consultant leaving the construction site daily.
  - The Consultant shall retrieve samples from the Project site and perform laboratory Moisture Density tests when requested by the City. Test results shall be delivered to the City or its Agent within 2 working days following samples being retrieved from the Project site.
  - The Consultant shall retrieve samples from the Project site and perform laboratory Sieve Analysis tests when requested by the City. Test results shall be delivered to the City or its Agent within 2 working days following samples being retrieved from the Project site.
  - The Consultant shall retrieve samples from the Project site and perform laboratory R-Value tests when requested by the City. Test results shall be delivered to the City or its Agent within 3 working days following samples being retrieved from the Project site.
  - The Consultant shall retrieve samples from the Project site and perform laboratory Percent of Wear tests when requested by the City. Test results shall be delivered to the City or its Agent within 2 working days following samples being retrieved from the Project site.
  - The Consultant shall retrieve samples from the Project site and perform laboratory Plasticity Index tests when requested by the City. Test results shall be delivered to the City or its Agent within 2 working days following samples being retrieved from the Project site.
  - The Consultant shall retrieve samples from the Project site and perform laboratory Sulfate Content tests when required by the City. Test results shall be delivered to the City or its Agent within 3 working days following samples being retrieved from the Project site.
- ***Concrete Tests***
  - The Consultant shall perform on-site slump, temperature, air content, determination of unit weight and consistency tests for verification of compliance with the Project specifications when directed by the City. Test results shall be delivered to the City's Representative prior to the Consultant leaving the construction site daily.
  - The Consultant shall prepare a minimum of 4 test cylinders on the Project site at the time of concrete placement and perform laboratory compressive strength tests when requested by the City. Cylinders shall be cured on-site in a cure box supplied by the Consultant, for a period of 24 hours before removal. Results shall be delivered to the City within 2 working days following each cylinder being tested.
- ***Asphaltic Concrete Tests***
  - The Consultant shall perform on-site density tests by utilizing "Density of Bituminous Concrete in Place by Nuclear Method" ASTM D 2950 methodology at the time of asphaltic concrete placement for verification of compliance with the Project specifications when directed by the City. Test results shall be delivered to the City's Representative prior to the Consultant leaving the construction site daily.
  - The Consultants shall retrieve samples from the Project site and perform laboratory Extraction/Gradation tests when requested by the City. Test results shall be delivered to the City within 2 working days following samples being retrieved from the Project site.
  - The Consultant shall retrieve samples from the Project site and perform laboratory Maximum Theoretical Specific Gravity tests utilizing the Rice methods, when requested by the City. Test results shall be delivered to the City within 2 working days following samples being retrieved from the Project site.
  - The Consultant shall retrieve samples from the Project site and perform laboratory Unit Weight and Thickness tests when requested by the City. Test results shall be delivered to the City within 2 working days following samples being retrieved from the Project site.

- The Consultant shall retrieve samples from the Project site and perform laboratory Marshall Series tests when requested by the City. Test results shall be delivered to the City within 3 working days following samples being retrieved from the Project site.

106.3.4 Testing Requirements. The following requirements for quality assurance material testing and control can be downloaded at https://lasvegasnevada.gov/Government/Departments/Public-Works/City-Engineering and are considered the basis for materials testing fees for this contract. Actual testing frequencies may vary based on direction from the City's representative.

106.4 CLOSE-OUT

- The Consultant shall deliver a final report containing all test results, stamped and sealed by a Nevada Professional Engineer.
- The Consultant shall, at no additional cost, properly retain samples for a period of one year after completion of the Project, and a longer period if so instructed by the City in which case reasonable storage charges will be negotiated prior to the time extension, or the samples delivered to the City if charges cannot be negotiated.

END OF EXHIBIT "A"

EXHIBIT B
REQUIRED SUBMITTALS

200 SUBMITTALS

200.1 GENERAL

200.2 For the services set forth in Exhibit "A" (Scope of Services), the Consultant shall provide the following minimum submittals and deliverables for the Project, delivered to the City unless noted otherwise, which shall be accomplished as soon as practical after the completion of each event, task, phase, and service, and as a prerequisite to payment for each related event, task, phase, and service. Reference the entire Contract and other Exhibits for additional Consultant submittals, and documents to be forwarded from the Contractor.

200.3 All reports shall be on white acid-free paper, 8-1/2 x 11 inches, suitable for photocopying and bound in booklet form. It is understood that the City may make and distribute copies of the reports as necessary in connection with the Project without incurring obligation for additional compensation.

200.4 PRE-CONSTRUCTION

- The Consultant shall provide the following:
- Resumes for each staff person assigned to the Project for City approval.
- Consultant's policy and procedure manual for construction management for City approval.
- Project participant contact list including names, addresses, and emergency telephone numbers of all contractors, subcontractors, agencies, and major suppliers.
- The Consultant's list of recommended pre-construction conference meetings to the City for approval (concrete pours, roofing, etc.).
- List of deferred submittals.

200.5 CONSTRUCTION PHASE – MONTHLY INVOICES

200.5.1 **Consultant's Invoice.** Together with the Consultant's monthly invoice for services, provide copies of the following documents for the period covered by the invoice:

- A narrative report of the monthly activities and progress.
- Consultant's daily photographs of construction activities.
- Consultant's current As-Built Schedule of construction progress and future construction schedule, in both paper and Microsoft Project, P6 or approved equal electronic file format.

200.5.2 ***Contractor's Payment Request.*** Together with forwarding the Contractor's monthly payment request, provide copies of the following documents for the period covered:

- Prevailing wage records.
- Contractor's photographs of construction activities.
- Contractor's current As-Built Schedule of construction progress and future construction schedule, in both paper and Microsoft Project, P6 or approved equal electronic file format.
- Consultant's monthly written analysis report of the Contractor's monthly update schedule.

200.6 CLOSE-OUT PHASE – FINAL PAYMENT

200.6.1 ***Consultant's Invoice***. Together with the Consultant's invoice for final payment, or upon termination of this Contract for any reason, provide:

- *Report.* A final Project summary report.
- *Daily Reports.* The Consultant's Daily Reports, with original signature of the Consultant.
- *Photographs.* The Consultant's daily photographs, labeled and dated.
- *As-Builts.* The coordinated as-built set of drawings and specifications that contains both the Contractor's and Consultant's markups over the course of the Project, including monument tie information.

- Electronic Files. Provide a complete and organized record of the Project documentation on labeled DVDs including but not limited to: final as-built drawings, MasterWorks software generated reports and documents, emails, certified payrolls, payment requests, submittals, shop drawings, test results, delivery tickets, warranties, operating instructions, and close-out manuals.
- Provide electronic files in the original software format (MS Word, Excel, etc.).
- Provide pdf or tif electronic files of all fully executed signature documents.
- Provide electronic copies of all Paper Files referenced in the following paragraph.
- Paper Files. All original documents relating to the Project produced during the term of this Contract, organized and labeled in standard stackable cardboard file storage boxes 12x15x10 with lids.
- *Evaluation Form***.** The completed City's Contractor evaluation form.

200.6.2 Contractor's Final Payment Request. Together with forwarding the Contractor's final payment request, provide copies of the following documents:

- Certificate of Substantial Completion
- Consent of Surety to Final Payment
- Consent of Surety and Increase of Penalty
- Affidavit of Payment of Debt and Claims
- And for particular projects as applicable:
- Building and Safety: Final Grading Report, Pad Certification, Finish Floor Elevation Certificate, and Drainage Compliance Report.
- Offsite Inspection: R-Value Verification Report, Select Backfill Letter, and Final Grading Report.
- State Engineer Dam Safety Permission to Impound submittal package.

END OF EXHIBIT "B"

EXHIBIT C
PERFORMANCE SCHEDULE

300 SCHEDULE

301 GENERAL

301.1 For the services set forth in Exhibit "A" (Scope of Services), the Consultant's work begins upon written notice to proceed from the City. The Consultant's site mobilization shall be performed upon written notification by the City. Services shall be performed by the Consultant in an expeditious manner so as to not delay the progress of the Project, and in accordance with the time requirements described elsewhere in this Contract.

301.2 The Scope of Service and compensation set forth in this Contract are based upon the Consultant and the City each performing its responsibilities in a timely manner.

302 LATE AND EARLY COMPLETION

302.1 The anticipated construction start date of the Project is December, 2020, with an anticipated construction term of 240 calendar days for the Contractor to achieve Substantial Completion of the Project.

302.2 If the Project is suspended or terminated, or the anticipated construction schedule is reduced, the Consultant shall be paid for the services provided to the date of suspension or termination or the services provided within the reduced schedule in accordance with this Contract.

302.3 If the anticipated construction schedule is exceeded, the Consultant's compensation may continue to be paid from the Total Not-to-Exceed Cost for Basic Services in Exhibit "D" (Fee Breakdown) until this amount has been expended, and if authorized by the City Representative, additionally may be paid from the Total Not-to-Exceed Cost of the Additional Services Allowance in Exhibit "D" in accordance with the rates in Exhibit "E" (Additional Compensation).

302.4 The City reserves the right to adjust the Consultant services to be provided over the course of the Project, which may include the elimination of the Consultant's role in the Project at any time and for any reason.

END OF EXHIBIT "C"

EXHIBIT D
FEE BREAKDOWN

400 BREAKDOWN

401 TOTAL COMPENSATION

401.1 The total compensation to be paid to the Consultant for performance of this Contract including Basic Services and Additional Services Allowance shall not exceed **$410,000**. Increases to total compensation may only be authorized by written amendment to this Contract. This total compensation amount is comprised of the parts described in this Exhibit "D" (Fee Breakdown).

402 BASIC SERVICES PAYMENT BASED ON HOURLY RATES AND ADDITIONAL SERVICES RATES WITH A TOTAL NOT-TO-EXCEED COST

402.1 The City agrees to pay the Consultant on the basis of direct salary (Exhibit E – Section 500), times a **multiplier of 2.95**, plus approved non-salary expenses identified in Section 7.03, Section 7.04, and Exhibit E based on the Consultant's acceptable completion of the Scope of Services (Exhibit "A"). The Consultant agrees to perform the services necessary to complete each task and, if applicable, each subtask, not to exceed the fee set forth in this Exhibit "D" (Fee Breakdown). Payment shall be made for completed tasks pursuant to monthly invoices submitted in accordance with this Contract.

CONSTRUCTION MANAGEMENT AS AGENT SERVICES		REMARKS
TOTAL NOT-TO-EXCEED COST	$385,003	

402.2 The following Basic Services Worksheet Exhibit D-1 table(s) shows the estimated hours and the dollar cost of those hours to be expended by the Consultant by various personnel and the monthly cost of authorized services and facilities based on the rates established in Exhibit "E". Although this table represents the basis for how the Total Not-to-Exceed Cost for Basic Services was established, it is not a part of this Contract and not to be used as the basis for payment. The personnel, hours, facilities, assets, and other services provided will be adjusted over the course of the Project at the direction of the City Representative, with the Consultant earning payment for only those hours and services performed and facilities provided in accordance with this Contract. The cost of these adjustments shall be calculated utilizing the rates agreed to in this Contract to the extent they are applicable, or otherwise negotiated prior to performance.

The City Representative shall have the authority to make such work scope adjustments to the services contained within Basic Services without processing this Contract for an amendment or additional services authorization, if (1) the revisions are documented and agreed to by the Consultant and City in writing prior to performance, (2) the Total Cost for Basic Services is not exceeded, and (3) the change(s) are within the scope of the Project.

402.3 An increase to the Total Not-to-Exceed Cost for Basic Services may only be authorized by written amendment to this Contract.

403 ADDITIONAL SERVICES ALLOWANCE

403.1 A Not-To-Exceed Allowance for Additional Services is hereby established as set forth below. The City shall pre-authorize in writing Additional Services up to the Total Not-To-Exceed Cost. Services performed prior to receiving the required written authorization from the City or in excess of the Total Not-To-Exceed Cost shall not be obligated for compensation.

403.2 Additional Services are services provided in the interests of the Project that are not set forth in Exhibit "A" (Scope of Services) as Basic Services, or services that are required after the Total Not-To-Exceed Cost for Basic Services has been expended.

403.3 The Consultant shall be compensated for Additional Services in accordance with the Additional Services fees set forth in Exhibit "E" (Additional Compensation), or if no Additional Service fee has been established for the service, in accordance with the Multiplier established in Exhibit D, Section 400.2 and the Consultant Hourly Rates established in Exhibit "E" (Compensation). Additional Service compensation disputes shall be resolved in accordance with the claims and disputes provisions of this Contract and shall not be cause for the Consultant to delay providing requested services. Payment shall be made for each completed Additional Service pursuant to invoices submitted in accordance with this Contract.

403.4 Reimbursable Expenses may be compensated from this Allowance for Additional Services to the extent they are allowed by Exhibit "E" (Additional Compensation). Payment shall be made for each completed Reimbursable Expense pursuant to invoices submitted in accordance with this Contract. Expenses not listed in Exhibit "E" (Additional Compensation) as allowed Reimbursable Expenses shall not be compensated without amendment to this Contract to allow them as Reimbursable Expenses.

403.5 Increases to this Total Not-To-Exceed Cost for Additional Services may only be authorized by written amendment to this Contract.

ADDITIONAL SERVICES ALLOWANCE		**ALLOWED SERVICES**
TOTAL NOT-TO-EXCEED COST	$24,997	For Additional Services required by an unexpected event or condition, a need to increase management oversight, a construction schedule extension, Consultant overtime costs, additional subconsultants, and other project management activities.

END OF EXHIBIT "D"

EXHIBIT E
COMPENSATION

500 CONSULTANT HOURLY RATES

500.1 The following hourly rates represent the maximum allowable direct salary rate billable for payment of basic and additional services, as well as the basis for negotiation of added and reduced services. These hourly rates are valid for the duration of the Project and are representative of maximum direct salary costs. The Multiplier included in Exhibit D (Fee Breakdown) shall include associated overhead, administration, direct costs except as detailed in Section 7.03 and Exhibit E, and profit. This includes, but is not limited to, all support personnel who normally work on non-specific project tasks including but not limited to receptionists, senior executives together with their assistants, financial accounting personnel, and personnel maintaining facilities, equipment and computers.

501 ADDITIONAL SERVICES RATES

501.1 The cost of the following services and facilities have been negotiated as of the date of this Contract.

CLASSIFICATION (see Exhibit "F" Key Personnel for personnel names)	**MAXIMUM HOURLY RATE**
Construction Manager	$75.00
Construction Inspector	$52.00
Document Administrator	$30.00

501.2 The cost of the following testing and laboratory services has been negotiated as of the date of this Contract.

TESTING and LABORATORY SERVICES	**FIXED FEE Per TEST**
Per Attached quote	

501.3 These Additional Services Rates are valid for the duration of the Project and include salary costs, equipment, overhead, administration and profit.

501.4 For Additional Services of sub-consultants, the City shall compensate the Consultant a multiple of one (1.0) times the amounts billed to the Consultant for such services. The Consultant may bill for their expenses in managing the Additional Service of sub-consultants, the amount of which is already included in the above Additional Service Rates or, if not listed in the above Additional Service Rates, shall be approved by the City in writing prior to the Consultant or sub-consultant providing the services.

501.5 The Consultant agrees to provide services in connection with the Project, which are in addition to those required by Exhibit "A" for Basic Services, as Additional Services if so requested by the City in writing. Such requests may include, but are not limited to, and are not necessarily indicated by this statement as being Additional Services rather than Basic Services: (i) significant changes in the Project's size, quality, complexity, budget, or time schedule, (ii) changes required due to conflicting instructions previously given by the City, (iii) changes required by the enactment or amendment to codes, laws or regulations subsequent to the preparation of such documents, (iv) services concerning the replacement of that portion of the Project damaged by fire or other cause, and (v) services made necessary by the default or failure of the Contractor including major defects or deficiencies in the construction.

502 REIMBURSABLE EXPENSES

502.1 The following Reimbursable Expenses are allowed:

REIMBURSABLE EXPENSE
None authorized or anticipated as of the date of this Contract.

502.2 For Reimbursable Expenses of the Consultant, the City shall compensate the Consultant a multiple of one (1.0) times the actual direct costs incurred by the Consultant. The multiplier includes all compensation for overhead and profit.

502.3 Reimbursable Expenses are limited to specific pre-authorized items or services purchased from third parties to this Contract, dedicated to only this Project. Additions to the above allowed Reimbursable Expenses may only be granted as a written amendment to this Contract.

502.4 If Reimbursable Expenses are established in this Contract as a fixed sum or a not-to-exceed amount, the Consultant has determined that this Reimbursable Expense amount will not be exceeded for the allowed Reimbursable Expenses for performance of the Services set forth in Exhibit "A" (Scope of Services), and accordingly does hereby assume the risk to complete the performance of this Contract without further compensation for Reimbursable Expenses should the costs exceed this fixed sum or not-to-exceed amount for Reimbursable Expenses.

502.5 Travel and per diem expenses are included in the Basic Services Fees, Consultant Hourly Rates, Sub-Consultant Hourly Rates, and Additional Services Rates shown in this Contract, and may otherwise only be authorized as reimbursable expenses by written amendment to this Contract. Expenses incurred prior to written authorization shall not be considered for reimbursement.

502.6 Should travel and per diem expenses be so authorized by the City:

502.6.1 Expenses shall be based on actual costs submitted for reimbursement with valid original receipts. If a receipt is not normally provided for the expense, a certification signed by the traveler shall be submitted. Submitted receipts for travel and per diem reimbursement shall name each traveler covered.

502.6.2 Rates for lodging and individual meals shall not exceed the published U.S. General Services Administration rates at Clark County, Nevada, including the 75% limitation on the day of departure and return.

502.6.3 Passenger vehicle mileage shall be reimbursed at the rate stipulated by the Internal Revenue Service.

502.6.4 Examples of expenses that will not be reimbursed include alcoholic beverages, entertainment, laundry, dry cleaning and pressing, parking fines, gratuities and tips excepting for taxicab and meals a 15% tip if shown on the receipt, costs related to making reservations or other accommodations for travel, phone calls, computer or Internet access costs, car rentals larger than mid-size and car rental insurance, air travel other than the lowest coach fair available and travel insurance, premature departure and extended stays for personal reasons, and indirect route for personal preference.

END OF EXHIBIT "E"

EXHIBIT F
KEY PERSONNEL LIST

600 CITY PERSONNEL

600.1 CITY REPRESENTATIVE: Chris Plutte, P.E.

600.2 CITY REPRESENTATIVE'S SUPERVISOR: Tom Hayes, P.E.

601 CONSULTANT'S PROJECT STAFF

601.1 The following personnel will be assigned by to work on the Project. Any changes or additions require City approval.

601.1.a **CONSULTANT REPRESENTATIVE (who may also be one of the following staff**): Mike Leeper

601.1.b **CONSULTANT REPRESENTATIVE'S SUPERVISOR:** Mike Leeper

601.1.c **CONSTRUCTION COORDINATOR: N/A**

601.1.d **CONSTRUCTION INSPECTOR:** Ian Thomason, Kimmer Stewart

601.1.e **DOCUMENT ADMINISTRATOR**: Robin Tanasi

601.1.f **OTHER PERSONNEL: N/A**

601.1.g **RESPONSIBLE IN CHARGE PERSON***: Barclay Swan, P.E.
*Mandatory under NRS 338 Construction Manager as Agent, who may also be one of the above staff

List name of individual Architect, individual Engineer, or Contractor company name as licensed:

List Architect, Engineer, or Contractor license number: 18906

602 CONSULTANT'S SUBCONSULTANTS

602.1 MATERIAL TESTING: CTS

602.2 ENVIRONMENTAL MONITORING: N/A

602.3 CIVIL ENGINEER: N/A

602.4 STRUCTURAL ENGINEER: N/A

602.5 MECHANICAL ENGINEER: N/A

602.6 ELECTRICAL ENGINEER: N/A

602.7 LANDSCAPE DESIGN: N/A

602.8 COST ESTIMATOR: N/A

602.9 GEOTECHNICAL ENGINEER: N/A

602.10 LAND SURVEYOR: N/A

END OF EXHIBIT "F"

EXHIBIT G
EXAMPLE INVOICE

Project Name:
Project Number
Invoice Number
Invoice Date:

Consultant:
Consultant Rep:
Consultant Phone:
CLV Project Manager:
CLV Program Manager:

Task	Description	Amount of Task	Amount Billed this Period	Amount Previoisly Billed	Amount Billed to Date	Amount Remaining	Percent Billed this Period	Percent Billed to Date	Percent Funds Remaining
105.1.3	100% Final (Mylar) Submittal				$0.00	$0.00			
0	0				$0.00	$0.00			
106	**BID PHASE**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**			
106.1	Pre-Bid Conference				$0.00	$0.00			
106.2	Bid Requests and Responses				$0.00	$0.00			
106.3	Bid Opening				$0.00	$0.00			
106.4	0				$0.00	$0.00			
107	**CONSTRUCTION PHASE**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**			
107.1	Pre-Construction Meeting				$0.00	$0.00			
107.2	Submittal Review				$0.00	$0.00			
107.3	Construction Support Services				$0.00	$0.00			
107.4	0				$0.00	$0.00			
108	**POST CONSTRUCTION PHASE**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**			
108.1	Record Drawings				$0.00	$0.00			
108.2	0				$0.00	$0.00			
108.3	0				$0.00	$0.00			
108.4	0				$0.00	$0.00			
108.5	0				$0.00	$0.00			
	Not-to-Exceed Total Basic Services Fee	**$0.00**	**$0.00**						

	Additional Services Allowance:								
ASR#	**Total Additional Services Authorized**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**			
1	0					$0.00			
2	0					$0.00			
3	0					$0.00			
4	0					$0.00			
5	0					$0.00			
6	0					$0.00			
7	0					$0.00			
8	0					$0.00			
9	0					$0.00			
10	0					$0.00			
	Total Billed This Invoice:		**$0.00**						

	Total Billed to date	Total Remaining	Percent Remaining
Total Base Services Due this Invoice: $0.00			
Basic Services:	**0.00**	**$0.00**	
Total Additional Services Billed to Date $0.00			
Authorized Additional Services:	**0.00**	**$0.00**	
TOTAL AMOUNT OF INVOICE $0.00			
Additional Services Remaining:		**$0.00**	

CONTRACT NO.:

Page 2 of 2

Project Name:
Project Number:
Consultant
Invoice Number:
Invoice Date:

DIRECT LABOR COSTS

NAME	TITLE	HOURS	RATE	TOTAL
				$0.00
				$0.00
				$0.00

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 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: Contracting Entity	**Block 2: Description / Subject Matter of Contract**
Name: 4LEAF Consulting LLC	**Services for:** CMAA Sewer Rehabilitation Group J
Address: 125 E Reno Ave #3, Las Vegas, NV 89119	
Telephone: 702-726-4140	**Project Number:** 210097-JH
EIN or DUNS : 27-1621059	

Block 3: Type of Business

☐ 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.	4LEAF, Inc (parent).	2126 Rheem Drive, Pleasanton, CA 94588	925-462-5959
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.

[signature] as President
Name

KEVIN DUCCAN, 4LEAF Inc President
9/10/20
Date

Subscribed and sworn to before me this _____day of (See attached)

_____, 20__

_____
Notary Public

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Alameda

Subscribed and sworn to (or affirmed) before me on this 10th day of September, 2020, by Kevin Duggan,
proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

C. POLICAR
Notary Public - California
Alameda County
Commission # 2238410
My Comm. Expires May 2, 2022

(Seal)

Signature C. Policar

CERTIFICATE - DISCLOSURE OF OWNERSHIP/PRINCIPALS

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"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.

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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: Contracting Entity	**Block 2: Description / Subject Matter of Contract**
Name: 4LEAF Consulting LLC	**Services for:** CMAA Sewer Rehabilitation Group J
Address: 125 E Reno Ave #3, Las Vegas, NV 89119	
Telephone: 702-726-4140	**Project Number:** 210097-JH
EIN or DUNS : 27-1621059	

Block 3: Type of Business

☐ 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.	4LEAF, Inc (parent).	2126 Rheem Drive, Pleasanton, CA 94588	925-462-5959
2.			
3.			
4.			
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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.

[signature] as President
Name

KEVIN DUCCAN, 4LEAF Inc President
9/10/20
Date

Subscribed and sworn to before me this _____day of (See attached)

_____, 20__

_____
Notary Public

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Alameda

Subscribed and sworn to (or affirmed) before me on this 10th day of September, 2020, by Kevin Duggan

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

C. POLICAR
Notary Public - California
Alameda County
Commission # 2238410
My Comm. Expires May 2, 2022

(Seal)

Signature C. Policar

AGENDA SUMMARY PAGE
City Council
Meeting of: December 2, 2020

Agenda Item No.:
12

DEPARTMENT: Finance **CONSENT**
DIRECTOR: Venetta Appleyard

SUBJECT:
For possible action to approve award of Contract No. 210100-JL, Prime Design Services Contract for Northwest Regional Park - Phase I, located at the northwest corner of Log Cabin Way and El Capitan Way - Department of Public Works - Award recommended to: LGA ARCHITECTS DBA LGA ($438,100 - Parks & Leisure Activity Capital Projects Fund) - Ward 6 (Fiore)

FISCAL IMPACT:
Budget Funds Available
Amount: $438,100
Funding Source: Parks & Leisure Activity CPF
Dept./Division: Public Works

PURPOSE/BACKGROUND:
Prime design services to support the development of the Northwest Regional Park to provide recreation opportunities in the northwest region. Park development is divided into two (2) phases. This contract provides programming, conceptual, and schematic design for Phase I. Phase I develops the south-east corner of the site which consists of approximately 38-40 acres. Phase I will incorporate a Historic Railroad Interpretation Camp, a passive park, playground area and restroom facilities. Research will be conducted on which type of sports fields will be designed, with a capacity of up to eight fields. This item is exempt from the competitive bidding process pursuant to NRS 332.115.1(b), Professional Services. LGA Architects dba LGA is located in Las Vegas, Nevada.

RECOMMENDATION:
Approve as recommended with signature authority granted to the Purchasing and Contracts Manager per R-20-2017.

BACKUP DOCUMENTATION:
1. Contract No. 210100-JL
2. Certificate - Disclosure of Ownership-Principals

PRIME DESIGN SERVICES CONTRACT
FOR
Northwest Regional Park – Phase I

THIS CONTRACT is made and entered into this _____ day of _____, _____, by and between the CITY OF LAS VEGAS, a municipal corporation within the State of Nevada (herein the "City") whose address is 495 S. Main Street, Las Vegas, Nevada 89101, and **LGA**, (the "Consultant"), **corporation**, whose address is **241 W Charleston #107, Las Vegas, NV 89102.**

PROJECT DESCRIPTION: The Northwest Regional Park is located at the northwest corner of Log Cabin Way and El Capitan Way. It is a 160 gross acre park that will provide recreational opportunities in the northwest region. The project will be divided into phases. Phase I is the south-east corner of the site (approx. 38-40 acres). This phase will incorporate a Historic Railroad Interpretation Camp that will be situated along the original railroad line (which will be regenerated/built). The Historic site will have SHPO involvement. There will also be a passive park, playground area, restroom facilities (up to 3). Research will be conducted on which type of sports fields will be designed (Baseball, soccer, etc.), could be up to 8 fields with sports lighting. Roadways and parking to accommodate the Phase I of the project.

W I T N E S S E T H:

WHEREAS, the City intends to construct the Northwest Regional Park – Phase I (herein the "Project"); and

WHEREAS, the City desires to retain the Consultant who will be responsible for providing the professional services more fully described below and in the exhibits attached hereto; and

WHEREAS, the Consultant is properly licensed pursuant to NRS Chapter 623, 623A, or 625, whichever is legally required for the services to be provided within the State of Nevada, and if applicable to the Consultant's business organization, is in compliance with NRS 623.349 for architects, interior designers, and residential designers and NRS 623A.250 for landscape architects, which requires the Consultant to control and have no less than two-thirds ownership of the business organization or association be held by persons registered or licensed in the State of Nevada pursuant to NRS Chapters 623, 623A, or 625, and possesses the knowledge, skills and experience to perform the services hereinafter set forth within the time required under this Contract;

NOW, THEREFORE, in consideration of the above premises, the parties hereto agree to the following terms, conditions and covenants set forth in Sections One through Ten hereof:

1.0 CONSULTANT RESPONSIBILITIES

1.1 ***Description of Consultant's Services.*** For the compensation set forth in Section Seven, the Consultant hereby agrees to perform the basic services set forth in the Scope of Services, Exhibit "A" attached hereto and incorporated herein as a part of this Contract and, if so requested, the additional services set forth in the Additional Compensation, Exhibit "E" attached hereto and incorporated herein as a part of this Contract and to provide the submittals described in the Required Submittals Exhibit "B," attached hereto.

1.2 ***Performance Standards.*** In performing the services set forth in this Contract, the Consultant shall follow the practices consistent with the generally accepted standards in the profession of the services being provided to the City pursuant to this Contract.

1.3 ***Document Review.*** The Consultant shall review each document prepared by the Consultant and its subconsultants including, without limitation, the plans, drawings and specifications for conformance with quality control requirements,

Project standards and applicable federal, state and local laws and other regulations. Consultant shall also review each document for violations or infringements upon any patent rights.

1.4 ***Waiver.*** The City's approval of any documents or services furnished by the Consultant shall not in any way relieve the Consultant of responsibility for the professional and technical accuracy of its documents or services. The City's review, approval, acceptance or payment for any of the Consultant's services shall not be construed to operate as a waiver of any rights enjoyed by the City under this Contract or of any cause of action arising out of the performance of this Contract. The Consultant shall remain liable for any damages to the City caused by the Consultant's negligent act or omission committed in the performance of this Contract.

1.5 ***Designation of Consultant's Representative.*** The Consultant's representative is the individual identified in the Key Personnel List, Exhibit "F" attached hereto (the "Consultant Representative") to act in that capacity, who shall be responsible for the services required under this Contract. The services specified by this Contract shall be performed by the personnel identified in the Key Personnel List provided that such associates and employees perform under the personal supervision of the Consultant Representative.

If any person or subconsultant who is expected to provide any of the services required under this Contract is objectionable to the City for any reason, the Consultant shall, without additional compensation, replace such person or subconsultant with someone acceptable to the City.

If the Consultant's personnel are unable to complete their responsibilities for any reason under this Contract, or the Consultant desires for any reason to substitute personnel assigned to the Project, the Consultant agrees to obtain the approval of the City for the substitution. The City shall not unreasonably deny approval unless the City adjudges the substitution to not be in the interest of the City or the Project.

If the Consultant fails to make an acceptable replacement within thirty (30) days, the City may terminate this Contract for default as provided in Section 10.03 of this Contract.

1.6 ***Correspondence Review.*** The Consultant shall furnish the City Representative draft copies of each correspondence to be sent to any contractor involved with the Project, and to any regulatory agencies, for approval and review prior to mailing such correspondence.

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

1.8 ***Responsibility for Construction Document Revisions***

1.8.1 ***Applicability.*** The Consultant's responsibility described in this Section applies only if the Consultant is responsible for providing a construction cost estimate and preparing construction documents for the Project.

1.8.2 ***Responsibility for Revisions.*** The Consultant does not warrant or represent that the bids or proposed price received by the City to construct the Project will come within the estimate prepared by the Consultant. If the bids or proposed price received by the City exceeds the Consultant's estimate, the Consultant agrees to cooperate with the City in revising the requirements of the Project as required to lower the cost and to change the construction documents. If the changes requested by the City cause an increase in the cost or time required to perform any of the services required under this Contract, the Consultant may submit a request for an Adjustment in Compensation pursuant to Section 3.2.

2.0 CITY RESPONSIBILITIES

2.1 ***City Representative.*** The Director of Public Works or his authorized representative identified in the Key Personnel List is hereby designated as the City's representative (the "City Representative") with respect to this Contract. The City Representative shall have complete authority to transmit instructions, receive information, interpret and define the City's policies and decisions with respect to the services of the Consultant. The City Representative is not authorized to change or waive any of the provisions set forth in Sections 1.0 through 10.24 of this Contract.

2.2 ***Review of Consultant's Services and Documents.*** The services to be performed by the Consultant shall be subject to periodic review by the City Representative. To prevent an unreasonable delay in the Project, the City Representative will endeavor to examine and comment in writing on the documents furnished by the Consultant including, without limitation, the plans, drawings, specifications, test results, evaluations, and reports within twenty-one (21) days of receipt of such documents, unless the Contract provides for a different review time with respect to the document.

2.3 **Access to Records.** The City shall, without charge, furnish a copy to, or make available for examination or use by, the Consultant, as it may request, any documents and data which the City has available including, without limitation, reports, maps, plans, specifications, surveys, records, ordinances, codes, regulations, and other documents related to the services required under this Contract. The City shall assist the Consultant in obtaining data and documents from public agencies and from private citizens and business firms whenever the City determines that such material is necessary for the completion of the services required by this Contract.

2.4 ***Cooperation with Consultant.*** The City agrees that its officers and employees will cooperate with the Consultant in the performance of this Contract and will be, with advance notice, available for consultation with the Consultant at such reasonable times as to not conflict with the Consultant's other responsibilities. The City shall provide access to the Consultant on to the Project site as may be required to perform the services under this Contract.

3.0 CHANGES TO CONSULTANT'S SERVICES

3.1 ***Requested Changes.*** The City may at any time, by written order of the City Representative, make a change in the services to be performed by the Consultant under this Contract.

3.2 ***Adjustment of Compensation.*** If the change requested by the City causes an increase or decrease in the cost or time required to perform any of the services required under this Contract, an equitable adjustment shall be made in the compensation to be paid to the Consultant under Section Seven, or in the performance schedule under Section Eight, or both, and this Contract shall be modified in writing accordingly. Each claim for adjustment under this Section must be asserted in writing within thirty (30) days from the date of receipt by the Consultant of written notification of the change, unless the City grants in writing an extension. Provided proper notice has been given to the City as required herein, the claim for an adjustment shall be handled pursuant to the provisions of 10.19.2 and 10.19.3 of this Contract. The failure to provide notification of the claim within the time required herein shall constitute a waiver of the right to seek any equitable or legal adjustment in compensation with respect to that change.

4.0 ADDITIONAL SERVICES OF CONSULTANT

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

4.2 ***Attendance at Meetings or Public Hearings.*** The Consultant shall notify the City in advance of any estimated additional costs which may be incurred prior to attending any meetings or public hearings as may be necessary in connection with the services performed by the Consultant under this Contract.

5.0 *SUBCONSULTANT CONTRACT*

5.1 ***Subconsultant Provisions.*** If, with the approval of the City as required pursuant to Section 10.7, the Consultant enters into an CONTRACT with a subconsultant for the performance of any of its obligations under this Contract, the Consultant agrees to include in each subconsultant CONTRACT a provision that:

5.1.1 the Consultant agrees to pay the subconsultant when paid by the City for that portion of the services provided to the City and that no liability arises on the part of the Consultant for payment of the subconsultant services until payment has been made by the City. If the City has paid the Consultant for the subconsultant services, the subconsultant's only recourse is against the Consultant and not against the City, either through the institution of legal or equitable action or the attachment of any lien,

5.1.2 the subconsultant shall have no more rights against the City than that of the Consultant,

5.1.3 the subconsultant agrees to be bound by the terms, conditions and obligation of this Contract unless the City has approved any deviation, change or modification in writing, and

5.1.4 unless otherwise approved in writing by the City Representative, the subconsultant shall obtain and maintain professional liability insurance (Errors and Omissions coverage) in connection with the subconsultant services in an amount equal to that required of the Consultant in this Contract.

6.0 TERM OF CONTRACT

6.1 ***Term.*** This Contract shall commence on the day it is approved by the City (which date shall be inserted in the introductory paragraph of this Contract) and shall remain in force and effect until the Project is completed unless terminated earlier pursuant to Section 10.2 or 10.3 of this Contract. Such termination shall not release either party from any of its continuing obligations under this Contract.

6.2 ***Disputes.*** This Section shall not be construed to preclude the filing of any dispute arising out of the performance of this Contract or in connection with the subject matter hereof, nor shall this Section be construed to change the date or the time on which a cause of action arising out of the performance of this Contract or in connection with the subject matter hereof, would otherwise accrue under the statutes of limitation or doctrines of law.

7.0 COMPENSATION AND TERMS OF PAYMENT

7.1 ***Compensation: Basic Services***. For the services to be performed by the Consultant under this Contract and set forth in the Scope of Services, the City agrees to pay the Consultant the fee in the amount identified in the Fee Breakdown, Exhibit "D" attached hereto, pursuant to invoices submitted in accordance with Section 7.04 of this Contract.

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

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

7.4 **Payment Invoicing.** The Consultant shall submit an invoice for payment for the services provided by the Consultant based on the manner or method of payment set forth in Exhibit A (Scope of Services) and Exhibit D (Fee Breakdown). The City Representative will notify the Consultant of any problems regarding the invoice within fourteen (14) days from receipt thereof. If no response is received from the City Representative within the aforementioned period of time, the Consultant may expect payment within a period of (60) days from the date of receipt by the City. If payment has not been received within the sixty (60) days, the Consultant agrees to contact the City Representative to resolve the problem causing the delay. If resolution of the delay is not satisfactory to the Consultant, the Consultant may submit a claim pursuant to Section 10.19.1 of this Contract.

7.5 ***Right to Off-Set.*** The City Representative may subtract or offset from any unpaid invoice from the Consultant any claims, which the City may have incurred for failure of the Consultant to comply with the terms, conditions or covenants of this Contract, or any damages, costs and expenses caused by, resulting from, or arising out of the negligent act or omission of the Consultant in the performance of the services under this Contract including, without limitation, any error or deficiency in the report or other documents prepared by the Consultant. Within seven (7) days, the City Representative shall provide a written statement to the Consultant of the off-set which has been subtracted from any payment to the Consultant along with appropriate documentation and receipts, if any, and a description of the failure, error or deficiency attributed to the Consultant. The Consultant may dispute the right or amount of the off-set made by the City by providing written notification to the City within fourteen (14) days after receipt of the City's written notice. The City Representative shall provide a written response to the Consultant within seven (7) days of receipt of the Consultant's written dispute notice. If the Consultant disputes the City Representative's determination, the Consultant may file a claim pursuant to Section 10.19 of this contract. Should the City's damages, costs or expenses arising out of the negligence act or omission of the Consultant exceed the off-set amount retained by the City, the City reserves all rights and remedies under law and equity to recover any damages, costs or expenses arising out of the negligence act or omission of the Consultant.

7.6 ***Final Payment***. Upon completion of the services required under this Contract, and acceptance thereof by the City (which acceptance will not be unreasonably withheld), the Consultant will, within sixty (60) days of the City's acceptance, be paid the balance of any money due for such services.

8.0 PERFORMANCE SCHEDULE

8.1 ***Performance Schedule.*** The Consultant shall perform and complete the services required under this Contract according to the schedule (the "Performance Schedule") set forth in the Schedule of Performance, Exhibit "C" attached hereto. If the performance of services is delayed or submittals are not delivered in the time period as outlined in the Performance Schedule, the Consultant shall notify the City Representative in writing of the reasons for the delay and include a plan which brings the Consultant's performance into compliance with the Performance Schedule.

9.0 AUDIT: ACCESS TO RECORDS

9.1 ***Records.*** The City shall have the right to audit the Consultant's books, records and other documents directly pertinent to the performance of this Contract. The Consultant agrees to maintain books, records and other documents directly pertinent to performance of this Contract in accordance with generally accepted accounting principles and practices. The Consultant shall also maintain the financial information and data used to prepare or support the invoices submitted to the City. Audits conducted pursuant to this provision shall be in accordance with generally accepted auditing standards, procedures and guidelines of the City, or its designated representative. The City, or its duly authorized representatives, shall have access to such books, records, and documents for the purpose of inspection, audit and copying. The Consultant will provide proper facilities for such access and inspection.

9.2 ***Disclosure.*** The Consultant shall be afforded the opportunity for an audit entrance and exit conference and an opportunity to comment and submit any supporting documentation on the pertinent portions of the draft audit report, and that the final audit report will include the written comments, if any, of the Consultant.

9.3 ***Period of Maintenance.*** The books, records and other documents under Sections 9.1 and 9.2 of this Contract shall be maintained for six (6) years after the date of the final payment for the services under this Contract. In addition, those records and other documents which relate to any arbitration, litigation or the settlement of any claim arising out of this Contract, or to which an audit exception has been taken, shall be maintained and made available until three (3) years after the date that the arbitration, litigation or exception has been resolved.

9.4 ***Subcontract Provisions.*** The Consultant agrees to include Sections 9.1 through 9.3 of this Contract in all its subcontracts directly related to performance of services specified in this Contract which are in excess of $10,000.

10.0 MISCELLANEOUS PROVISIONS

10.1 ***Suspension.*** The City may suspend, without cause, the performance by the Consultant under this Contract for such period of time as the City, in its sole discretion, may prescribe by providing written notice to the Consultant. The suspension shall be effective as of the date set forth in the written notice. With such suspension, the City agrees to pay to the Consultant the amount of compensation, Based on percentage of completion of the Project, earned as of the effective date of suspension less all previous payments. The Consultant shall not provide any further services under this Contract after the effective date of suspension until otherwise notified in writing by the City. In no event shall the City be liable to the Consultant for services in excess of the percentage of the Project completed at the time of suspension

If, after notice to resume performance has been given by the City, the suspension was for a period in excess of ninety (90) days, which has resulted in an increase in the performance of this Contract to the Consultant and:

10.1.1 the Consultant was not a contributing cause for the suspension,
10.1.2 the Consultant has not received an equitable adjustment under another provision of this Contract, and
10.1.3 the Consultant could not mitigate the increase in the performance cost,

then the Consultant's fee shall be reviewed by the City and, if justified, equitably adjusted to provide for any additional expenses resulting from the suspension.

10.2 ***Termination for Convenience.*** The City reserves the right to terminate this Contract without cause or default on the part of the Consultant with ten (10) days' prior written notification to the Consultant served pursuant to Section 10.18 of this Contract. In the event of termination, without cause or default, the City agrees to pay to the Consultant the reasonable value for the services performed as of the date that notification of termination is received by the Consultant. In no event shall the City be liable to the Consultant for services in excess of the percentage completed at the time of termination.

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

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

10.3.1.1 (i) defaults in the due observance and performance of any term, condition or covenant contained in this Contract,

10.3.1.2 (i) voluntarily terminates operations or consent to the appointment of a receiver, trustee or liquidator of the Consultant for all or a substantial portion of its assets, (ii) is adjudicated bankrupt or insolvent or files a voluntary petition in bankruptcy, or admits in writing to the inability to pay its debts as they become due, (iii) make a general assignment for the benefit of creditors, (iv) file a petition or answer seeking reorganization or an arrangement with creditors or take advantage of any insolvency law, or (v) if action shall be taken by the Consultant for the purpose of effecting any of the foregoing,

10.3.1.3 allows any warrant, execution or other writ to be issued or levied upon any property or assets of the Consultant which continues unvacated and in effect for a period of thirty (30) days, or

10.3.1.4 fails, in the judgment of the City, to provide the services hereunder properly and with proper dispatch in accordance with the time schedule set forth in this Contract,

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

10.3.2 ***City's Rights.*** Upon the occurrence of an Event of Default, and without prejudice to any other right or remedy it may have at law or equity, the City may:

10.3.2.1 terminate this Contract, suspend payment of all pending invoices otherwise due to the Consultant hereunder, and finish this Contract by such means as deemed appropriate by the City, reserving the right to

deduct from any balance due Consultant any additional cost for completing this Contract. In the event the cost of finishing the Consultant's performance of this Contract exceeds the balance due the Consultant, the excess shall be paid by the Consultant to the City within thirty (30) days of invoicing by the City,

10.3.2.2 terminate this Contract, and the obligations imposed hereunder, including the obligation of any further payment for the services of the Consultant except for the reasonable value for the services performed to the date of termination, or

10.3.2.3 continue with performance by the Consultant and serve within a reasonable time after completion of the Contract a notice of claim or dispute pursuant to the procedure set forth in Section 10.19.

In the event that the City elects to implement 10.3.1 (i) above, the costs and expenses of completing this Contract shall be computed and audited by the City's designated representative. The audit shall be conducted in accordance with generally accepted accounting principles and the cost thereof shall be paid by the City.

10.4 ***Ownership of Documents***

The Consultant agrees that all documents of any kind whatsoever, and in whatever medium expressed, prepared by the Consultant and the Consultant's subconsultants in connection with the Project or otherwise pursuant to this Contract (collectively, the "Documents") and all rights therein (including without limitation trademarks, trade names, rights or use and reuse, copyrights and/or all other proprietary rights) shall be and remain the sole property of the City (regardless of whether the City or Consultant terminates this Contract for any reason whatsoever), unless prohibited by NAC 623.780.. The Consultant hereby agrees that the Documents are or shall be deemed to be "Works for Hire" within the meaning of Section 101 of the Copyright Act, and the Consultant hereby assigns to the City all right, title, and interest therein. If for any reason the Documents should not be considered a "Work for Hire" under applicable law by a court or other tribunal of competent jurisdiction, then it is mutually agreed that that under this Section 10.4, the Consultant shall hereby be deemed to have transferred to the City, its successors and assigns, the Consultant's entire right, title and interest in and to the Documents and the legal rights therein including, but not limited to, copyright, included therein.

The Consultant further agrees that neither it nor any of its employees shall exercise any of the rights embodied in the copyrights in or to such Documents, unless authorized to do so by the City under the terms of a separate written Contract executed by the Consultant and the City. The Consultant shall place a conspicuous notation upon each such Document that indicates that the copyright thereto is owned by the City.

City agrees to waive any and all claims against the Consultant and to defend, indemnify, and hold the Consultant harmless from and against any and all claims, losses, liabilities and damages arising out of or resulting from the City's use, reuse, or alteration by any new consultant or other agent of the City, of the Documents. The Consultant shall be entitled to retain a reproducible copy of the Documents furnished to the City; however, the Consultant shall not sell, license, or otherwise market the Documents in any way.

10.4.1 ***Delivery of Documents.***

10.4.1.1 In the event of the completion of this Contract and upon the City's payment in the services rendered by the Consultant, the City shall have the right to require delivery of any and all of the plans, drawings, specifications, and all other documents (including, without limitation, design concepts and sketches, test results, evaluations, reports and studies), including the magnetic or electronic media of the aforementioned documents, not in the possession of the City.

10.4.1.2 In the event of the suspension or termination of this Contract, the Consultant shall have the right to invoice the City to request full payment for all services performed or furnished in accordance with this Contract through the suspension or termination date. Any dispute regarding the amount of any payment to be made by the City under this Contract shall not diminish, restrict or limit the right of the City to promptly receive delivery of any and all plans, drawings, specification, and all other documents (including without limitation, design concepts and sketches, test results, evaluations, reports and studies), including the magnetic or electronic media of the

aforementioned documents, not in possession of the City. The Consultant may file a claim pursuant to Section 10.19 of this Contract for any disputed payment claims.

10.4.2 ***Confidentiality.*** The plans, drawings, specifications and other documents (including, without limitation, design concepts and sketches, test results, evaluations, reports and studies) (including the magnetic or electronic media of the aforementioned documents) which are prepared or assembled by the Consultant, or its subconsultants, under this Contract shall not be made available to any individual or organization without the prior written consent of the City. Except for marketing pamphlets and submittals to clients, the Consultant shall not publish, submit for publication, or publicly display the Project without the written consent of the City. The obligations of confidentiality shall survive the termination of this Contract.

10.4.3 ***Contractual Rights.*** Notwithstanding the provisions of 10.4 A above, the City is hereby licensed to use all design concepts developed by the Consultant and subconsultants under this Contract, including the right to construct derivative works of the Project, and to use the design concepts for other projects of the City. Provided, that however, none of the documents or materials are intended or represented by Consultant to be suitable for reuse by the City, or others on extension of the project or on any other project. Any reuse without written verification or adaptation by Consultant for the specific purpose intended will be at City's sole risk and without liability or legal exposure to Consultant. The City agrees to indemnify, defend and hold harmless Consultant for any claims related to the City's or City's authorized use of the design concepts developed by the Consultant. The design concepts include, but are not limited to, the form, aesthetic appeal, site layout, the arrangement and composition of spaces and elements, the use of colors and materials, system designs, construction methods and interior design.

10.5 ***Insurance***

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

10.5.1 ***Industrial/Workers' Compensation Insurance*** protecting the Consultant and the City from potential Consultant 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 Consultant is a sole proprietor, it will be required to submit an affidavit indicating that the Consultant 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 Consultant's Workers' Compensation policy shall have a waiver of subrogation endorsement in favor of the City of Las Vegas.

10.5.2 ***Commercial General Liability Insurance*** (bodily injury, property damage) with respect to the Consultant's agents assigned to the activities performed under this Contract in a policy limit of not less than One Million Dollars ($1,000,000) per occurrence and Two Million Dollars ($2,000,000) 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 Consultant'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.

10.5.3 ***Commercial Automobile Liability Insurance*** of limits no less than One Million Dollars ($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 Consultant and any auto used in the performance of services under this Contract. The policy must insure all vehicles owned by the Consultant and include coverage for hired and non-owned vehicles. If the services requested do not require the use of the vehicle to perform, the Commercial Automobile Liability Insurance requirements as described in this paragraph do not apply. The Consultant'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.

10.5.4 ***Professional Liability Insurance*** (Errors and Omissions Coverage). This insurance shall protect the Consultant from claims arising out of performance of professional services caused by a negligent act, error, or omission for which the insured is legally liable. Such coverage shall be in a minimum amount of $1,000,000 for the period of time covered by this Contract.

10.5.5 The Consultant must provide compliant certificates of insurance and required endorsements to the City or its designated certificate tracking service immediately upon request. The Consultant shall maintain coverage for the duration of this Contract, and any renewal periods if applicable. The Consultant shall annually provide the City's designated certificate tracking service with a certificate of insurance and endorsements as evidence that all insurance requirements have been met. 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 or it's designated certificate tracking service if so requested.

10.5.6 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 Consultant and/or insurance carrier shall provide the City with a 30-day advance notice of a material reduction in policy coverage, cancellation or erosion of insurance limits, sent by certified mail "return receipt requested".

10.5.7 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 minimum rating of A- VII, A- VIII, A- IX, A- X, or higher. The adequacy of the insurance supplied by the Consultant, including the rating and financial health of each insurance carrier providing coverage, is subject to the approval of the City.

10.5.8 All deductibles and self-insurance retentions shall be fully disclosed in the certificate of insurance. No deductible or self-insured retention may exceed Twenty-Five Thousand ($25,000) without the prior written approval of the City.

10.5.9 Consultants requesting increased deductibles or self-insured retentions must provide the City a written request stating the desired amounts along with recent audited financial statements for review. The City will review the request and determine if the requested deductibles or self-insured retentions are acceptable. In the event the request for increased deductibles or self-insured retentions is denied, the Consultant is obligated to provide the deductibles or self-insured retentions established in the Contract at no additional expense to the City.

10.5.10 If the Consultant fails to carry the required insurance, the City may (i) order the Consultant to stop further performance hereunder, declare the Consultant in breach, pursuant to Section E-5, 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 Consultant or charge the replacement insurance costs back to the Consultant.

10.5.11 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.

10.5.12 The Consultant is encouraged to purchase any additional insurance it deems necessary.

10.5.13 The Consultant is required to remedy all injuries to persons and damage or loss to any property of the City caused in whole or in part by the Consultant, its subcontractors or anyone employed, directed or supervised by the Consultant.

10.5.14 ***Period of Coverage.*** If the insurance coverage is underwritten on a "claims made" basis, the retroactive date shall be prior to or coincident with the date of this Contract and the Certificate of Insurance shall state that coverage is "claims made" and the retroactive date. The Consultant shall maintain all insurance coverages specified in Section 10.05 for the duration of this Contract. Claims made insurance (Professional Liability-10.05 D) shall be kept in place after construction of the Project is substantially complete until the "Statute of Repose" in the State of Nevada has expired. In the event if a claims made policy has a lapse or cancellation of coverage before the Statute of Repose has expired, the Consultant shall be responsible for any claim made in the absence of valid collectable insurance.

10.6 ***Indemnity***

10.6.1 ***Claims Not Based Upon or Arising out of Professional Services.*** Notwithstanding any of the insurance requirements set forth in Section 10.5, and not in lieu thereof, the Consultant shall defend, indemnify, and hold the City, its Mayor, Councilmen, officers, employees, and agents (herein the "Indemnities"), harmless from any and all claims (including, without limitation, patent infringement, and copyright claims), damages, losses, expenses, suits, actions, decrees, judgments, arbitration awards, or any other form of liability (including, without limitation, reasonable attorney fees and court costs) (collectively herein the "Claims") to the extent that such Claims are caused by the negligence, errors, omissions, recklessness, or intentional misconduct of the Consultant, its employees, subcontractors, agents, or anyone employed by the Consultant's subcontractors or agents (herein the "Consultant Parties"), which are not based upon or arising out of the professional services performed by the Consultant Parties in the performance of this Contract.

As part of its obligation hereunder, the Consultant shall, at its own expense, defend the Indemnitees against the Claims brought against them, or any of them, which is caused by the negligence, errors, omissions, recklessness, or intentional misconduct of the Consultant, its employees, subcontractors, or agents, for and against which the Consultant is obligated to indemnify the Indemnitees pursuant to this Section, unless the Indemnitees, or any of them elect to conduct their own defense which, in such case, shall not relieve the Consultant of its obligation of indemnification set forth herein. If the Consultant or the Consultant's insurer fails to defend the Indemnities as required herein, the Indemnitees shall have the right, but not the obligation, to defend the same and, if the Consultant is adjudicated by the trier of fact to be liable, the Consultant agrees to pay the direct and incidental costs of such defense (including reasonable attorney fees and court costs) which is proportionate to the liability of the Consultant.

10.6.2 ***Claims Based Upon or Arising out of Professional Services.*** Notwithstanding any of the insurance requirements set forth in Section 10.05, and not in lieu thereof, the Consultant shall indemnify and hold the Indemnities, harmless from any and all claims (including, without limitation, patent infringement and copyright claims), damages, losses, expenses, suits, actions, decrees, judgments, arbitration awards, or any other form of liability (including, without limitation, reasonable attorney fees and court costs) (collectively herein the "Professional Liability Claims") to the extent that such Professional Liability Claims are caused by the negligence, errors, omissions, recklessness, or intentional misconduct of the Consultant Parties, which are based upon or arising out of the professional services performed by the Consultant Parties in the performance of this Contract.

If the Consultant Parties are adjudicated to be liable by a trier of fact, the trier of fact shall award reasonable attorney's fees and costs to be paid by the Consultant to the Owner, as reimbursement for the attorney's fees and costs incurred by the Owner in defending the Professional Liability Claims, in an amount proportionate to the liability of the Consultant.

As used in this Section 10.6, "agents" means those persons who are directly involved in and acting on behalf of the City or the Consultant, as applicable, in furtherance of the contract or the public work to which the Contract pertains.

10.7 ***Assignment.*** The City and the Consultant each bind itself and its partners, successors, administrators and assigns to the other party of this Contract and to the partners, successors, executors, administrators and assigns of such other party in respect to all covenants of this Contract, except the Consultant shall not assign, sublet or transfer any obligation or benefit under this Contract without the written consent of the City. Nothing contained herein shall be construed as creating any personal liability on the part of any officer or agent of the City.

10.8 ***Waiver.*** No consent or waiver, express or implied, by either party to this Contract, or of any breach or default by the other in the performance of any obligations hereunder, shall be deemed or construed to be a consent or waiver of any other breach or default by such party hereunder. Failure on the part of any party hereto to complain of any act, or failure to act of the other party, or to declare that other party in default hereunder, irrespective of how long such failure

continues, shall not constitute a waiver of the rights of such party hereunder. Inspection, payment, or tentative approval or acceptance by the City or the failure of the City to perform any inspection hereunder, shall not constitute a final acceptance of the work or any part thereof and shall not release the Consultant of any of its obligations hereunder.

10.9 ***Consultant Warranties.*** The Consultant hereby represents and warrants that:

10.9.1 it is financially solvent, able to pay its debts as they mature, and is possessed of sufficient working capital to complete this Contract; that it is experienced, competent, qualified and able to furnish the plant, tools, materials, supplies, equipment and labor which is used to perform the services contemplated by this Contract, and that it is authorized to do business in the City of Las Vegas and the State of Nevada,

10.9.2 it holds a license, permit or other special license to perform the services included in this Contract, as required by law, or employs or works under the general supervision of the holder of such license, permit or special license,

10.9.3 its computer hardware, software, and firmware will continue functioning without interruption, and will continue to accurately process date, time, and data necessary to the performance of this Contract, and

10.9.4 it has, pursuant to the requirements of Resolution 79-99 adopted by the City Council on August 4, 1999, (effective October 1, 1999), as amended by resolution 105-99 (adopted by the City Council on November 17, 1999), disclosed on the form attached hereto as Exhibit "G" (Disclosure of Ownership/Principals) all of the principals, including partners, of the Consultant, as well as all persons and entities holding more than a one percent (1%) interest in the Consultant or any principals of the Consultant. If the Consultant, or its principals or partners, are required to provide disclosure under federal law (such as Securities and Exchange Commission or the Employee Retirement Income Act) and current copies of such federal disclosures are attached to Exhibit "H," the requirements of this Section shall be deemed satisfied. During the term of this Contract, the Consultant shall notify the City in writing of any material change in the above disclosure on Exhibit "H" within fifteen (15) days of such change.

10.10 ***Consultant's Employees.*** The Consultant shall be responsible for maintaining satisfactory standards of competency, conduct and integrity, of personnel assigned to the Project, and shall be responsible for taking such disciplinary action with respect to such personnel as may be necessary. In the event the Consultant fails to remove any employee from the work of this Contract whom the City deems incompetent, careless or insubordinate, or whose continued employment on the work is deemed by the City to be contrary to the public interest, the City reserves the right to require such removal as a condition for the continuation of this Contract.

10.11 ***Independent Contractor.*** It is hereby expressly agreed and understood that in the performance of the services required herein, the Consultant and any other person employed by him hereunder shall be deemed to be an independent contractor and not an agent or employee of the City.

10.12 ***Applicable Law.*** This Contract shall be construed and interpreted in accordance with the laws of the State of Nevada.

Compliance with Laws. The Consultant shall in the performance of its obligations hereunder comply with all applicable laws, rules and regulations of all governmental authorities having jurisdiction over the performance of this Contract including, without limitation, the Federal Occupational Health and Safety Act and all state and federal laws prohibiting and/or related to discrimination by reason of race, sex, age, religion or national origin.

10.13 ***Certification – No Israel Boycott.*** By signing this Contract, Company certifies that, at the time of Contract signature, it is not engaged in, and agrees for the duration of the Contract, not to engage in a boycott of the State of Israel.

"Boycott of Israel" means, refusing to deal or conduct business with, abstaining from dealing or conducting business with, terminating business or business activities with or performing any other action that is intended to limit commercial relations with Israel; or a person or entity doing business in Israel or in territories controlled by Israel, if such an action is taken in a manner that discriminates on the basis of nationality, national origin or religion. It does not include an action which is based on a bona fide business or economic reason; is taken pursuant to a boycott against a public

entity of Israel if the boycott is applied in a nondiscriminatory manner; or is taken in compliance with or adherence to calls for a boycott of Israel if that action is authorized in 50 U.S.C. § 4607 or any other federal or state law.

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

10.15 *Confidentiality.* The Consultant shall treat the information relating to the Project, which has been produced by the Consultant or provided by the City, as confidential information of the City and shall not permit its release to other parties or make any public announcement or publicity release without the City's written authorization. The Consultant shall also require each subconsultant to comply with this requirement. The submission or distribution of documents to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication relieving the Consultant of its confidentiality obligation imposed herein.

10.15.1 *Definition*. The term "Confidential Information" shall mean any confidential or proprietary business, technical, financial or other non-public information or materials in a tangible or electronic format of a party ("Disclosing Party") provided to the other party ("Receiving Party") in connection with the Project, whether orally or in physical form, that is not generally known or available to others and shall include the terms of this Contract. However, Confidential Information shall not include information (i) previously known by Receiving Party without an obligation of confidentiality; (ii) acquired by Receiving Party from a third party which was not, to Receiving Party's knowledge, under an obligation of confidentiality; (iii) that is or becomes publicly available through no fault of Receiving Party; or (iv) that Disclosing Party gave written permission to Receiving Party to disclose, but only to the extent of such permitted disclosure.

10.15.2 *Requirements*. Except as required by applicable law, each Receiving Party agrees that (i) it will use Confidential Information of Disclosing Party solely for the purpose of the Agreement; and (ii) it will not disclose the Confidential Information of the Disclosing Party to any third party other than the Receiving Party's employees or agents, on a need-to-know basis, who are bound by obligations of nondisclosure and restricted use at least as strict as those contained herein, provided that Receiving Party remains liable for any breach of the confidentiality provisions of this Contract by its employees or agents. The Receiving Party will protect the Confidential Information of the Disclosing Party in the same manner that it protects the confidentiality of its own proprietary and confidential information, but in no event using less than a reasonable standard of care. In the event Receiving Party receives a subpoena or other administrative or judicial demand for any Confidential Information of Disclosing Party, Receiving Party will give Disclosing Party prompt written notice of such subpoena or demand and allow Disclosing Party to assert any available defenses to disclosure. Upon request by Disclosing Party, Receiving Party will return or destroy all copies of any Confidential Information of the Disclosing Party. Confidential Information will at all times remain the property of the Disclosing Party. The provisions of this Section will expire three (3) years after the expiration or termination of the Agreement, except with respect to Confidential Information that constitutes "trade secrets" under applicable law for which this Section shall survive indefinitely.

10.15.3 *Nevada Public Records Act*. Consultant acknowledges that City is a government entity subject to the public records laws of the State of Nevada as set forth in Chapter 239 of the Nevada Revised Statue ("NPRA") and that certain Confidential Information may be subject to the NPRA. Therefore, notwithstanding anything to the contrary contained in this Agreement or that (i) the City is subject to the requirements and obligations for disclosure of the NPRA; (ii) certain records of the City are subject to inspection and reproduction by the general public, Consultant shall nevertheless continue to treat all Confidential Information confidential pursuant to the terms of this Agreement. Consultant, therefore agrees (i) that any disclosure of Confidential Information by the City pursuant to the NPRA shall not be a violation, waiver, and/or a default whatsoever of this Agreement by the City; and (ii) any disclosure of Confidential Information by the City pursuant to the NPRA is permitted under this Agreement and shall not waive or relieve Consultant's ongoing contractual obligations under this Agreement. For the avoidance of doubt, any Confidential Information disclosed by the City pursuant to the NPRA shall still remain subject to the confidentiality obligations stated in this Agreement. In the event City receives any subpoena, demand, or request under the NPRA or other public records law for any Confidential Information or other data or information received by City from Consultant that was received in connection with any services performed by Consultant, City will immediately notify Consultant of such subpoena, demand or request and reasonably cooperate with any efforts by Consultant to

assert any available defenses to disclosure. In no event shall City make disclosure of such information before ten (10) business days have elapsed from the date City notifies Consultant of the subpoena, demand, or request in order to provide Consultant with a reasonable opportunity to seek judicial intervention concerning the potential disclosure of Consultant's Confidential Information and/or trade secret information. If Consultant informs City in writing of Consultant 's intent to seek a court order barring disclosure, City agrees to withhold the requested information, to the extent permitted by the NPRA, pending court resolution of the matter, or interim order by a court. Whenever a requesting party pursues legal action to compel disclosure of Confidential Information or other data or information received by City from Consultant, Consultant will bear responsibility for all costs of defending such legal action.

10.16 ***Site Inspection.*** The Consultant represents that it has visited the location of the Project and has satisfied itself as to the general condition thereof and that the Consultant's compensation as provided for in this Contract is just and reasonable compensation for performance hereunder including reasonably foreseen and foreseeable risks, hazards and difficulties in connection therewith based on such above-ground observations.

10.17 ***Modification.*** All modification, amendments, and change orders to this Contract are null and void unless reduced in writing and signed by the parties hereto.

10.18 ***Notice.*** Any written notice required to be given under Sections 1.0 through 10.24 of this Contract shall be deemed to have been given when the written notice is (i) received by the party to whom it is directed by personal service or (ii) deposited with the United States Postal Service, postage prepaid, addressed to the City Representative or the Consultant Representative, whomever is the proper recipient, and mailed to the address set forth in the introductory paragraph to this Contract.

10.19 ***Prohibition Against Contingent Fees.*** The Consultant warrants that no person or entity has been employed or retained to solicit or secure this Contract with the agreement or understanding that a commission, percentage, brokerage or contingent fee would be paid to that person. For breach or violation of this provision, the City shall have the right to annul this Contract without liability or, in its discretion, to deduct from the compensation to be paid to the Consultant, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

10.20 ***Claim or Dispute Resolution***

10.20.1 ***Notice of Claim or Dispute***. For each claim or dispute which the Consultant has against or with the City (except for any claim for an equitable adjustment under Section 3.2 which is subject to the 30-day limitation set forth therein), notice thereof must be submitted in writing to the City Representative within a reasonable time after the claim or dispute arises, but no later than thirty (30) days after final payment is made to the Consultant. The purpose of written notification is to place the City on notice so that proper measures can be taken to properly defend against the claim or dispute, and the failure to give such notice shall preclude the Consultant from subsequently mediating that particular claim or dispute pursuant to Section 10.20.3 of this Contract, and the Consultant shall have no further recourse against the City. Pending a final decision on the claim or dispute under Sections 10.20.2 or 10.20.3, the Consultant shall proceed diligently with the performance of this Contract.

10.20.2 ***Resolution by Management. The*** City Representative and the Consultant Representative shall meet within a reasonable time after receipt of the written notice received pursuant to Section 10.19.1 in an attempt to resolve the claim or dispute to the mutual satisfaction of the parties. If the matter is not disposed of by mutual agreement between the City Representative and the Consultant Representative, the claim or dispute shall be decided by the Director of Public Works, whose decision shall be reduced to writing and mailed or otherwise furnished to the Consultant. The decision of the Director of Public Works shall be final and conclusive unless, within thirty (30) days after the date on which the Consultant receives its copy of such decision, the Consultant mails or otherwise furnishes to the Director of Public Works a written request to mediate the claim or dispute, in which event the parties shall proceed pursuant to provisions of Section 10.20C. The failure to make such request shall preclude the Consultant from proceeding any further on the claim or dispute, and the Consultant shall have no further recourse against the City.

10.20.3 ***Resolution by Mediation.*** Upon receipt of the request to mediate authorized pursuant Section 10.3.2 or Section 10.20.2, the City and the Consultant shall come to an agreement as to the appointment of a mediator for purposes of hearing the appeal. If the parties cannot agree upon an independent private mediator within 45 days after notice of the receipt of the request to mediate, the party may proceed to file a judicial action with the Eighth Judicial District Court, Clark County, Nevada. The mediation shall take place in Clark County, Nevada, unless otherwise agreed to by the parties. The fees and expenses of the mediator shall be equally shared by both parties. Each party is responsible for their own costs, expenses, consultant fees and attorney fees incurred in the presentation or defense of any claim, dispute or controversy that is subject to mediation between the parties. The decision of the mediator shall be non-binding.

10.20.4 ***Right of Judicial Action.*** Any claim, dispute, or other matter in question between the parties concerning any provisions of this Contract that cannot otherwise be resolved between the parties through the use of mediation required herein may be submitted for judicial action. Prior to the exercise of this right, the party seeking judicial relief shall have provided the other party 30 days prior written notice before filing such judicial action.

10.21 ***Attorney Fees.*** The City or the Consultant as the prevailing party that brought any litigation or arbitration to enforce the provisions of this Contract shall be entitled to reasonable attorney fees and court costs.

10.22 **Calendar Day.** All references in this Contract to days are to calendar days unless otherwise indicated.

10.23 **Exhibits.** All exhibits referenced in this Contract are hereby incorporated by this reference as a part of this Contract. Any conflict between the provisions of this Contract and the Exhibits incorporated herein shall be governed by the provisions of this Contract.

10.24 **Counterparts; Electronic Delivery**. This Contract may be executed in any number of counterparts, each of which shall be an original and all of which shall together constitute one and the same instrument. It shall not be necessary for any counterpart to bear the signature of all parties hereto. Executed copies hereof may be delivered by facsimile or e-mail, pursuant to NRS 719.240, and upon receipt will be deemed originals and binding upon the parties hereto, regardless of whether originals are delivered thereafter.

10.25 **Contract Version.** This document reflects the current standard provisions for the City's Professional Services Contract updated as of August 2020.

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

CITY OF LAS VEGAS

By: _____
ABBE YACOBEN, CPFO
Acting Manager, Purchasing and Contracts Division

CONSULTANT

By: _____
CRAIG S. GALATI, AIA, FSMPS, CPSM
President - LGA

ATTEST

By: _____
LuAnn D. Holmes, MMC
City Clerk

APPROVED AS TO FORM

By: John S. Ridilla 11/10/2020
Deputy City Attorney

John S. Ridilla
Deputy City Attorney

LIST OF EXHIBITS

EXHIBIT " A " **SCOPE OF SERVICES**

EXHIBIT " B " **REQUIRED SUBMITTALS**

EXHIBIT " C " **PERFORMANCE SCHEDULE**

EXHIBIT " D " **FEE BREAKDOWN**

EXHIBIT " E " **COMPENSATION**

EXHIBIT " F " **KEY PERSONNEL LIST**

EXHIBIT " G " **EXAMPLE INVOICE**

EXHIBIT " G " **CERTIFICATE OF DISCLOSURE**

EXHIBIT A
SCOPE OF SERVICES

100 GENERAL

100.1 Upon authorization to proceed as described in Exhibit "C", the Consultant shall provide the following in accordance with the Schedule (Exhibit "C") included herein.

100.2 PROJECT SITE DESCRIPTION

100.2.1 The Project improvement area, which may be adjusted as the Project develops, is described as:

- ***100.2.1.1*** Site address: north of Log Cabin Way and West of El Capitan Way
- ***100.2.1.2*** Entire area of assessor's parcel number(s): 125-05-101-004
- ***100.2.1.3*** Gross site acreage: 160 Acres total site; 38-40 acres included in Phase I
- ***100.2.1.4*** Offsite improvement area: Limited to providing utilities to site
- ***100.2.1.5*** As shown on the attachment to this Exhibit 'A', titled – Phase 1 - Exhibit

100.3 PROJECT PROGRAM

100.3.1 The Project program, which may be altered as the Project develops, contains the following:

100.3.2 Approximate gross building square footage: to be determined (restroom and concession facilities).

100.3.3 Improvement description: This phase will incorporate a Historic Railroad Interpretation Camp that will be situated along the original railroad line (which will be regenerated/built). The Historic site will have SHPO involvement. There will also be a passive park, playground area, restroom facilities (up to 3). Research will be conducted on which type of sports fields will be designed (Baseball, soccer, etc.), could be up to 8 fields with sports lighting. Roadways and parking to accommodate the Phase I of the project.

100.4 CONSTRUCTION COST BUDGET

100.4.1 "***Construction Cost Budget***" as used herein means the monetary limit established by the City for construction of the Project which limit includes the cost of the Contractor's labor, materials, equipment, expenses, overhead and profit, but excludes the Project's soft costs, cost of change orders and other cost impacts encountered after award of the construction contract.

100.4.2 ***Construction Cost Budget***: TBD.

100.5 CHANGES TO SCOPE OR SERVICES

100.5.1 The following scope of services is in addition to the scope required elsewhere in this Contract. This scope is to be considered preliminary and may be altered as the Project develops.

100.5.2 If increased scope or workload is encountered, the Consultant is to notify the City in writing and receive written confirmation to proceed prior to the performance of any work related to the increased scope or workload.

100.5.3 ***CHANGE IN SCOPE***. Should the Project size or budget as described herein be adjusted during the programming and schematic design phase of this Contract by less than twenty percent, no adjustment of the Consultant's compensation or performance schedule will be considered. Should the Project size or budget as described herein be adjusted during the programming and schematic design phase by at least twenty percent, it is understood that this change would constitute a change in scope requiring a consideration for adjustment to the Consultant's compensation and performance schedule to the extent the change results in a change in the

amount of the Consultant's work on the Project. This adjustment shall apply equally to additions to the Project scope as well as reductions to the Project scope such that reductions may result in a reduction to the compensation and performance schedule.

100.5.4 The City Representative shall have authority to make decisions with respect to the materials, equipment, elements, and systems which are pertinent to the Project to be performed under this Contract and to approve changes to the scope of the Project that do not affect the Consultant's compensation or performance schedule.

100.6 GENERAL REQUIREMENTS

100.6.1 The Consultant agrees to include in all its subcontracts related to the Project, and require the same of all sub-subconsultant contracts at all tiers, the provisions of this Contract related to the City's and Consultant's rights (including copyright), ownership and uses of the concepts, designs, documents, intellectual property, and tangible property.

100.6.2 Should any portions of the Project contain works provided protection under the Visual Artists Rights Act of 1990 ("VARA"), the Consultant and his subconsultants at all tiers agree to waive and do hereby waive voluntarily all rights to attribution and integrity with respect to any and all claims as may arise under VARA, Nevada Revised Statutes "Works of Art" NRS 597, or any other local, state, foreign, or international law, as currently drafted or as may be hereafter amended, that conveys the same or similar moral rights with respect to any or all portions of the Project, including but not limited to display, removal from display, exhibition, installation, restoration, conservation, storage, study, alteration, destruction, relocation, and any other activities conducted by the City, its officers, employees, agents, contractors, licensees, successors or assigns. The Consultant acknowledges that all such decisions concerning the Project shall be made in the sole discretion of the City, its officers, employees, agents, contractors, licensees, successors or assigns. In addition to the extent such rights may not be waived, Consultant and his subconsultants at all tiers covenant not to assert such rights against the City, its officers, employees, agents, contractors, licensees, successors or assigns.

100.6.3 All Drawings shall be delivered using AutoDesk's AutoCAD 2018 or newer release in accordance with City CAD standards and industry accepted standards, including the American Institute of Architects (AIA) Computer Aided Design (CAD) Layer Guidelines. Specifications shall be prepared in Construction Specification Institute (CSI) format using the software program Microsoft Word 2016 or newer release.

100.6.4 The Consultant and his sub-consultants at all tiers agree to maintain copies of the latest version of each drawing, specification section, calculation, map, survey, report, and other project document prepared under this Contract, in a secure off-site location and to restore these documents upon need and to provide them to the City upon request. This backup obligation shall beginning upon notice to proceed and extend continuously until one year after final payment of this Contract has been made.

100.6.5 Where the Consultant specifies materials and equipment by brand names, provide three or more brand names with model numbers for each item specified. Where less than three suitable brand names/model numbers are commercially available state "or equal under the Substitution requirements of Section 01600."

100.6.6 Coordination and quality control checks shall be made in accordance with a disciplined procedure and scheduled accordingly.

100.6.7 Verify, using commercially available software with current virus definitions, that digital electronic submittals are free of electronic "viruses", "worms", "Trojan horses", and other programs or data stored on the host computer or the electronic submittal. Should the City choose to check incoming electronic submittals for such afflictions, utilizing commercially available software and at the first indication of such an affliction, the entire electronic submittal will be considered unacceptable and will be returned to the Consultant. The Consultant shall remove the unwanted programs or the unwanted programs or data and further verify the integrity of the electronic

submittal. The Consultant shall bear the expense of correction, checking and resubmittal and shall not be released from submittal requirements required in this Contract.

100.6.8 Prior to each design submittal, check all documents for technical accuracy, compliance with applicable codes and ordinances, complete incorporation of all Design Review Comments (DRC), and coordination within and between design disciplines. Each submittal shall be in accordance with the appropriate submittal requirements listed herein. Incomplete submittals shall be rejected. All costs associated with the re-submittal shall be borne by the Consultant.

100.6.9 The Consultant shall without additional compensation correct or revise any error or deficiencies in the plans, drawings, specifications or other related documents prepared by the Consultant.

100.6.10 The Consultant shall be responsible for all coordination with its subconsultants. Each submittal to the City shall be organized by discipline and shall be thoroughly crosschecked to avoid conflicts between Consultant and subconsultant documents. Vague references to project requirements on other discipline's plans shall not be permitted. Where references to others' plans are necessary for direction, reference notes shall specifically state the drawing number or specification section, as appropriate. It shall be the Consultant's responsibility to advise each subconsultant of this requirement.

100.6.11 The professional services to be rendered by the Consultant under this Contract shall be in conformance with applicable federal, state and local statutes, acts, rules, codes, ordinances, laws and regulations. These include but are not limited to the building code, electrical code, plumbing code, fire code and related ordinances pertaining to fire safety, mechanical code and the heating, ventilation, air conditioning guide, uniform standards for public works construction for off-site improvements, State of Nevada Industrial Commission codes and safety orders, Nevada State Department of Health regulations, mandatory standards and policies of the State of Nevada energy conservation plan, Americans with Disabilities Act (ADA) guidelines and requirements including conformance to any ADA provisions and guidelines that have been issued in "final form" regardless of their adoption by the Department of Justice, municipal ordinances in effect at the Project site, and any other applicable Federal, state and local acts, rules, laws or regulations.

100.6.12 All work, including but not limited to drawings, specifications, and calculations, shall be provided by the Consultant for each and every part of the Project including those items that the building department may normally allow as "deferred submittals." When complying with NRS 338.140 by listing multiple manufacturers in the specifications, the Consultant shall review options with the City and select the most available, standard, or economical manufacturer's model to fully engineer and include in the bid and permit documents. Should the Contractor propose one of the other manufacturers listed in the specifications after award, the cost of the other listed manufacturer's affect on the documents and the construction shall be borne by the Contractor, except that the Consultant shall have the duty to cooperate with the Contractor in reviewing the proposal for design compliance (including the Contractor provided structural calculations) and providing revisions to the Consultant's documents as required to accommodate the proposed change. Such revisions to the Consultant's documents shall be an Additional Service, which shall be approved in writing by the City prior to the Consultant making any revisions and charged to the Contractor by change order.

100.6.13 All work shall be in full compliance with the applicable City of Las Vegas "Design Standards for Buildings, Parks, and Parking Facilities" ("Design Standards"), incorporated herein by reference, and that any failure in this regard shall be at the sole expense of the Consultant to correct specifically including any additional construction costs resulting from such failures in the construction bid documents. The Consultant agrees to include this requirement into subcontract agreements with subconsultants providing services for the Project.

100.6.14 The Consultant shall insure that the new design contains no asbestos containing building materials of any kind.

100.6.15 The Consultant acknowledges the City's requirement to incorporate the City's "Instructions to Bidders", "General Conditions" and "Division One", incorporated herein by reference, into the contracts prepared for bidding on the Project covered by this Contract. The Consultant further agrees to perform in accordance with the obligations stated in these referenced documents and agrees to include this provision in all sub-consultant contracts. The Consultant acknowledges familiarity with the City's standard format, terms and conditions of these documents and that such document examples were made available to the Consultant upon request, prior to signing this Contract.

100.6.16 No disclaimers are allowed on any documents, except as required due to City of Las Vegas Building Department's request for inclusion and stamping of documents not prepared by the Consultant such as reports of testing and details of fire rated assemblies or similar copyrighted documents.

100.6.17 Throughout the design phases of the project, participate in regularly scheduled weekly design meetings with the City. Coordinate attendance of subconsultants and other parties as appropriate to the progress of the work and to avoid delay. Unless the City elects to do so and provides written instrument stating such, record, prepare and distribute to all attendees and other affected parties, a meeting summary documenting decisions made and actions required by attendees and other affected parties, in a format acceptable to the City, within 5 days following each meeting.

100.6.18 ***Project Management Software***. Upon City request, Consultant shall utilize the City's online project management software (MasterWorks) as the primary means of communication with the City for this Project including, but not limited to, correspondence, contract changes, claims, reports, schedules, invoices, photos, drawing and specification submittals, and construction administration.

100.6.18.1 The City shall provide:

- A limited training manual for the MasterWorks software and a maximum of two hours of MasterWorks software training for up to four people at the City's offices.
- The cost of any software licenses required by the MasterWorks software manufacturer or distributor.
- User accounts for Consultant's access to the MasterWorks software.

100.6.18.2 The Consultant shall provide:

- Training of Consultant personnel required to utilize the MasterWorks software, except as provided by the City above.
- Information using the forms, screen views, and information fields provided in the software and training materials.
- Electronic notification in the MasterWorks software of any submittals that cannot be transmitted electronically, such as material samples.
- Large format scanning capabilities with file size, resolution, and file naming convention as directed by the City.
- Computer hardware, software, peripheral equipment, accessories, and Internet access as needed to integrate with and fully utilize the MasterWorks software, such as Adobe Acrobat, Internet Explorer, and Microsoft Word.
- Frequent monitoring of the MasterWorks software.
- Documents approved in the MasterWorks software shall have the same effect as ink-signed originals. Accordingly, the Consultant is required to safeguard his usernames and passwords, particularly those that have been given the rights within the MasterWorks software to provide approvals, and no excuse will be entertained by the City for unauthorized MasterWorks software access that uses the Consultant's assigned usernames. The Consultant shall ink-sign documents, in addition to or instead of the MasterWorks approvals, upon City request.

- CMAR Coordination. If the Project utilizes the Construction Manager at Risk (CMAR) delivery method, the Consultant shall coordinate and cooperate as necessary for the CMAR to provide their scope of preconstruction services for the Project.
- Photos. The requirement for the Consultant to obtain a City issued Film Permit to photograph the Project is waived for the Term of this Contract. Photographs of the Project taken by the Consultant after final Consultant payment will again require a City issued Film Permit. Reference 10.04, E. Confidentiality for the allowed uses of Consultant photographs.

100.7 DEFINITIONS

100.7.1 "***Construction Cost Estimate***" as used herein is a forecast of the construction cost prepared on the basis of detailed analysis of materials and labor for all items of work.

100.7.2 "***Contractor***" as used herein refers to the party or parties that the City contracts to construct the Project. This includes without limitation general or specialty contractors utilizing a design-bid-build delivery method, a construction manager at risk, and design-builder when utilizing alternate delivery methods.

100.7.3 "***Drawings and Specifications***" as used herein shall be deemed in all instances to include architectural, structural, mechanical, plumbing, electrical, civil, and landscape drawings and specifications, and any drawing and specification prepared by specialty consultants.

100.8 CITY'S REVIEW PROCESS

100.8.1 Upon receipt of any documents furnished by the Consultant, the City Representative shall conduct a preliminary review of such documents and determine whether the documents comply with the scope of the Project. After the preliminary review, if the City Representative determines that the documents are insufficient, inadequate, or incomplete, the City shall notify the Consultant and request documents which are professionally complete and appropriate, per **Exhibit "B"**, for each service phase submitted. The decision by the City Representative in this matter shall be final.

100.8.2 If the City Representative determines, after requesting the Consultant to provide corrected and professionally complete Phase submittals, that the documents remain insufficient, inadequate, or incomplete, the City may: i) declare the Consultant in default, or (ii) demand a letter of explanation from the Consultant as to the reason the furnished documents are insufficient, inadequate or incomplete. If the City elects the second option, the Consultant, at Consultant's own expense, shall furnish additional sets of all documents, based on the quantity set forth in **Exhibit "B"**, that are sufficient, adequate and complete in the discretion of the City Representative for review by the City. The Consultant, at Consultant's own expense, shall attend any meeting, whether formal or informal, including the City Council meeting when requested by City to explain the reason the Consultant presented inadequate, insufficient, or incomplete documents to the City, and the delay, if any, that such submittal and re-submittal may cause in completion of the Project.

100.8.3 The City's review period in the Project Schedule shall not begin until the City Representative determines that the documents presented by Consultant fully comply with the requirements. After the City Representative determines that the documents comply with such requirements, the City shall begin a review of the documents.

100.8.4 After the City reviews the documents, one (1) set of the documents shall be returned to the Consultant with comments and corrections noted thereon. The Consultant shall make the changes necessitated by the corrections or other comments into the documents, and return the correction set with the corrected documents, together with written responses to the City's correction(s), comments(s), and change(s), which state the action taken and reason for such action for each item presented by the City.

101 THE CITY'S RESPONSIBILITIES

101.1 The City will be responsible for performing all work necessary to complete their obligation to the Consultant to allow the Consultant to complete their work.

101.2 The City shall provide the Consultant with:

101.2.1 Programmatic information, including a requirement list for current and future needs and operational requirements including all committed facility schedules that impact design and/or construction.

101.2.2 Project budget and the amount of the Construction Cost Budget.

101.2.3 Project schedule.

101.2.4 Any other information required to complete the work, as available, which is not in the Consultant's Scope of Services.

101.2.5 Access arrangements for the Consultant to enter upon public and private property as required to perform their services.

101.2.6 Design Review Comments to be incorporated into the documents. Comment documentation may be provided as red-lined drawings, electronic format and/or hard copies.

101.3 The City shall:

101.3.1 Acquire any required rights to the Project Site or air rights to adjacent sites as deemed necessary by the City.

101.3.2 Designate a management team to review designs and submittals, and to work with the Consultant to achieve an acceptable, cost effective design.

101.3.3 Provide and conduct all bidding activities, including printing and distribution of bid and constructions documents, except as specifically required to be provided by the Consultant.

102 THE CONSULTANT'S RESPONSIBILITIES

102.1 The Consultant shall be responsible for performing all work necessary to complete the following schedule of work, more fully described following:

102.1.1 Responsibilities Specific to this Project for Various Phases

102.1.2 Programming and Conceptual Design Phase

102.1.3 Schematic Design and Master Planning Phase

102.1.4 Design Development Phase – (Not in Base Contract [NIBC] – Future Phase)

102.1.5 Construction Document Phase (NIBC – Future Phase)

102.1.6 Bidding Phase (NIBC – Future Phase)

102.1.7 Construction Administration Phase (NIBC – Future Phase)

102.1.8 Post Construction Phase (NIBC – Future Phase)

103 RESPONSIBILITIES SPECIFIC TO THIS PROJECT FOR VARIOUS PHASES

103.1 *Survey*

103.1.1 ***Horizontal Control***. The official horizontal coordinate system of the City of Las Vegas is the Nevada Coordinate Reference System (NCRS). The appropriate NCRS zone is dependent on the geographic location of the project and should be determined prior to any surveying activities. The official geodetic datum and current reference frame of the City of Las Vegas is NAD 83 (2011) epoch 2010.0. The use of any other reference frame will require approval of the City Surveyor. For detailed information on the NCRS contact the City of Las Vegas' Survey Section.

103.1.2 ***Vertical Control***. All vertical control is to be established using benchmarks included in the City of Las Vegas Vertical Control Network. The official datum of the City of Las Vegas is NAVD 88. Only elevation values currently published as the "City of Las Vegas 2008 Adjustment" are to be used. The use of a prior Vertical Control Network adjustment will require approval of the City Surveyor.

103.1.3 ***Control Survey.*** Perform control survey to establish adequate control for all boundary location and topographic mapping necessary for the limits and purpose of the project. Existing monuments within the project limits and control panels set for the purpose of aerial mapping will be incorporated into the control survey.

103.1.4 ***Boundary Survey***. Boundary surveys are to be performed to adequately establish roadway alignments, right-of-way lines, property lines and easement lines necessary for the limits and purpose of the project. Complete research of existing recorded maps, surveys, land records, and other pertinent records shall be performed.

103.1.5 ***Record of Survey***. The Consultant shall provide a Record of Survey to be reviewed by the City of Las Vegas' City Surveyor. The Record of Survey will show all pertinent information from the control and boundary surveys so as to show the project's location relative to existing roadway alignments, right-of-way lines and found survey monuments. The City Surveyor must approve the Record of Survey prior to recordation with the Clark County Recorder. **The City will not accept the 30% design submittal unless the Record of Survey is formally submitted and approved in writing by the City Surveyor.**

103.1.6 ***Deliverables***. The Consultant shall submit three (3) copies of the Record of Survey to the City. Consultant shall record the "approved" Record of Survey with the Clark County Recorder.

103.1.7 ***Survey Control Plan***. A Survey Control Plan shall be included in the plan set to show all elements included in the Record of Survey. An "embedded" Record of Survey is acceptable. All Survey Control Plans must be stamped by a Nevada licensed Professional Land Surveyor (PLS) per NAC 625. A separate Horizontal Control Plan showing proposed project geometry may be utilized in the plan set stamped by a Nevada licensed Professional Engineer (PE) per NAC 625.

103.1.8 ***Survey Monument Inventory***. All survey monuments within or adjacent to the limits of proposed construction activities shall be clearly identified on the plan and profile sheets (or demolition/removal sheets when applicable), to aid in the preservation and replacement of survey monuments during construction. Survey monumentation displaced, disturbed, and/or missing within the project limits shall be identified for replacement as a part of the Project Contract Documents in accordance with the City of Las Vegas Unified Development Code.

103.1.9 ***Design Topographic Survey***. Aerial surveys and conventional field surveys of all surface features within the project limits will be used to develop engineering base drawings and digital terrain models (DTM). Survey limits shall extend a minimum of 150 feet in each direction past the curb returns at all major cross streets, 100 feet at minor cross streets. Aerial mapping specifications are to include a minimum mapping scale of one inch equals forty feet and a minimum contour interval of one foot. Consultant shall perform adequate conventional field surveying to verify aerial survey accuracy. Consultant shall compile 2D planimetrics of all topographic features within project limits utilizing all applicable aerial and conventional field survey data within project limits. Consultant shall produce an existing ground DTM (in a Civil 3D Surface format) utilizing all applicable aerial and conventional field survey data within project limits. Consultant shall perform field inspection of aerial survey data to ensure inclusion and proper identification of surface features, as well as confirming data reflects current conditions. In the event that aerial survey data is insufficient in particular areas to complete design topographic survey tasks as listed above, the consultant shall conduct supplemental conventional field survey and update the surface where necessary.

103.1.10 ***Topographic Features***. The following surface features within the project limits are to be included (but not limited to): curb, gutter, sidewalk, edge of pavement, driveways, handicap ramps, parking, walls, fences, buildings, vegetation, signs, traffic markings, manholes, vaults, pullboxes, pedestals, utility poles, overhead lines, catch basins and other surface indications of subsurface utilities. Sewer manholes, storm drain manholes, catch basins and water valves are to be measured at and below the surface. Appropriate survey methods are to be used to obtain elevations of sewer and drainage improvements.

Design Topographic Survey. Lidar point cloud data extraction and conventional field surveys of all surface features within the project limits will be used to develop engineering base drawings and digital terrain models (DTM). Survey limits shall extend a minimum of 150 feet in each direction past the curb returns at all major cross streets, 100 feet at minor cross streets. Lidar point clouds shall be provided to the consultant by the City's Representative. Consultant shall compile 2D planimetrics of all topographic features within project limits consistent with traditional survey deliverables. Consultant shall produce an existing ground DTM (in a Civil 3D Surface format) with relative accuracy to Lidar point cloud data of ±0.05' within project limits. Consultant shall perform field inspection of Lidar point cloud data to ensure inclusion and proper identification of surface features, as well as confirming data reflects current conditions. In the event that Lidar point cloud data is insufficient in particular areas to complete design topographic survey tasks as listed above, the consultant shall conduct supplemental conventional field survey where necessary and when approved.

Topographic Features. The following surface features within the project limits are to be included (but not limited to): curb, gutter, sidewalk, edge of pavement, driveways, handicap ramps, parking, walls, fences, buildings, vegetation, signs, traffic markings, manholes, vaults, pullboxes, pedestals, utility poles, overhead lines, catch basins and other surface indications of subsurface utilities. Sewer manholes, storm drain manholes, catch basins and water valves are to be measured at and below the surface. Appropriate survey methods are to be used to obtain elevations of sewer and drainage improvements.

103.2 The Consultant will coordinate any required private property access with the City's Representative.

103.3 LEED

103.3.1 The City has mandated that new, occupied public buildings built by and for the City are to be built to LEED (Leadership in Energy and Environmental Design) Certified Silver level or higher standards.

103.4 COST ESTIMATES

103.4.1 The Consultant shall prepare and provide a detailed independent Construction Cost Estimate with each submittal. Independent estimates shall be prepared by an outside firm specializing in providing construction

estimate services, and who is not a part of or an employee of the Consultant's firm. Provide unit costs, quantities and other estimating parameters for each component or work, reflecting current market conditions and costs. Reconcile each successive estimate to the one provided at the preceding submittal. Provide the estimate in the CSI UniFormat II style. Work with the City to reconcile the Consultant's estimates with the City's staff, consultants, and contractor's estimates. Should the Consultant and City disagree on the appropriate contingencies to include in the Construction Cost Estimate for market factor and escalation, the City's estimated factors will be used to determine the Construction Cost Estimate.

103.4.2 If at any time during the course of the Project it becomes evident that the Construction Cost Estimate exceeds the Construction Cost Budget, notify the City and propose design solutions that will bring the Project within the Construction Cost Budget. Execute approved solutions as required at no additional costs to the City.

103.5 GOVERNMENTAL AND AGENCY APPROVALS

103.5.1 **SCOPE OF SERVICES**. Prepare, submit and gain approval of all governmental and agency approvals required for completion and occupancy of the Project, unless specifically noted otherwise in this section:

103.5.1.1 ***General Plan Amendment.*** If requested by the City, assist in the application preparation, supporting documentation and meeting representation for any required GPAs. If requested, meeting representation shall be an additional service.

103.5.1.2 ***Rezoning***. If requested by the City, assist in the application preparation, supporting documentation and meeting representation for any required rezonings. If requested, meeting representation shall be an additional service.

103.5.1.3 ***Site Development Plan Reviews.*** Provide all applications, documentation, submittals and meeting representation for the Planning Department's Site Development Plan Reviews, including those required by review boards such as Summerlin, Centennial Hills, redevelopment agencies, historical review boards and similar organizations where applicable to the site and Project.

103.5.1.4 ***Variance and Special Use Permit.*** Provide assistance in the needs determination, application preparation, supporting documentation and meeting representation for any required variances or special use permits. If requested, meeting representation shall be an additional service.

103.5.1.5 ***Mapping.*** Tentative maps, final maps, vacations, parcel maps, and annexations shall be considered Additional Services unless otherwise identified in this Contract.

103.5.1.6 ***Utilities***. Provide all applications, documentation, submittals, coordination and representation for all Project required utility designs.

103.5.1.7 ***Flood/Hydrology Reports.*** Comply with all requirements and gain required approvals from Regional Flood Control and City of Las Vegas Public Works Department, including a Drainage Compliance Report, this report will be conducted in the CD phase of the work.

103.5.1.8 ***Traffic Study.*** If requested by the City, traffic studies shall be provided as an Additional Service.

103.5.1.9 **New and Modified Stationary Sources of Air Pollutants Permits**. Should the Project program or Consultant's design and specification require a review or permit from the Clark County Department of Air Quality and Environmental Management for Stationary Sources, the Consultant shall provide the following services in regard to such Stationary Sources, including but not limited to Project pool heaters, generators, storage tanks, boilers, cooling towers, and fuel dispensing:

- Authority to Construct Certificate. All determinations as to need and required applications, documentation, calculations, timely submittals, coordination, and hearing representation. The City will provide the Consultant with any required fees payable to Clark County.

- Operating Permit. If requested by the City, assist in the preparation of the required calculations and documentation.

103.5.2 ***SUBMIT, REVIEW AND INCORPORATE.*** Submit progress and final Construction Documents, applications, and other required documentation to all required utility companies, regulatory authorities and governmental agencies having jurisdiction over the Project at the earliest opportunity in the completion of the documents. Submitted documents shall be sealed and signed by the engineers and architects of record in the State of Nevada as required by the City, utility and governmental agency. During the progress of the design documents, conduct design review meetings with the utility and governmental agencies whenever allowed by their review processes. Coordinate and incorporate design review comments and corrections into the documents in an expeditious manner, track the approval process and report status to the City Representative on no less than a weekly basis until approved, and notify the City in writing of any approval not given by a regulatory agency, noting the efforts made to secure such approval. Update the Construction Cost Estimate to account for revisions made. Contact will be made with the utility companies to determine entry of service to site to determine meter and equipment locations. Coordination with utility companies will occur in future CD phase.

103.5.3 Complete, stamp and sign, and submit the Desert Conservation Plan Form at the time of grading permit submission or any other permit submission that may occur prior to a grading permit submission.

103.5.4 ***FEES.*** Notify the City of any required utility, application, permit and review fees, which shall then be the responsibility of the City to pay.

103.5.5 ***CAPITAL PROJECT MANAGEMENT SECTION NOT A REGULATORY AUTHORITY.*** The Consultant does hereby acknowledge, understand and agree that the Capital Project Management Section of the Department of Public Works, acting as the City's representative for purposes of the Project, does not have any control, authority or influence over the decisions or requirements of other departments of the City acting in a regulatory capacity including, but not limited to, the Building Department, Fire Department, and Planning Department of the City of Las Vegas. The City's representative acts in a capacity similar to that of a representative working for a private property owner which is to ensure that the City receives a quality product, delivered on schedule, for a fair price. Furthermore, the Capital Project Management Section does not speak or act for any regulatory authority, nor does any regulatory authority speak or act for the Capital Project Management Section. The Consultant agrees that its relationship with the regulatory authorities having jurisdiction over the Project is separate from its relationship with the City, and that the Consultant's interaction with each regulatory authority is to be conducted without assistance from the City.

103.5.6 ***APPROVAL.*** The City shall give approval of documents prior to being submitted to any regulatory agency for permit review and approval.

103.6 GEOTECHNICAL DATA

103.6.1 ***GEOTECHNICAL REPORT***. Regardless whether the geotechnical report is being provided for the Project by the City or Consultant, it shall be prepared as two separately bound reports, containing and utilized as follows:

103.6.2 ***GEOTECHNICAL DATA REPORT*** is a compilation of geotechnical information about the Project site discovered during investigations of the site required for preparation of the Soils Report. This report may include boring logs, water level accessment, and tests, but excludes interpretations and recommendations. The Geotechnical Data Report will be included and incorporated into the Contract Documents, with the following instructions to the Contractor:

This Geotechnical Data Report is provided for inspection and review only. The City cannot and does not warrant the accuracy or reliability of the information included in the Geotechnical Data Report. Such borings and data are subject to sampling errors. The Geotechnical Data Report was prepared for design purposes and may not provide sufficient data for bid preparation by some contractors. Bidders and the Contractor are solely responsible for assumptions, deductions, interpretations and conclusions they may make or obtain from any such information. The information contained in the Geotechnical Data Report is not to be used by the Contractor for any design work including the design of temporary construction facilities. The Geotechnical Data Report is provided in the Contract Documents with the express understanding of the preceding.

103.6.3 ***GEOTECHNICAL INTERPRETIVE REPORT*** is the geotechnical investigation report or geotechnical interpretive report prepared for the design of the Project including the initial report, attachments, and appendices. This report may include boring logs, tests, interpretations and recommendations. The Geotechnical Interpretive Report shall be made available to bidders or incorporated as a part of the bid documents or Contract Documents for reference purposes. . It is understood that information contained in the Geotechnical Interpretive Report is to be solely used for the design of the Project and estimating purposes and not by others for any purpose including construction. Bidders and the Contractor are solely responsible for assumptions, deductions and conclusions they may make or obtain from any such information.

103.6.4 It is understood that the City may make and distribute copies of reports and boring logs as necessary in connection with the Project without incurring obligation for additional compensation.

103.6.5 ***SPECIFICATION.*** The City will provide the Consultant with a sample specification "Section 02050 – Subsurface Conditions" to demonstrate how this split report is to be utilized in placing the Contractor at risk for many unknown subsurface conditions, which the Consultant shall use to model his bid documents after in achieving the same purpose.

103.6.6 ***NUMBER OF SOIL BORINGS.*** The Consultant acknowledges that the City's standard of placing the Contractor at risk for many unknown subsurface conditions can substantially increase the bid prices for the Project if insufficient data is provided, and that in order to limit this Contractor risk, twice as many, and deeper, borings will be provided than would have been normally produced for this Project, as further described in the City Design Standards. If the Consultant is responsible for providing the geotechnical report, these additional borings will be provided by the Consultant at no additional cost to the City as a part of the Consultant's Basic Services.

104 PROGRAMMING AND CONCEPTUAL DESIGN PHASE

104.1 Upon authorization by the City to Proceed with the Programming and Conceptual Design Phase, the Consultant shall:

104.1.1 ***GEOTECHNICAL REPORT***. Prepare a geotechnical report for the Project.

104.1.2 ***SITE SURVEY***. Prepare a boundary and topographic survey for the Project.

104.1.3 ***HAZARDOUS MATERIALS SURVEY.*** Prepare a survey and abatement recommendations for existing structures and improvements.

104.1.4 ***BLM LEASED PROPERTY PLANT SURVEY***. **(NIBC- Future Phase)** Prepare a plant survey utilizing a BLM approved botanist, and incorporate the survey results and recommendations as approved by the BLM into the Construction Documents.

104.1.5 ***BLM LEASED PROPERTY MIGRATORY BIRD SURVEY***. **(NIBC- Future Phase)** Prepare a survey for migratory bird nests, burrows and habitat for construction activity scheduled to occur from March 1 to September

1 by a BLM qualified biologist, and incorporate the survey results and recommendations into the Construction Documents.

104.1.6 GENERAL PROJECT PROGRAM REQUIREMENTS. Receive from the City the preliminary space requirements list for current and future needs, budget and other requirements for the Project. The site was previously designed under a separate concept plan contract. There is a need to look at the concept to determine the types of fields and therefore a new basic concept will be conducted.

104.1.7 PROGRAMMING REPORT. Work with the City in detailing the program for the Project, including size, relationship and needs of the spaces and activities. Determine the programming requirements from neighborhood meeting and meetings with City Staff. Prepare for the City's approval, a draft Programming Report, which details all goals, needs, spatial, and adjacency requirements of the Project.

104.1.8 LEED CREDITS REPORT. The consultant shall prepare and maintain a list of LEED credits being pursued. City Representative and stakeholders shall review and analyze all proposed LEED Credits and the associated cost estimates, and recommend the LEED Credits to be pursued.

104.1.9 SITE UTILIZATION REPORT. Analyze the site conditions affecting the Project including utilities, drainage, surrounding uses, zoning, soils, environmental impacts, conditions affecting the Project, and prepare for the City's approval, a draft Site Utilization Report.

104.1.10 REVIEW. Participate in design review meetings in which the City will discuss comments generated during the review of the draft Programming Report, and Site Utilization Report. Incorporate the City's review comments.

104.1.11 SUBMITTAL. Provide a formal Programming and Conceptual Design Submittal, which includes the Programming Report, Site Utilization Report, Construction Cost Estimate, a preliminary conceptual design site plan and building elevations, and other documents listed in **Exhibit "B"**. Furnish six (6) copies of the submittal to the City. The City shall review, make comments, advise of any adjustment required, and request additional documents as required of the program and budget. The City shall approve in writing the Programming and Conceptual Design Submittal prior to the Consultant proceeding with the basic services under the Schematic Design Phase.

105 SCHEMATIC DESIGN (SD) PHASE

105.1 Upon authorization by the City to proceed with the Schematic Design Phase, the Consultant shall:

105.1.1 REVIEW. Review the program, and schedule confirmed by the City to ascertain the requirements of the Project and arrive at a mutual understanding of such requirements with the City. Conduct a preliminary evaluation of the City's program, schedule and Construction Cost Budget requirements, each in terms of the other and advise the City of any problem issues.

105.1.2 DESIGN ALTERNATIVES. Based on the mutually agreed upon program, schedule, and Construction Cost Budget, the Consultant shall prepare preliminary design studies consisting of drawings and other documents illustrating the scale and relationship of each component of the Project. Review with the City Representative, alternative approaches to the design, theming, phasing, and construction of the Project. Unless otherwise directed, two (2) alternatives are considered the minimum quantity of alternatives to present for review and decision making.

105.1.3 LEED CREDITS REPORT. Maintain an updated list of LEED credits being pursued and the current status of each credit submitted, reviewed, accepted or denied, and credit achievement anticipated.

105.1.4 SPECIFICATIONS. Prepare schematic level outline specifications that describe the quality of construction materials proposed for the design.

105.1.5 ESTIMATE. Prepare a schematic level Construction Cost Estimate.

105.1.6 REVIEWS. Participate in design review meetings in which the City will discuss comments generated during the review of the Alternative Designs, Specifications, and Construction Cost Estimate. Incorporate the City's review comments. All incorporated changes shall be fully coordinated within and between disciplines.

105.1.7 SCHEMATIC DESIGN, SCOPE AND BUDGET REPORT. Prepare a formal bound report using the City's standard format for graphics and content. The report shall include the following:

105.1.7.1 Programming Report from the previous phase.
105.1.7.2 Site Utilization Report from the previous phase.
105.1.7.3 Schematic drawings including site master plan (onsite and offsite requirements), floor plans, elevations, sections, and other drawings indicating colors, materials, and finishes, as necessary to describe the Project.
105.1.7.4 Outline specification.
105.1.7.5 Project Budget (provided by City).
105.1.7.6 Construction Cost Estimate.
105.1.7.7 Project Schedule (provided by City).
105.1.7.8 LEED Credits Report.
105.1.7.9 Submit to City for Entitlement SDR and attend meetings.

105.1.8 Provide six (6) copies of this report as well as the other required document submittals not included in the report from this phase.

105.1.9 REVIEW. Participate in a Design Review Meeting in which the City will present and discuss comments generated during review of the Scope and Budget Report. Comments regarding the Scope and Budget Report shall be incorporated into the Design Development Submittal. The City shall give written approval of the final Scope and Budget Report prior to the Consultant proceeding with the Design Development Phase.

106 DESIGN DEVELOPMENT (DD) PHASE (NIBC – FUTURE PHASE)

106.1 Design Development is an additional service to this contract, Consultant shall not proceed without written authorization and a contract amendment. Upon authorization by the City to proceed with the Design Development Phase, the Consultant shall:

106.2 ***DOCUMENTS.*** Based on the approved Schematic Design Submittal and any adjustments authorized by the City, the Consultant shall prepare the Design Development Documents consisting of the drawings, outline specifications and other documents establishing the size and character of the Project as to the architectural, mechanical and the electrical systems, materials and such other elements as may be appropriate. Incorporate requested changes into appropriate documents. All incorporated changes shall be fully coordinated within and between disciplines. Design Development documents shall minimally include the following:

106.2.1 DRAWINGS:

106.2.1.1 Building data and code analyses.
106.2.1.2 Utility plans, including both on-site and off-site improvements.
106.2.1.3 Paving and grading plans, including both on-site and off-site improvements.
106.2.1.4 Planting plans, trees, grass, park amenities.
106.2.1.5 Irrigation plans.
106.2.1.6 Site plans.
106.2.1.7 Floor plans, indicating the size of rooms and furniture arrangements.

106.2.1.8 Reflected ceiling plans.
106.2.1.9 Roof plans.
106.2.1.10 Building elevations.
106.2.1.11 Building and wall sections.
106.2.1.12 Finish schedules.
106.2.1.13 Foundation plans.
106.2.1.14 Framing plans.
106.2.1.15 Heating, ventilating and air conditioning (HVAC) plans.
106.2.1.16 Plumbing plans.
106.2.1.17 Lighting plans.
106.2.1.18 Power plans
106.2.1.19 Low voltage system plans.
106.2.1.20 Signage plans.
106.2.1.21 Any other drawings necessary to describe the Project sufficiently including theming and phasing, and to prepare an accurate cost estimate.

106.2.2 ***SPECIFICATIONS.*** Prepare all sections required to be included in the Specifications for the completed Contract Documents. Include in the DD Phase Specifications submittal, "Part 1 – Section Includes" and completed "Part 2 – Products" for each section.

LEED CREDITS REPORT. . Update the list of LEED credits being pursued and the current status of each credit as documentation submitted, under review, denied, or credit achievement anticipated.

106.2.3 ***MOUNTED REVIEW BOARDS.*** Prepare colored site plans, exterior elevations, exterior and interior color/materials boards, renderings and other design information as required to properly illustrate the proposed design for the City's review and approval.

106.2.4 ***ESTIMATE.*** Prepare a detailed Construction Cost Estimate.

106.2.5 ***VALUE ENGINEERING SESSION.*** Upon reconciliation of the Consultant's Construction Cost Estimate to the Construction Cost Budget, the Consultant's design team, including all consultants from any contractual tier, shall participate in a Value Engineering Session with City personnel and consultants.

106.2.6 ***SUBMITTAL.*** Prepare a formal Design Development Submittal to include all City approved Design Development Documents. Provide ten (10) copies of the final documents from this phase.

106.2.7 ***REVIEW.*** The Consultant's design team shall participate in a Design Review Meeting in which the City will present and discuss comments generated during review of the Design Development Submittal. Comments regarding the Design Development Submittal shall be incorporated into the Construction Documents Submittal. The City shall give written approval of the final Design Development Submittal prior to the Consultant proceeding with the Construction Documents Phase.

107 CONSTRUCTION DOCUMENTS (CD) PHASE – (NIBC – FUTURE PHASE)

107.1 Construction Documents is not included in this base contract and may be added by ASR, project modification or subject to a new contract.

108 BIDDING PHASE – (NIBC – FUTURE PHASE)

108.1 Bidding is not included in this base contract and may be added by ASR, project modification or subject to a new contract.

109 CONSTRUCTION ADMINISTRATION PHASE - (NIBC – FUTURE PHASE)

109.1 Construction Administration Phase is not included in this base contract and may be added by ASR, project modification or subject to a new contract.

110 POST CONSTRUCTION PHASE - (NIBC – FUTURE PHASE)

110.1 Construction Administration Phase is not included in this base contract and may be added by ASR, project modification or subject to a new contract.

110.1.1 RECORD DOCUMENTS. Even though this phase is not in the base contract, it is still the Consultant responsibility to provide the Record Documents of this project up to the point of completion. Based upon the Consultant's knowledge of the changes in the Project during the Construction Phase and review of the Contractor's final record documents, prepare Record Documents for the Project. The Consultant shall submit one set of completed documents in electronic AutoCAD dwg format and one set of completed specification in word. Both shall also be provided in electronic Adobe pfd format.

END OF EXHIBIT "A"

EXHIBIT B
REQUIRED SUBMITTALS

200 GENERAL

200.1 The Consultant shall provide the following submittals, delivered to the City unless noted otherwise. Reference the entire Contract and other Exhibits for additional submittals and requirements.

201 PROGRAMMING AND CONCEPTUAL DESIGN PHASE

201.1 Geotechnical Report
201.2 Site Survey.
201.3 Hazardous Material Survey.
201.4 Programming Report.
201.5 Site Utilization Report.
201.6 Conceptual Design Drawings.

202 SCHEMATIC DESIGN AND MASTER PLANNING PHASE

202.1 Schematic Design Drawings and Specification Outline.
202.2 Construction Cost Estimate.
202.3 PROJECT SCOPE AND BUDGET REPORT.

203 DESIGN DEVELOPMENT PHASE – (NIBC – FUTURE PHASE)

204.1 Drawings and Specifications.
204.2 Presentation Drawings, mounted.
204.3 Materials Board.
204.4 Flood/Hydrology Report draft, if required by governing authorities
204.5 Construction Cost Estimate.
204.6 LEED Credits Report.

204 CONSTRUCTION DOCUMENT PHASE - (NIBC – FUTURE PHASE)

205 BIDDING PHASE – (NIBC – FUTURE PHASE)

206 CONSTRUCTION ADMINISTRATION PHASE – (NIBC – FUTURE PHASE)

207 POST CONSTRUCTION PHASE – (NIBC – FUTURE PHASE)

207.1 Final Record Drawings in electronic format (dwg, pdf, wd).

END OF EXHIBIT "B"

EXHIBIT C

PERFORMANCE SCHEDULE

300 NOTICE TO PROCEED

300.1 The start date for the Consultant's scope of services shall be, without any further notice requirement, the date of this Contract signed by the parties. The Consultant shall perform the services required as expeditiously as is consistent with professional skill and care and the orderly progress of the Project. The Scope of Service set forth in this Contract and the compensation to the Consultant for said Scope of Services is based upon the Consultant and the City each performing its responsibilities in a timely manner.

301 PHASE SCHEDULE

301.1 The maximum allowed time to complete each phase of the work is shown in the following table:

PHASE	CALENDAR DAYS TO COMPLETE	REMARKS
Programming and Conceptual Design	54	Includes 2 week City review period.
Schematic Design	105	Includes 2 week City review period.
Design Development		NIBC – Future Phase
Construction Documents		NIBC – Future Phase
Bidding		NIBC – Future Phase
Construction		NIBC – Future Phase
Post Construction		NIBC – Future Phase
TOTAL	**159**	

301.2 The City review periods shown in the table may occur over several periods during each phase or may occur at the conclusion of each phase. Unused review days may be carried forward for use in successive phases of the Project.

301.3 The Calendar Days to Complete for the Construction Documents phase shown in the table begins upon authorization to proceed for this phase and completes upon application acceptance of the submission to the Building Department and Land Development section of the Building Department for the building permit plan review process. The scope of services for the Construction Documents phase continues beyond the date of submission and includes the drawing and specification review activities, and completes when the documents incorporate the required revisions and comments received from all agencies required for approval of the design, and the bidding package is complete, ready for printing and distribution.

302 DESIGN AND PERMITTING SCHEDULE DELAYS

302.1 The Consultant declares that they are experienced and knowledgeable with all governmental, agency, and utility company design approval processes, procedures, applications, fees, design standards, reviews, required corrective actions, and time schedules required for the Project, and that the schedule set forth for the Scope of Services is reasonable and achievable within these design approval parameters.

302.2 Although it is acknowledged that neither the City nor the Consultant have full control over these design approval processes, the Consultant shall be responsible for any damages to the City resulting from their actions or lack of actions, including but not limited to their failure to make timely submittals, their failure to routinely follow-up on submittals, their failure to notify the City of anticipated delays and required design changes, and their failure to process and re-submit comments and corrections received in a timely manner.

302.3 Specifically, the Consultant is aware of the following local conditions for timely processing of required design approvals:

302.3.1 The City of Las Vegas building permit application and drawing submittal process is a dual submittal process, one package to the Building Department and a separate civil package to the Land Development section of the Building Department.

302.3.2 The Flood Study and Traffic Study need to be approved prior to Land Development accepting the civil construction permit application, and that these reviews can take many weeks to obtain.

302.3.3 The Land Development civil approval process generally takes longer than the Building Department approval process, and the submittals do not need to be simultaneous.

302.3.4 Upon approval of the Land Development package, the civil engineer of record is required to insert prints of the approved Land Development drawings into the Building Department drawing package submittal prior to the final review and approval of the Building Department submittal that this action is generally on the critical path of the Project schedule.

302.3.5 The NV Energy design precedes the CenturyLink submittal and other dry utilities design, and must be submitted for pre-application and service/design application as early as possible.

302.3.6 The application to the Las Vegas Water District must occur no later than six (6) weeks prior to the submission of the building permit application to the Building Department for the Project for park projects, and as soon as allowed by the Water District for building projects. The District conducts a dual approval process involving design plan review simultaneous with the interlocal Contract process, which requires official approval by both the District Board and the City Council.

302.4 The Consultant hereby agrees to reimburse the City for any damages, delays, and additional costs associated with any avoidable delays the Consultant could or should have prevented or mitigated, and that a lack of familiarity with the local processes shall not provide relief from this responsibility.

303 CONSTRUCTION SCHEDULE CHANGES

303.1 No Change in Fee. It is understood and agreed by the Consultant that, although the time required to construct the Project has yet to be estimated as of the date of this Contract, the Consultant is knowledgeable and experienced in determining the estimated Construction Time required to construct public works projects including this specific project type, and further that the Consultant has an advisory role in helping the City establish the Construction Time to be included in the construction contract, and therefore has the ability to determine the Consultant's fixed fee for the Construction Phase scope of services regardless of how long it takes to construct the Project and that the Consultant assumes all risks for changes in his costs to perform the scope of services agreed to in this Contract due to the length of time it takes to construct the Project, excepting if the following occur with no cause being in any way the fault of the Consultant:

303.1.1 Suspension Exception. The Consultant may be allowed an increase in fee for construction delays caused by the suspension of the Project as provided for in Section 10.01 Suspension of this Contract.

303.1.2 50% Time Extension Exception. The Consultant's fee for the Construction Phase may be adjusted due to the time required to construct the Project once the variation in "Construction Time" (as used within this Section, the time from the Contractor's notice to proceed until Substantial Completion) exceeds a fifty percent increase from the Construction Time provided in the Contractor's construction contract at award, with the Consultant absorbing any and all anticipated and unanticipated Consultant Construction Phase costs outside of the "Allowed Period" (as used within this Section, the Allowed Period is the time period beginning on the first day that the 50%

increase is reached and ending at the close of business on the day preceding the date of Substantial Completion).

303.1.2.1 **PRIOR WRITTEN APPROVAL REQUIRED**. If the Consultant intends to apply for additional compensation for services rendered during the Allowed Period, permission must be requested in writing and written approval granted by the City prior to providing any such services. Should the Consultant fail to request the required permission, the City is under no obligation to provide additional compensation for services performed during the Allowed Period. Should the City request in writing reduced or specific services during the Allowed Period, the Consultant shall provide the services and be compensated as an Additional Service. Should the Consultant request the required approval and the City fail to grant it, the Consultant is under no obligation to provide the required ongoing Construction Phase services during the Allowed Period excepting this does not relieve the Consultant's obligation to provide punch list and other project close out tasks that are unrelated to the length of the construction schedule.

303.1.2.2 The time extension may be the result of poor contractor performance, third party delays, added change order work, weather delays, or any other cause, excepting any event, issue, or delay being in any way the fault of the Consultant (whether the sole cause or a contributing concurrent cause) shall not count toward the measurement of the 50% extension time period. For example, should a 100 day construction contract time extend to 150 days, the 150th day would be eligible for a fee adjustment, excepting in this example the consultant was negligent in returning timely submittals resulting in a total of 10 days delay over the course of the construction, with the result that the first day of the Allowed Period would then be the 160th day.

303.1.2.3 The Consultant shall submit Allowed Period timecard records for the City's review in determining eligible personnel, activities and hours, as well as any other requested records reasonable necessary for the City to make a determination.

303.1.2.4 Eligible personnel may include the individuals and positions named in this Contract but not support personnel as defined in **Exhibit "E".**

303.1.2.5 Eligible activities may include the tasks required in this Contract and conducted during the Allowed Period that would not have occurred except for the extended construction phase schedule such as attending weekly construction meetings, but not activities that would have been conducted regardless of the length of the construction schedule such as reviewing submittals, answering RFIs, and preparing punch lists of corrective work. Eligible activities must not benefit other projects in any way.

303.1.2.6 Any approved 50% extension fee adjustments shall be considered an Additional Service and utilize the rates in **Exhibit "E"** unless otherwise agreed to by the parties to this Contract. Reimbursable Expenses shall not be included unless specifically authorized in writing by the City for the Allowed Period.

303.1.2.7 Any time extension related to a suspension of the Project during construction shall not count toward the measurement of the 50% extension time period. The time period related to the suspension may be allowed a fee adjustment as provided for in Section 10.01 Suspension of this Contract instead.

303.1.2.8 50% Time Reduction Exception. Should the Contractor reach Substantial Completion in less than 50% of the awarded Construction Time, the Consultant's Construction Phase fee shall be reduced. Should the Project reach Substantial Completion in 50% of the awarded Construction Time to 100% of the awarded Construction Time, the Consultant's fee for the Construction Phase shall not be reduced due to the early completion.

303.1.2.9 The cause of the reduction in time may be an efficient contractor, a generous awarded Construction Time, a change order scope reduction, a termination of the Project, or any other cause.

303.1.2.10 The amount of the fee reduction for the Construction Phase shall be based on the percent of the awarded Construction Time used. For example, if an awarded Construction Time was 100 days and the project was terminated 10 days into the time, the Construction Phase fee would be reduced to 10% of the original fee.

303.2 ***Post Construction.*** No adjustments shall be made to the Post Construction Phase fee due to changes in construction schedules.

END OF EXHIBIT "C"

EXHIBIT D
FEE BREAKDOWN

400 TOTAL COMPENSATION

400.1 The total compensation to be paid to the Consultant for performance of this Contract including Basic Services and Additional Services Allowance shall not exceed $438,100.00. Increases to total compensation may only be authorized by written amendment to this Contract. This total compensation amount is comprised of the parts described in this **Exhibit "D"** (Fee Breakdown).

401 SECTION 401: BASIC SERVICES PAYMENT BASED ON THE COMPLETION OF PHASES

401.1 The For the services set forth in **Exhibit "A"** (Scope of Services), the City agrees to pay to the Consultant the fixed fee assigned for each phase of the Project identified in this **Exhibit "D"** (Fee Breakdown). The Consultant agrees to perform the services required under this Contract Exhibit "A" (Scope of Service) for the amount of the fixed fee set forth in this Exhibit "D" (Fee Breakdown). Payment shall be made for each phase pursuant to monthly invoices submitted in accordance with this Contract based upon the percentage of services completed for each phase. The fixed fee shall constitute the entire compensation to be paid to the Consultant regardless of the number of man-hours actually expended to complete the performance of the services set forth in **Exhibit "A"** (Scope of Services).

PHASE	FIXED FEE	REMARKS
Programming and Conceptual Design	$70, 500.00	
Schematic Design	$347,600.00	
Design Development	$0.000	
Construction Documents	$0.00	
Bidding	$0.00	
Construction	$0.00	[The combined Fee for Construction and Post Construction phases shall not be less than 25% of the total Fee.]
Post Construction	$0.00	Punch List
Total	**$418,100**	

401.2 The scope of work for each of the phases may be adjusted by the City Representative over the course of the Project, including establishing new services or the deletion of listed services. The cost of these adjustments shall be calculated utilizing the rates agreed to in this Contract to the extent they are applicable.

401.3 The City Representative shall have the authority to make such work scope adjustments to the services contained within Basic Services without processing this Contract for an amendment or additional services authorization, if (1) the revisions are documented and agreed to by the Consultant and City in writing prior to performance, (2) the Total Cost for Basic Services is not exceeded, and (3) the change(s) are within the scope of the Project.

401.4 ALTERNATE PAYMENT METHOD FOR BASIC SERVICES

At the City's discretion, the City may revise the payment for Basic Services for all or part of any phase from the method of payment based on completion of phases to instead a method based upon the Consultant's hourly rates. As part of this change to an hourly rate, the City may add, delete, or modify the services to be performed. The City shall provide written notice to the Consultant prior to revising the payment method to hourly rates. Services for partially completed phases performed prior to the written notice shall be compensated based upon the percentage of completion of the phase.

401.5 CONSTRUCTION COST ESTIMATES

Consultant shall **deduct** from the above Fees **$5,000** for each of the required Construction Cost Estimates not delivered, for whatever reason, upon completion of each phase.

402 ADDITIONAL SERVICES ALLOWANCE

402.1 A Not-To-Exceed Allowance for Additional Services is hereby established as set forth below. The City shall pre-authorize in writing Additional Services up to the Total Not-To-Exceed Cost. Services performed prior to receiving the required written authorization from the City or in excess of the Total Not-To-Exceed Cost shall not be obligated for compensation.

402.2 Additional Services are services provided in the interests of the Project that are not set forth in **Exhibit "A**" (Scope of Services).

402.3 The Consultant shall be compensated for Additional Services in accordance with the Additional Services fees set forth in **Exhibit "E"** (Additional Compensation), or if no Additional Service fee has been established for the service, in accordance with the Consultant Hourly Rates established in **Exhibit "E"** (Additional Compensation). Additional Service compensation disputes shall be resolved in accordance with the claims and disputes provisions of this Contract and shall not be cause for the Consultant to delay providing requested services. Payment shall be made for each completed Additional Service pursuant to invoices submitted in accordance with this Contract.

402.4 Reimbursable Expenses may be compensated from this Allowance for Additional Services to the extent they are allowed by **Exhibit "E"** (Additional Compensation). Payment shall be made for each completed Reimbursable Expense pursuant to invoices submitted in accordance with this Contract. Expenses not listed in **Exhibit "E"** (Additional Compensation) as allowed Reimbursable Expenses shall not be compensated without amendment to this Contract to allow them as Reimbursable Expenses.

402.5 Increases to this Total Not-To-Exceed Cost for Additional Services may only be authorized by written amendment to this Contract.

ADDITIONAL SERVICES ALLOWANCE		COMMENTS
TOTAL NOT-TO-EXCEED COST	$20,000.00	

END OF EXHIBIT "D"

EXHIBIT E
ADDITIONAL COMPENSATION

500 CONSULTANT HOURLY RATES

501 The following hourly rates are to be used as the basis for negotiation of added and reduced services. These hourly rates are valid for the duration of the Project and include salary costs, overhead, administration and profit. The overhead included in these rates covers all support personnel who normally work on non-specific project tasks including but not limited to receptionists, senior executives together with their assistants, financial accounting personnel, and personnel maintaining facilities, equipment and computers.

CLASSIFICATION	**HOURLY RATE**
Principal	$250
Sr. Project Manager	$225
Architect/Project Manager	$200
Sr. Designer	$175
Designer	$150
Interior Designer	$145
Intern Architect	$125
Accounting	$125
Marketing	$125
Administrative	$100
	$0
	$0

502 SUB-CONSULTANT HOURLY RATES

502.1 The following hourly rates are to be used as the basis for negotiation of added and reduced services. These hourly rates are valid for the duration of the Project and include salary costs, overhead, administration and profit. The overhead included in these rates covers all support personnel who normally work on non-specific project tasks including but not limited to receptionists, senior executives together with their assistants, financial accounting personnel, and personnel maintaining facilities, equipment and computers.

SUBCONSULTANT #1 NAME	**RATE**	**UNIT**
Project Architect / Manager	$0	Per Hour
Architect / Engineer	$0	Per Hour
Designer	$0	Per Hour
Specification Writer	$0	Per Hour
Technician / CADD Operator	$0	Per Hour
Clerical	$0	Per Hour

SUBCONSULTANT #2 NAME	RATE	UNIT
Project Architect / Manager	$0	Per Hour
Architect / Engineer	$0	Per Hour
Designer	$0	Per Hour
Specification Writer	$0	Per Hour
Technician / CADD Operator	$0	Per Hour
Clerical	$0	Per Hour

SUBCONSULTANT #3 NAME	RATE	UNIT
Project Architect / Manager	$0	Per Hour
Architect / Engineer	$0	Per Hour
Designer	$0	Per Hour
Specification Writer	$0	Per Hour
Technician / CADD Operator	$0	Per Hour
Clerical	$0	Per Hour

503 ADDITIONAL SERVICES RATES

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

ADDITIONAL SERVICE	SUBMITTALS	SCHEDULE IMPACT	FIXED FEE
None authorized or anticipated as of the date of this Contract.			$0
			$0
			$0

503.2 These Additional Services Rates are valid for the duration of the Project and include salary costs, equipment, overhead, administration and profit.

503.3 For Additional Services of sub-consultants, the City shall compensate the Consultant a multiple of one (1.0) times the amounts billed to the Consultant for such services. The Consultant may bill for their expenses in managing the Additional Service of sub-consultants, the amount of which is already included in the above Additional Service Rates or, if not listed in the above Additional Service Rates, shall be approved by the City in writing prior to the Consultant or sub-consultant providing the services.

503.4 The Consultant agrees to provide services in connection with the Project, which are in addition to those required by **Exhibit "A"** for Basic Services, as Additional Services if so requested by the City in writing. Such requests may include, but are not limited to, and are not necessarily indicated by this statement as being Additional Services rather than Basic Services: (i) significant changes in the Project's size, quality, complexity, budget, or time schedule, (ii) changes required due to conflicting instructions previously given by the City, (iii) changes required by the enactment or amendment to codes, laws or regulations subsequent to the preparation of such documents, (iv) services concerning the replacement of that portion of the Project damaged by fire or other cause, and (v) services made necessary by the default or failure of the Contractor including major defects or deficiencies in the construction.

504 REIMBURSABLE EXPENSES

504.1 The following Reimbursable Expenses are allowed:

REIMBURSABLE EXPENSE
None authorized or anticipated as of the date of this Contract.

504.2 For Reimbursable Expenses of the Consultant, the City shall compensate the Consultant a multiple of one (1.0) times the actual direct costs incurred by the Consultant. The multiplier includes all compensation for overhead and profit.

504.3 If Reimbursable Expenses are established in this Contract as a fixed sum or a not-to-exceed amount, the Consultant has determined that this Reimbursable Expense amount will not be exceeded for the allowed Reimbursable Expenses for performance of the Services set forth in **Exhibit "A"** (Scope of Services), and accordingly does hereby assume the risk to complete the performance of this Contract without further compensation for Reimbursable Expenses should the costs exceed this fixed sum or not-to-exceed amount for Reimbursable Expenses.

504.4 Travel and per diem expenses are included in the Basic Services Fees, Consultant Hourly Rates, Sub-Consultant Hourly Rates, Additional Services Rates, and Reimbursable Expenses shown in this Contract, and may otherwise only be authorized by written amendment to this Contract. Expenses incurred prior to written authorization shall not be considered for reimbursement.

504.5 Should travel and per diem expenses be so authorized by the City:

504.6 Expenses shall be based on actual costs submitted for reimbursement with valid original receipts. If a receipt is not normally provided for the expense, a certification signed by the traveler shall be submitted. Submitted receipts for travel and per diem reimbursement shall name each traveler covered.

504.7 Rates for lodging and individual meals shall not exceed the published U.S. General Services Administration rates at Clark County, Nevada, including the 75% limitation on the day of departure and return.

504.8 Passenger vehicle mileage shall be reimbursed at the rate stipulated by the Internal Revenue Service.

504.9 Examples of expenses that will not be reimbursed include alcoholic beverages, entertainment, laundry, dry cleaning and pressing, parking fines, gratuities and tips excepting for taxicab and meals a 15% tip if shown on the receipt, costs related to making reservations or other accommodations for travel, phone calls, computer or Internet access costs, car rentals larger than mid-size and car rental insurance, air travel other than the lowest coach fair available and travel insurance, premature departure and extended stays for personal reasons, and indirect route for personal preference.

END OF EXHIBIT "E"

EXHIBIT F
KEY PERSONNEL LIST

600 CITY PERSONNEL

600.1 CITY REPRESENTATIVE: Shelly Hayden, AIA

600.2 CITY REPRESENTATIVE'S SUPERVISOR: Steven Ford, PE

601 CONSULTANT'S PROJECT STAFF

601.1 The following personnel will be assigned by to work on the Project. Any changes or additions require City approval.

601.1.1 CONSULTANT REPRESENTATIVE: Giovanni Pezzi

601.1.2 CONSULTANT REPRESENTATIVE'S SUPERVISOR: Craig Galati, AIA, FSMPS, CPSM

601.1.3 PROJECT ARCHITECT: Craig Galati, AIA, FSMPS, CPSM

601.1.4 **RESPONSIBLE IN CHARGE PERSON**: Craig Galati, AIA, FSMPS, CPSM

601.1.5 **IN CHARGE PERSON'S STATE OF NEVADA LICENSE NUMBER:** Craig Galati, NV License #1952

602 CONSULTANT'S SUBCONSULTANTS

602.1 The following subconsultants will be contracted with and utilized by the Consultant to work on the Project. Any changes or additions require City approval.

602.1.1 CIVIL ENGINEER: Lochsa Engineering

602.1.2 STRUCTURAL ENGINEER: Lochsa Engineering

602.1.3 MECHANICAL ENGINEER: TJK Consulting Engineers

602.1.4 ELECTRICAL ENGINEER: TJK Consulting Engineers

602.1.5 LANDSCAPE DESIGN: Southwick Landscape Architects

602.1.6 INDEPENDENT COST ESTIMATOR: ESG Construction Consultants

602.1.7 GEOTECHNICAL ENGINEER: Ninyo & Moore

602.1.8 INTERPRETIVE PLANNING: AldrichPears Associates

END OF EXHIBIT "F

EXHIBIT "G"
EXAMPLE INVOICE

Project Name:		**Consultant:**	
Contract No:		**Project Number:**	
Purchase Order No.:		**Consultant Rep:**	
Hansen #:		**Consultant Phone:**	
Invoice Number		**CLV Project Manager:**	
Period		**CLV Program Manager:**	
Invoice Date:			

Task	Description	Amount of Task	Amount Billed this Period	Amount Previously Billed	Amount Billed to Date	Amount Remaining	Percent Billed this Period	Percent Billed to Date	Percent Funds Remaining
1	**Conceptual**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**			
	Conceptual				$0.00	$0.00			
					$0.00	$0.00			
2	**Schematic**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**			
	Schematic				$0.00	$0.00			
					$0.00	$0.00			
3	**Design Development**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**			
	Design Development				$0.00	$0.00			
					$0.00	$0.00			
4	**90% Construction Documents**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**			
	90% Construction Documents				$0.00	$0.00			
					$0.00	$0.00			
5	**100% Construction Documents**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**			
	100% Construction Documents				$0.00	$0.00			
					$0.00	$0.00			
6	**Bidding Phase**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**			
	Bidding Phase				$0.00	$0.00			
					$0.00	$0.00			
7	**Construction Phase**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**			
	Construction Phase		$0.00		$0.00	$0.00			
					$0.00	$0.00			
8	**Post-Construction Phase**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**			
	Post-Construction Phase		$0.00		$0.00	$0.00			
					$0.00	$0.00			
	Not-to-Exceed Total Basic Services Fee	**$0.00**	**$0.00**						

	Additional Services Allowance:								
ASR#	**Total Additional Services Authorized**	$0.00	**$0.00**	**$0.00**	**$0.00**	**$0.00**			
1	0				$0.00	$0.00			
2	0				$0.00	$0.00			
3	0				$0.00	$0.00			

	Total Billed to Date	Total Remaining	Percent Remaining
Basic Services:	$0.00	$0.00	
Authorized Additional Services:	$0.00	$0.00	
Unauthorized Additional Services Remaining:		$0.00	
TOTAL AMOUNT OF INVOICE:		**$0.00**	

Total PO Amount:	**$0.00**
Total Contracted Amount:	**$0.00**
Total Billed to Date:	**$0.00**
PO Balance:	**$0.00**
Contract Balance:	**$0.00**

Project Name:
Project Number:
Consultant
Invoice Number:
Invoice Date:

STAFF WHO WORKED ON PROJECT FOR THIS PAY REQUEST

NAME	TITLE	ESTIMATED HOURS

OTHER DIRECT EXPENSES (backup documentation required)

DESCRIPTION			TOTAL
		TOTAL	$0.00

SUBCONSULTANTS (Backup documentatuion with breakdown required)

FIRM NAME	TOTAL
TOTAL	$0.00

EXHIBIT "H"
CERTIFICATE - DISCLOSURE OF OWNERSHIP/PRINCIPALS

EXHIBIT H
CERTIFICATE - DISCLOSURE OF OWNERSHIP/PRINCIPALS

1. Definitions

"City" means the City of Las Vegas.

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

"Contracting Entity," means the individual, partnership, or corporation seeking to enter into a contract 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 Resolutions 79-99, 105-99 and RA-4-99, 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: LG Architects, dba LGA	
Address: 241 W. Charleston Blvd, Suite 107	**City / ST / Zip:** Las Vegas, NV 89102
Telephone: 702-263-7111	**EIN or DUNS :** 88.0215901
Block 2: Description / Subject Matter of Contract	
Services for: PDSC Northwest Regional Park – Phase 1	**Project Number:** 210100-JL

Block 3: **Type of Business**

☐ Individual ☐ Partnership ☐ Limited Liability Company X 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	Craig Galati	241 W. Charleston Blvd, #107 LV, NV 89102	702-263-7111
2	John A. Haddad	241 W. Charleston Blvd, #107 LV, NV 89102	702-263-7111
3	Jason Jorjorian	241 W. Charleston Blvd, #107 LV, NV 89102	702-263-7111
4	Lance Kirk	241 W. Charleston Blvd, #107 LV, NV 89102	702-263-7111

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 ***(Notarized signature required in event of contract award per section 4, "Incorporation")***

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

EXHIBIT H
CERTIFICATE - DISCLOSURE OF OWNERSHIP/PRINCIPALS

1. Definitions

"City" means the City of Las Vegas.

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"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 Resolutions 79-99, 105-99 and RA-4-99, 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: LG Architects, dba LGA	
Address: 241 W. Charleston Blvd, Suite 107	**City / ST / Zip:** Las Vegas, NV 89102
Telephone: 702-263-7111	**EIN or DUNS :** 88.0215901
Block 2: Description / Subject Matter of Contract	
Services for: PDSC Northwest Regional Park – Phase 1	**Project Number:** 210100-JL

Block 3: **Type of Business**

☐ Individual ☐ Partnership ☐ Limited Liability Company X 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	Craig Galati	241 W. Charleston Blvd, #107 LV, NV 89102	702-263-7111
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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 ***(Notarized signature required in event of contract award per section 4, "Incorporation")***

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.

JACQUELINE BALLESTEROS
Notary Public, State of Nevada
No. 16-2789-1
My Appt. Exp. May 15, 2024

Signature

11/13/2020
Date

Subscribed and sworn to before me this 13th day of November, 2020

Jacqueline Ballesteros
Notary Signature

AGENDA SUMMARY PAGE
City Council
Meeting of: December 2, 2020

Agenda Item No.:
13

DEPARTMENT: Finance **CONSENT**
DIRECTOR: Venetta Appleyard

SUBJECT:
For possible action to approve award of Mutual Use Contract No. 210082-JL, Cisco Systems Equipment and Services - Department of Information Technologies - Award recommended to: CISCO SYSTEMS, INC. (Not-to-Exceed $2,000,000 Annually/Total Contract Amount Not-to-Exceed $12,000,000 - Various Funds)

FISCAL IMPACT:
Budget Funds Available
Amount: Not-to-Exceed $2,000,000 Annually/Total Contract Amount Not-to-Exceed $12,000,000
Funding Source: Various Funds
Dept./Division: Information Technologies

PURPOSE/BACKGROUND:
This contract provides up to $2,000,000 per year for purchases of data communications equipment including telephone equipment, network switches, routers, access points, software, connectivity devices, cloud and IOT services, training, and other design, deployment and professional services. This contract joins a competitively solicited cooperative purchasing agreement administered by the State of Utah. Section 40 of the master agreement terms and conditions contains a mutual indemnity clause and some software purchased under this agreement may include indemnity provisions within the software license or end user license agreements. Purchases from Cisco or from any of its certified resellers are authorized in accordance with a Participating Addendum by the State of Nevada. This item is exempt from the competitive bidding process pursuant to NRS 332.195.1, joinder or mutual use of contracts by government entities. Cisco Systems, Inc. is located in San Jose, California.

RECOMMENDATION:
Approve as recommended from date of award through September 30, 2024, with two (2) one-year options to renew, with signature authority granted to the Purchasing and Contracts Manager per R-20-2017.

BACKUP DOCUMENTATION:
1. Contract No. 210082-JL
2. Certificate - Disclosure of Ownership/Principals

MUTUAL USE CONTRACT NO. 210082-JL
CISCO SYSTEMS EQUIPMENT AND SERVICES

THIS Contract is made and entered into this_____day of_____, 2020, by and between the City of Las Vegas (the "City"), a municipal corporation in the State of Nevada, and CISCO SYSTEMS, INC,. (the "Company"), a corporation organized and existing under the laws of the State of California, with a principal address of 170 West Tasman Drive, San Jose, CA 95314.

RECITALS

WHEREAS, the Company and the State of Utah (the Originating Government Entity) have entered into that Contract dated September 4, 2019 (RFP No. SK18001, Master Agreement No. AR3227), in cooperation with NASPO ValuePoint cooperative purchasing organization, and subsequently adopted by the State of Nevada under Participating Addendum No. 99SWC-NV20-4447 dated April 24, 2020, providing for data communications products and services (the "Company Contract"); and

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

WHEREAS, the City desires to use the Company Contract between the Company and the Originating Government Entity or Cooperative Purchasing Organization; and

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

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

1. The following documents are hereby incorporated into this Contract: Exhibit "A", Special Conditions [four (4) pages], attached hereto and made a part hereof; and Exhibit 'B' [two-hundred-forty (240) pages], the terms, conditions and covenants of the Company Contract, attached hereto and made a part hereof. In the event of a conflict between the specific language set forth in this Contract and Exhibits, this Contract shall take precedence followed by Exhibit "A" and Exhibit "B" in that order.

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

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

4. The Contract Amount shall not exceed two-million dollars ($2,000,000.00) per year.

5. This Contract and the rights granted hereunder to the City shall continue in force and effect for the period of time set forth in the Company Contract. This performance period is from the award date of this Contract through and including September 30, 2024, and two (2) one-year renewal options. For the benefit of the City, the City shall provide written notice to the Company of such option extensions(s), and the Company may not assume an automatic renewal. Exercise of a one-year option does not commit the City to exercise any further options. The City reserves the right to exercise an option to temporarily extend this Contract for up to one hundred eighty (180) calendar days from the Termination Date, for any reason.

6. The City reserves its right to terminate this Contract and its use of the Company Contract for any reason whatsoever, and such termination shall be effective thirty (30) days after written notice is provided to the Company. The City's exercise of its right to terminate herein shall have no effect on the Company Contract between the Company and the Originating Government Entity or Cooperative Purchasing Organization. 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. Termination of this Contract does not affect products, software, and services ordered by and delivered to the City prior to termination, and the terms of this Contract remain effective for such products, software, and services.

7. INTENTIONALLY LEFT BLANK.

8. Unless the content indicates otherwise, references in the Company Contract to the Originating Government Entity or Cooperative Purchasing Organization or Purchasing Entity shall be understood and interpreted to refer to the City for purposes of this Contract.

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

10. 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 in the State of Nevada 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, if Company does not within thirty (30) days create remedial plan to prevent the same from reoccurring, terminate Contract.

11. 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. As applicable, Company will require the same compliance in all subcontracts hereunder.

    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 Contract.

12. City/Company Representative [CAO - 08/22/2019]

    (a) All routine Company inquiries should be directed to the person identified by the City on the Purchase Order.

    (b) The Company Representative for this Contract is to be named later. The Company Representative shall serve as the point of contact for the Company for this Contract until written notice to the City is provided by the Company of any change in the person acting in this capacity.

13. Legal Notice [CAO-4/2020]

    (a) Any legal notice required to be given hereunder shall be deemed to have been given when written notice is (i) received by the party to whom it is directed by personal service; (ii) three (3) days after deposit with the United States Post Office, by registered or certified mail, postage prepaid and addressed to the party to be notified at the

address for such party; or (iii) one (1) day after deposit with a nationally recognized air courier service such as FedEx. Either party hereto may change its address by giving ten (10) days advance notice to the other party as provided herein. Email addresses, phone and fax numbers, if listed, are listed for information only:

FOR THE CITY: Manager, Purchasing and Contracts
City of Las Vegas
495 South Main Street, 4th Floor
Las Vegas, Nevada 89101-2986
Email: purchasing@lasvegasnevada.gov

FOR THE COMPANY: Gigi Feril
Cisco Systems, Inc.
170 West Tasman Drive
San Jose, CA 93514
Email: nvp-help@cisco.com

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

(c) 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.

(d) Routine correspondence should be directed to the City or Company Representative, as appropriate.

14. The Company agrees to provide and maintain insurance coverages as defined in Exhibit 'A', Section A-2, Insurance for the entire term of this Contract. Certificates of insurance must be received by the City's designated certificate tracking service prior to City execution of the Contract.

15. Certification - No Boycott: By signing this Contract, the Supplier certifies that it is not engaged in, and agrees for the duration of the Contract not to engage in, a boycott of the State of Israel per NRS 332.065.

"Boycott of Israel" means refusing to deal or conduct business with, abstaining from dealing or conducting business with, terminating business or business activities with or performing any other action that is intended to limit commercial relations with Israel; or a person or entity doing business in Israel or in territories controlled by Israel, if such an action is taken in a manner that discriminates on the basis of nationality, national origin or religion. It does not include an action which is based on a bona fide business or economic reason; is taken pursuant to a boycott against a public entity of Israel if the boycott is applied in a nondiscriminatory manner; or is taken in compliance with or adherence to calls for a boycott of Israel if that action is authorized in 50 U.S.C. § 4607 or any other federal or state law.

"Company" means any domestic or foreign sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited-liability partnership, limited-liability company, or other domestic or foreign entity or business association, including, without limitation, any wholly owned subsidiary, majority owned subsidiary, parent company or affiliate of such an entity or business association, that exists for the purpose of making a profit.

A violation of this Section by Company shall be considered an incurable Event of Default of this Contract, thereby allowing the City to immediately terminate this Contract upon giving written notice to Company.

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

CITY OF LAS VEGAS

Abbe Yacoben, CPFO — Date
Acting Manager, Purchasing & Contracts

CISCO SYSTEMS, INC.

Jenn Pate
Authorized Signatory November 18, 2020

By: _____ Date
Authorized Signatory

APPROVED BY LEGAL

ATTEST:

LuAnn D. Holmes, MMC — Date
City Clerk

APPROVED AS TO FORM:

Dimitri P. Dalacas
Deputy City Attorney
11/18/2020

Deputy City Attorney — Date

EXHIBIT A - SPECIAL CONDITIONS

A-1 Invoices [CAO-9/2020]

(a) The Company shall timely submit a detailed invoice to the City within sixty (60) days after shipment of Goods or provision of Services for the quantities delivered and accepted. Each invoice shall contain the following information:

(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) the performance dates covered by the invoice.

(b) Upon reconciliation of all errors, corrections, credits, and disputes, payment to the Company will be made in full within thirty (30) calendar days. **Invoices received without a valid Purchase Order number will be returned unpaid.**

The Company shall submit the original invoice to:

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

A duplicate copy of the invoice is to be sent to the City's designated representative at asouza@lasvegasnevada.gov.

A-2 Insurance [CAO-4/2020]

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 Company's Workers' Compensation policy shall provide that the insurer waives its rights of subrogation in favor of the City of Las Vegas for liabilities that fall within the Company's indemnity obligations under this Contract.

(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 $1,000,000 per occurrence and $2,000,000 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 provide that the insurer waives its rights of subrogation in favor of the City of Las Vegas for liabilities that that fall within the Company's indemnity obligations under this Contract, and shall include the City, its officers, and employees as additional insureds for liabilities that fall within the Company's indemnity obligations under this Contract and that are covered by such insurance.

(iii) Professional Liability Insurance (Errors and Omissions Coverage) protecting the Company from claims arising out of performance of professional services caused by a negligent act, error, or omission for which the insured is legally liable. Such coverage shall be in a minimum amount of $1,000,000 per claim and in the aggregate, for the period of time covered by this Contract. If coverage is on a "claims made" basis, then it must be maintained (i.e., renewed) for a period of two (2) 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.

(iv) Cyber Liability Insurance of limits no less than $1,000,000 per occurrence, wrongful act or claim and in the aggregate, including coverage for media liability, privacy and network security liability, and privacy incident response. If coverage is on a "claims made" basis, then it must be maintained (i.e., renewed) for a period of two (2) 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.

(v) The requirements in § (iii) and § (iv) may be satisfied by obtaining a single insurance policy covering both Professional Liability and Cyber Liability.

b) The Company must provide certificates of insurance to the City or its designated certificate tracking service immediately upon request. The Company shall maintain coverage for the duration of this Contract, and any renewal periods if applicable. The Company shall annually provide the City's designated certificate tracking service with a certificate of insurance as evidence that all insurance requirements have been met.

c) If any of the insurance required herein is cancelled or nonrenewed, the Company shall replace such insurance so that no lapse in coverage occurs, and the Company shall provide the City with a revised certificate of insurance evidencing same.

d) The certificates for each insurance policy are to be signed by a person authorized by that insurer. Each insurance carrier used must be 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 minimum rating of A- VII or higher.

e) The Company shall be responsible for all deductibles and self-insurance retentions.

f) [INTENTIONALLY LEFT BLANK].

g) [INTENTIONALLY LEFT BLANK].

h) If the Company uses a subcontractor, the Company shall require such subcontractor to maintain the types and amounts of insurance that the Company deems reasonable in light of the products and services to be provided by such subcontractor.

i) The Company is encouraged to purchase any additional insurance it deems necessary.

A-3 [INTENTIONALLY LEFT BLANK]

A-4 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.

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.

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: (i) repaid immediately by the Company to the City or (ii) at the City's option, credited against any future billings due the Company.

A-5 Limitation of Funding/Non-Appropriation [CAO-4/2020]

The Company acknowledges that City is a governmental entity and the Contract's validity is based upon the availability of public funding under its authority. 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. In addition, and without prejudice or liability to the City, if funds are not appropriated or otherwise made available to support continuation in any fiscal year succeeding the first fiscal year, this Contract will be deemed to have been terminated automatically when appropriated funds expire and are not available. The City shall notify Company in writing of any such non-allocation of funds at the earliest possible date and shall pay Company any reasonable fees earned and costs incurred in performing this Contract for any period prior to such notice.

A-6 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 Company for any work under this Contract. The Company shall make any and all payroll deductions required by law.

(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.

A-7 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.

A-8 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.

A-9 Marketing Restrictions [CAO-4/2020]

The Company shall at all times be in compliance with Las Vegas Municipal Code 1.08.050, and shall 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. The City logo shall not be used without the prior written consent of the City.

A-10 Official, Agent and Employees of the City Not Personally Liable [CAO-01/20/16]

It is agreed by and between the parties of this Contract, 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 Contract.

A-11 Conflict of Interest (City Officials) [CAO-4/2020]

(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.

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EXHIBIT B - SUPPLIER TERMS, CONDITIONS & COVENANTS

LIST OF DOCUMENTS

Section	# Pages
State of Utah RFP No. SK18001 dated July 13, 2018	157
Award Notification dated April 12, 2019	12
Master Agreement No. AR3227 and Attachment A dated September 4, 2019	50
Attachment B, Scope of Services Awarded to Contractor, (not dated)	11
Attachment C, Pricing Discounts & Value Added Services, (not dated)	1
Amendment 1, dated April 1, 2020	1
State of NV Participating Addendum No. 99SWC-NV20-4447, dated April 24, 2020	7

The State of Utah
Division of Purchasing & General Services

In conjunction with

NASPO ValuePoint

Request for Proposals

State of Utah Solicitation Number SK18001

NASPO ValuePoint Master Agreement for Data Communications Products & Services

July 13, 2018

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RFP Administrative Information

Section 1	General Information
Section 2	Solicitation Requirements, Information and Instructions to Offerors
Section 3	Evaluation and Award
Section 4	Administrative and Technical Response Requirements
Section 5	Price and Cost Proposal
Attachment A	NASPO ValuePoint Master Agreement Terms and Conditions
Attachment B	Scope of Work
Attachment B.1	OEM Evaluated Qualifications
Attachment B.2	Category Qualifications
Exhibit 1	Consensus Assessments Initiative Questionnaire (CAIQ)
~~Exhibit 2~~	~~Cloud Controls Matrix (CCM)~~
Attachment C	Contract Manager Resume Template
Attachment D	Fulfillment Partner List
Attachment E	Cost Proposal Form
Attachment F	Interactive Scorecard
Attachment G	Claim of Business Confidentiality Form
Attachment H	NASPO ValuePoint Detailed Sales Reporting Template
Attachment I	States Intent to Participate

RFP Administrative Information

RFP Title:	Data Communications Products & Services
RFP Project Description:	The State of Utah in conjunction with NASPO ValuePoint, is seeking Contractor(s) to provide data communications products and services as described within this RFP.
RFP Lead:	Solomon Kingston, State Contract Analyst State of Utah, Division of Purchasing skingston@utah.gov (801) 538-3228
Electronic Submission:	Proposals must be submitted electronically via Jaggaer (the Utah Public Procurement Place) here: http://bids.sciquest.com/apps/Router/PublicEvent?CustomerOrg=StateOfUtah **Hard copy submissions will not be accepted.** From the Jaggaer link type "SK18001" into the search bar, and click the search icon. The "Data Communications Products & Services" posting will appear.
Deadline To Receive Questions:	**August 17, 2018 at 1pm MDT/MST**
Question & Answers:	All questions, including those about Terms and Conditions, must be submitted through Jaggaer. Question must be submitted by the question deadline date
RFP Closing Date & Time:	**September 11, 2018 at 1pm MDT/MST**
Initial Term of Contract and Renewals:	The initial term of the Contract will be five (5) years with the option, upon mutual written agreement, for two (2) additional renewal periods of one (1) year each. Upon mutual agreement, the contract may be extended or amended.
TAKE NOTE OF THE 0.25% NASPO VALUEPOINT ADMINISTRATIVE FEE DETAILED IN SECTION 6 OF THE NASPO VALUEPOINT STANDARD TERMS AND CONDITIONS, WHICH MUST BE INCORPORATED INTO YOUR BASE PRICE. OTHER STATES MAY NEGOTIATE ADDITIONAL ADMINISTRATIVE FEES IN THEIR PARTICIPATING ADDENDA FOLLOWING AWARD OF A MASTER AGREEMENT.	

REQUEST FOR PROPOSALS
NASPO ValuePoint Data Communications Products & Services
Solicitation # SK18001

This Request for Proposals ("RFP"), having been determined to be the appropriate procurement method to provide the best value to the Lead State, is designed to provide interested Offerors with sufficient basic information to submit proposals. It is not intended to limit a proposal's content or exclude any relevant or essential data. Offerors are at liberty and are encouraged to expand upon the specifications to evidence service capability. This RFP is issued in accordance with State of Utah Procurement Code, Utah Code Annotated (UCA) Chapter 63G-6a, and applicable Rules found in the Utah Administrative Code (UAC). If any provision of this RFP conflicts with the UCA or UAC, the UCA or UAC will take precedence.

SECTION 1: GENERAL INFORMATION

1.1 PURPOSE OF REQUEST FOR PROPOSAL (RFP)

The State of Utah, Division of Purchasing & General Services (Lead State) is requesting proposals for data communications products and services including all customer service, installation, and design services in furtherance of the NASPO ValuePoint Cooperative Purchasing Program. The purpose of this Request for Proposals (RFP) is to establish Master Agreements with qualified original equipment manufacturers (OEM's) to provide data communications products and related services for all Participating Entities. This solicitation does not allow for multiple firms represented by a distributor to respond. This solicitation does not allow for sister companies to team and submit offers. The objective of this RFP is to obtain best value, and in some cases achieve more favorable pricing, than is obtainable by an individual state or local government entity because of the collective volume of potential purchases by numerous state and local government entities. The Master Agreement(s) resulting from this procurement may be used by state governments (including departments, agencies, institutions), institutions of higher education, political subdivisions (i.e., colleges, school districts, counties, cities, etc.), the District of Columbia, territories of the United States, and other eligible entities subject to approval of the individual state procurement director and compliance with local statutory and regulatory provisions.

The State of Utah Division of Purchasing does not guarantee any purchase amount under an awarded contract. Estimated quantities are for solicitation purposes only and are not to be construed as a guarantee.

Each Participating Entity may select the Fulfillment Partner(s) they choose to do business with during the Participating Addendum process. A Participating Entity may require the Fulfillment Partner(s) to submit additional information regarding their firm as part of the selection process during the execution of a Participating Addendum. This information could include, but is not limited to; business references, number of years in business, technical capabilities, information on past projects, and the experience of both their sales and installation personnel.

Each Participating Entity has the option to select one or more product categories or services from the resulting Master Agreement(s) during the execution of the Participating Addendum process.

Each Participating Entity has the option to negotiate an expanded product line within the product category offering and within the scope of this RFP during the Participating Addendum process.

The Awarded Vendor will be the sole point of contract responsibility. The Lead State Contract Administrator and Participating Entities will look solely to the awarded vendor for the performance of all contractual obligations, and the awarded vendor shall not be relieved for the non-performance of any Fulfillment Partner and/or all Subcontractors. Contract requirements such as websites, reporting, etc. are the responsibility of the Awarded Vendor. Awarded Vendors must provide education and guidance on use of the Master Agreement and Participating Addendums.

Lease Option (Optional): Participating Entities reserve the right to determine whether it will utilize leasing options, if available from a selected OEM, during the Participating Addendum process. In addition to providing the proposed categories for Data Communications and related services, Offerors are encouraged to propose rental/financing options, including, but not limited to: lump sum payment, installment sale, rental and the option to lease any Data Communications hardware, supplies, and materials. The selected OEM will identify its rental/lease partner(s). Any State that Issues a Participating Addendum may choose to work with a selected OEM lease partner or obtain other financing or work with other leasing entities of the State's choice. Lease options are optional and are not factored into the evaluation process.

The resulting Master Agreement will be awarded with the understanding and agreement that it is for the sole convenience of the Participating Entities. The Participating Entities reserve the right to obtain like goods or services from other sources when necessary.

This RFP is designed to provide interested offerors with sufficient basic information to submit proposals meeting minimum requirements, but is not intended to limit a proposal's content or exclude any relevant or essential data. Proposals must be concise and as short as possible to allow for efficient evaluation. Blanket marketing material and unnecessary elaborate brochures or representations beyond what is sufficient to present a complete and effective proposals are not acceptable.

Offerors may respond to all or any of the award categories. The product, award categories are outlined in Attachment B – Scope of Work.

1.2 NASPO VALUEPOINT BACKGROUND INFORMATION

NASPO ValuePoint (formerly known as WSCA-NASPO) is a cooperative purchasing program of all 50 states, the District of Columbia and the territories of the United States. The Program is facilitated by the NASPO Cooperative Purchasing Organization LLC, a nonprofit subsidiary of the National Association of State Procurement Officials (NASPO), doing business as NASPO ValuePoint. NASPO is a non-profit association dedicated to strengthening the procurement community through education, research, and communication. It is made up of the directors of the central purchasing offices in each of the 50 states, the District of Columbia and the territories of the United States. NASPO ValuePoint facilitates administration of the cooperative group contracting consortium of state chief procurement officials for the benefit of state departments, institutions, agencies, and political subdivisions and other eligible entities (i.e., colleges, school districts, counties, cities, some nonprofit organizations, etc.) for all states, the District of Columbia, and territories of the United States. For more information consult the following websites www.naspovaluepoint.org and www.naspo.org.

1.3 PARTICIPATING STATES

In addition to the Lead State conducting this solicitation, the other Participating States that have requested to be named in this RFP as potential users of the resulting Master Agreement are listed

below. Other entities may become Participating Entities after award of the Master Agreement. Some States may have included special or unique Terms and Conditions for their state that will govern their state Participating Addendum in Attachment I. These Terms and Conditions are being provided as a courtesy to proposers to indicate which additional Terms and Conditions may be incorporated into that state Participating Addendum after award of the Master Agreement. Each State reserves the right to negotiate additional Terms and Conditions in its Participating Addendums.

The Lead State will not address questions or concerns or negotiate other States' terms and conditions. The Participating States must negotiate these Terms and Conditions directly with the supplier.

State	Est. Volume
CALIFORNIA	$62,000,000.00
COLORADO	$1,477,664
FLORIDA	$36,000,000
HAWAII	$10,000,000
ILLINOIS	N/A
LOUISIANA	$15,000,000
MARYLAND	$20,000,000
MICHIGAN	$16,500,000
MONTANA	$13,000,000
MINNESOTA	$32,000,000
NEW JERSEY	$15,000,000
OREGON	$22,861,935
SOUTH DAKOTA	$1,500,000.00
UTAH	$91,642,561.61
WASHINGTON	$45,929,528.78
Total Est. Volume	**$382,911,689.24**

The information regarding estimated annual usage above has been provided by the individual States and a minimum or maximum level of sales volume is not guaranteed or implied. This is informational data only.

1.4 HISTORIC USAGE

The following information represents historic usage from the current master agreements. No minimum or maximum level of sales volume are guaranteed or implied. This is informational data only.

NASPO ValuePoint Contract Usage Summary

	2014	2015	2016	2017	2018
Total Aggregated Spend Across all States	$272,426,398	$365,617,238	$426,497,493	$449,156,585	

1.5. Lead State, Solicitation Number and Lead State Contract Administrator

The State of Utah, Division of Purchasing and General Services is the Lead State and issuing office for this document and all subsequent addenda relating to it. The reference number for the transaction is Solicitation # SK18001. This number must be referred to on all proposals, correspondence, and documentation relating to the RFP.

The Lead State Contract Administrator identified below is the Single Point of Contact during this procurement process. Offerors and interested persons shall direct to the Lead State Contract Administrator all questions concerning the procurement process, technical requirements of this RFP, contractual requirements, requests for brand approval, changes, clarifications, and protests, the award process, and any other questions that may arise related to this solicitation and the resulting Master Agreement. The Lead State Contract Administrator designated by the State of Utah, Division of Purchasing and General Services is:

Solomon Kingston, State Contract Analyst
State of Utah, Division of Purchasing and General Services
3150 State Office Building
Capitol Hill Complex
450 North State Street
Salt Lake City, UT 84114
skingston@utah.gov
801-538-3228

1.6 QUESTION AND ANSWER PERIOD

All questions MUST be submitted through JAGGAER (SciQuest) (http://bids.sciquest.com/apps/Router/PublicEvent?CustomerOrg=StateOfUtah) during the designated time for questions ("Q&A period") listed on Jaggaer. Questions submitted through any other channel will not be answered. Questions may be answered in the order that they are submitted or may be compiled into one document and answered via an addendum. Answers disseminated by the State through the Jaggaer system shall serve as the official and binding position of the State and will constitute an addendum to this RFP.

Questions, exceptions, or notification to the State of any ambiguity, inconsistency, excessively restrictive requirement, or error in this RFP, MUST be submitted as a question through Jaggaer during the Q&A period.

An answered question or addenda may modify the specification or requirements of this RFP. Answered questions and addendums will be posted on Jaggaer. Offerors should periodically check Jaggaer for answered questions and addendums before the closing date. It is the responsibility of the Offerors to submit their proposal as required by this RFP, including any requirements contained in an answered question and/or addendum(s).

Exceptions to scope/content of the RFP within an Offeror's proposal that have not been previously addressed within the Q&A period of the procurement are not allowed and may result in the Offeror's proposal being considered non-responsive.

1.7 RESERVED

1.8 ADDENDUMS

Offerors are encouraged to periodically check Jaggaer for posted questions, answers and addendums. Offerors will not be notified by the Lead State or Jaggaer for each addendum issued under the RFP.

Any modification to this procurement will be made by addendum issued by the Lead State. Addendums to the RFP may be made for the purpose of making changes to: the scope of work, the schedule, the qualification requirements, the criteria, the weighting, or other requirements of the RFP.

After the due date and time for submitting a proposal to the RFP, at the discretion of the Lead State, addenda to the RFP may be limited to the Offerors that have submitted proposals, provided the addenda does not make a substantial change to the RFP that likely would have impacted the number of Offerors responding to the original publication of the RFP, in the opinion of the Lead State.

Authorized and properly issued addenda shall constitute the official and binding position of the State.

Any response to the RFP which has as its basis any communications or information received from sources other than the RFP or related addenda may be considered non-responsive and be rejected at the sole discretion of the State.

1.9 RESTRICTIONS ON COMMUNICATIONS

From the issue date of the RFP until the contract award(s), Offerors are prohibited from communications regarding the RFP with other Participating Entities EXCEPT the Lead State. Failure to comply with this requirement may result in disqualification.

1.10 E-RATE - UNIVERSAL SERVICE FUND DISCOUNT

To the extent the services offered are subject to the E-rate discount program, all award Contract Vendors must commit to participation in the Federal Communication Commission's E-rate discount program established under authority of the Federal Telecommunications Commission Act of 1996. Participation in, and implementation of, this program must be provided without the addition of any service or administration fee by the Contract Vendor.

In order to participate in E-Rate Offerors must appear on the USAC website as those who have a Service Provider Identification Number or “SPIN.”

E-rate applicants must deduct the value of ineligible components bundled with eligible services unless those ineligible components qualify as “ancillary” to the eligible services under FCC rules. This process is called “cost allocation”. Offeror must separate and illustrate the cost allocation for each component and service in a bundled offering provided to E-rate eligible State entities enabling each entity to properly apply for E-rate coverage of allowable services.

The Offeror shall not currently be subject to the Red Light Rule by the FCC, and will notify the applicant if they are later placed on Red Light Status with the FCC.

The Offeror must be able to honor the applicant’s request for Service Provider Invoicing. Service

Provider Invoicing is a billing arrangement where the Offeror invoices the applicant for the discounted portion of the products and services the applicant requests. The Offeror would invoice USAC for the non-discounted portion of the applicant's products and services as a reimbursement.

1.11 DIVERSE BUSINESS PARTICIPATION

By submitting a proposal to this RFP, the Offeror acknowledges and agrees to provide diverse business participation as outlined in this section and as requested by individual Participating Entities. For information purposes to Participating Entities, please propose to document SK18001 Attachment D-Fulfillment Partner List spreadsheet, which state(s) your business intends to provide local inclusion for these diverse business programs which may then be incorporated in a resulting state's Participating Addendum.

Diverse business participation means direct performance of commercially useful work. Examples of this include, but are not limited to:

- Fulfillment Partner performing services directly to agency customers through a fulfillment partner, distributor, installer type relationship.
- Subcontractors performing a portion of the work that is trackable, payment to the subcontractor can be validated, and the vendor can report usage back to the agency and scope of work performed.

Example of small and diverse businesses are defined as follows:

- Small Business: US Small Business Administration small business.
- Diverse Business (Minority, women, or veteran businesses): federal 8(a)/SDB, federal WBE, federal veteran-owned, nationally certified under a corporate certification program (National Supplier Development Council, Women's Business Enterprise National Council, or other diverse business certification your business recognizes), or certification recognized by one of the participating states.

Many Participating Entities have their own state specific diverse business programs and definitions.

The information provided in response to this section 1.11 will not be factored into an Offeror's qualifications or eligibility for a master agreement.

SECTION 2: SOLICITATION REQUIREMENTS, INFORMATION AND INSTRUCTIONS TO OFFERORS

2.1 SUBMITTING YOUR PROPOSAL

By submitting a proposal to this RFP, the Offeror acknowledges and agrees that the requirements, scope of work, and the evaluation process outlined in this RFP are understood, fair, equitable, and are not unduly restrictive. Any exceptions to the content of this RFP must be addressed within the Q&A period. The Offeror further acknowledges that it has read this RFP. More information regarding submittal requirements are provided within the RFP documents.

All costs incurred by an Offeror in the preparation and submission of a proposal, including any costs incurred during interviews, oral presentations, and/or product demonstrations are the responsibility of the Offeror and will not be reimbursed.

The cost proposal will be evaluated independently from the technical proposal, pursuant to Utah Code Annotated (UCA) § 63G-6a Part 7, and as such, **must** be submitted separate from the technical proposal. Separate, for the purposes of this solicitation, means that a separate document is submitted with the labeling instructions provided in this RFP document. Failure to submit cost or pricing data separately may result in your proposal being judged as non-responsive and ineligible for contract award. For electronic submissions, submitting the cost schedule as a separate document is considered separate.

Proposals must be received by the posted due date and time posted on Jaggaer ("deadline"). Proposals received after the deadline will be late and ineligible for consideration.

Proposals shall be submitted electronically through Jaggaer. We will not accept proposals submitted through any other means. For ease in distributing proposals for evaluation we must have electronic copies received through Jaggaer only.

Electronic submission instructions: When submitting a proposal electronically through Jaggaer, please allow sufficient time to complete the online forms and to upload proposal documents. The RFP will end at the deadline. If an Offeror is in the middle of uploading a proposal when the deadline arrives, the system will stop the upload process and the proposal will not be accepted by Jaggaer, and the attempted submission will be considered late and ineligible for consideration.

Electronic proposals may require uploading of electronic attachments. Jaggaer will accept a wide variety of document types as attachments. However, the State is unable to view certain documents. All documents must be uploaded in Jaggaer as separate files.

2.2 PROPOSAL FORMAT

Proposals should be concise, straightforward and prepared simply and economically. Expensive displays, bindings, or promotional materials are neither desired nor required. However, there is no intent in these instructions to limit a proposal's content or exclude any relevant / essential data.

All Proposals must be submitted in the format outlined below. Offerors must title each document utilizing the names listed below. Proposals must be submitted as separate, individual documents pursuant to the titles listed below. The Jaggaer portal will outline where certain documents are to be submitted within the portal. All other documents may be submitted within the Supplier Attachments section of the Jaggaer portal.

If an Offeror submits a redacted version of a document it should clearly label the document as redacted. Detailed information on submitting each of these documents is provided below.

A. Document: Mandatory Minimum Requirements
This document should constitute the Offeror's point-by-point response to each item described in section 4.1 the RFP.

Title this document upload – [**Vendor Name] Mandatory Minimums Response**

B. Document: OEM Evaluated Qualifications
This document should constitute the Offeror's response Attachment B.1 An Offeror's response must be a specific point-by-point response, in the order listed, to each requirement within Attachment B.1. This document should demonstrate

the Offeror's understanding of the desired overall performance expectations, deliverables, if any, and outcomes. In any case wherein the Offeror cannot comply with an evaluation criterion outlined in section 4.2, such inability must be stated in response to the applicable requirement.

Title this document upload – [**Vendor Name] Attachment B.1 Response**

C. Document: Category Qualification Evaluation

These documents should constitute the Offeror's response Attachment B.2 **for each category Offeror is seeking an award.** An Offeror's response must be a specific point-by-point response, in the order listed, to each requirement within Attachment B.2. A separate Attachment B.2 is required for each category Offeror is seeking an award.

Title these document uploads – [**Vendor Name] [Category #] Attachment B.2 Response**

D. Document: Confidential, Protected or Proprietary Information & Redacted Copy.

As provided in section 2.6, this document is to constitute Offeror's redacted proposal along with Attachment G.

If there is no protected / redacted information, provide a document with "None" in the body.

Failure to comply with this Section and Section 2.6 of the RFP releases the Lead State, NASPO ValuePoint, and Participating Entities from any obligation or liability arising from the inadvertent release of Offeror information.

Title this document – **[Vendor Name] Redacted Proposal**

E. Document: Exceptions and/or Additions to the Standard Terms and Conditions.

Proposed exceptions and/or additions to the Master Agreement Terms and Conditions, including the exhibits, must be submitted in this section. Offeror must provide all proposed exceptions and/or additions, including an Offeror's terms and conditions, license agreements, or service level agreements in Microsoft Word format for redline editing. Offeror must also provide the name, contact information, and access to the person(s) that will be directly involved in terms and conditions negotiations.

If there are no exceptions or additions to the Master Agreement Terms and Conditions, provide a document with "None" in the body.

Title this document – **[Vendor Name] Exceptions Additions to T&Cs**

F. Document: Cost Proposal.

The cost proposal (Attachment E) will be evaluated independently from the technical proposal, pursuant to Utah Code Annotated (UCA) § 63G-6-707(5), and as such, must be submitted separate from the technical proposal. Failure to submit cost or pricing data separately may result in your proposal being judged as non-

responsive and ineligible for contract award. Offeror's cost proposal must include the items provided in section 5.3 of the RFP.

Cost will be evaluated independently from the Mandatory Minimum Requirements, and the Technical responses. Inclusion of any cost or pricing data within the Detailed Technical Proposal will result in the proposal being judged as non-responsive for violation of UCA § 63G-6a-707(5).

Title this document – **[Vendor Name] Attachment E Cost Proposal**

G. Document: Fulfillment Partner List.
This document should constitute Offeror's response to the Attachment D Partner List as described in section 1.1.

Title this document **– [vendor name] Attachment D Fulfillment Partner List**

H. Document: Optional Lease Option Information
Offerors may submit, at their option, information pertaining to Lease Options. If a participating entity is interested in lease options, then they may negotiate terms of a lease option with a contractor or its fulfillment partner during the Participating Addendum process.

If there are no lease options provide a document with "None" in the body.

Title this document – **[Vendor Name] Lease Option Information**

2.3 CONTRACT AWARD INTENT

It is anticipated that the RFP will result in multiple contract awards established by the following multiple award methodology: all offerors that meet/exceed all solicitation minimum requirements and the required evaluation score to be selected for award subject to successful terms and conditions negotiations.

Participating entities may consider execution of Participating Addenda through informal competitions, and Participating entities may base their "best value" selection of the offeror whose qualifications best meet their needs after reviewing qualifications outlined in the offeror's proposal and considering other information in the solicitation process relevant to their determination of best value (such as the proposals and evaluations).

The awarded Master Agreement(s) may be modified by the Lead State as a result of technological upgrades for the procurement item(s). Any modification for upgraded technology must be substantially within the scope of the original procurement or contract, and if both parties agree to the modification, then the contract may be modified, but it may not be extended beyond the term of the original awarded contract unless otherwise permitted by law.

2.4 LENGTH OF CONTRACT

The contracts resulting from this RFP will be for a period of five (5) years, with a an option for two (2) additional renewal periods of one (1) year each. The State reserves the right to review the contract resulting from this RFP on a regular basis regarding performance and cost and may negotiate price/discount % off during the contract's term.

Offeror may offer maintenance / support agreements that extend beyond the resulting Master Agreement term pursuant to Attachment A section 27.

2.4.A DISCUSSIONS

Discussions may be conducted with the Offerors who submit proposals determined to be reasonably susceptible of being selected for award, followed by an opportunity to make best and final offers pursuant to UCA § 63G-6a Part 7, but proposals may be accepted without discussions.

2.5 STANDARD CONTRACT TERMS AND CONDITIONS, EXCEPTIONS, AND NEGOTIATIONS

Any contract resulting from this RFP will include the NASPO ValuePoint Master Agreement Terms and Conditions (Master Agreement Terms and Conditions), Attachment A, including Exhibits to Attachment A.

Exceptions and/or additions to the Master Agreement Terms and Conditions and other requirements of this RFP are strongly discouraged. Any exception and/or addition regarding the **Master Agreement Terms and Conditions** must be made in the Offeror's proposal. **The Lead State will not consider proposed modifications and/or additions to the Master Agreement Terms and Conditions after the deadline for proposals.** Exceptions and/or additions regarding the Master Agreement Terms and Conditions or other RFP provisions must contain the following:

1. The rationale for the specific requirement being unacceptable to the Offeror submitting the exception and/or addition;
2. Recommended verbiage for the Lead State's consideration that is consistent in content, context, and form with the Master Agreement Terms and Conditions;
3. Explanation of how the Lead State's acceptance of the recommended verbiage is fair and equitable to both the Lead State, the Participating Entities, and to the Offeror submitting the modification and/or exception.

Offerors may not submit requests for exceptions and/or additions by reference to an Offeror's website or URL. URLs provided with a proposal may result in that proposal being rejected as non-responsive. Offerors may submit questions during the Q&A period regarding the Master Agreement Terms and Conditions.

The Lead State may refuse to negotiate exceptions and/or additions that are determined to be excessive; that are inconsistent with similar contracts; and to warranties, insurance, or indemnification provisions that are necessary to protect the procurement unit after consultation with the Attorney General's Office or other applicable legal counsel.

For the RFP, the Lead State reserves the right to negotiate exceptions and/or additions to terms and conditions in a manner resulting in expeditious resolutions. This process may include beginning negotiations with the qualified Offeror having the least amount of exceptions and/or additions and concluding with the Offeror submitting the greatest number of exceptions and/or additions. Contracts may be executed and become effective as negotiations are completed; however, all of the resulting Master Agreement(s) will terminate on the same date.

If negotiations are required, Offeror must provide all documents **in Microsoft Word format** for redline editing. Offeror must also provide the name, contact information, and access to the person(s) that will be directly involved in legal negotiations.

An award resulting from the RFP is subject to successful contract terms and conditions negotiation (if required). The Lead State, at its sole discretion, will determine when contract terms and conditions negotiations become unproductive and will result in termination of award to that Offeror.

2.6 PROTECTED INFORMATION

The Government Records Access and Management Act (GRAMA), UCA § 63G-2-305, provides in part that:

> *the following records are protected if properly classified by a government entity:*
> *(1) trade secrets as defined in Section 13-24-2, the Utah Uniform Trade Secrets Act, if the person submitting the trade secret has provided the governmental entity with the information specified in UCA § 63G-2-309 (Business Confidentiality Claims);*
> *(2) commercial information or non-individual financial information obtained from a person if:*
>
> > *(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;*
> > *(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and*
> > *(c) the person submitting the information has provided the governmental entity with the information specified in UCA § 63G-2-309;*
> > * * * * *
>
> *(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties, ...*

Pricing may not be classified as confidential or protected and will be considered public information after award of the contract.

Process for Requesting Non-Disclosure: Any Offeror requesting that a record be protected shall include with the proposal a Claim of Business Confidentiality. To protect information under a Claim of Business Confidentiality, the Offeror must complete the Claim of Business Confidentiality form with the following information:

1. Provide a written Claim of Business Confidentiality at the time the information (proposal) is provided to the state, and
2. Include a concise statement of reasons supporting the claim of business confidentiality (UCA § 63G-2-309(1)).
3. Submit an electronic "redacted" (excluding protected information) copy of the record. The redacted copy must clearly be marked "Redacted Version."

The Claim of Business Confidentiality Form is provided as Attachment G.

An entire proposal cannot be identified as "PROTECTED", "CONFIDENTIAL" or "PROPRIETARY", and if so identified, shall be considered non-responsive unless the Offeror removes the designation.

Redacted Copy: If an Offeror submits a proposal that contains information claimed to be

business confidential or protected information, the Offeror must submit two separate proposals: one redacted version for public release, with all protected business confidential information either blacked-out or removed, clearly marked as "Redacted Version"; and one non-redacted version for evaluation purposes, clearly marked as "Protected Business Confidential."

The Lead State and NASPO ValuePoint are not liable or responsible for the disclosure of any confidential or proprietary information if the Offeror fails to follow the instructions of this section.

2.7 INTERVIEWS AND PRESENTATIONS

The evaluation committee does not intend to conduct interviews or presentations but we reserve the right to do so if it is determined to be in the best interest of the Lead State. Interviews and presentations may be held at the option of the Lead State. The Lead State shall establish a date and time for the interviews or presentations and shall notify eligible Offerors of the procedures. Offerors invited to interviews or presentations shall be limited to those Offerors meeting the mandatory minimum requirements and mandatory minimum technical score threshold specified in the RFP. Representations made by an Offeror during interviews or presentations shall become an addendum to the Offeror's proposal and shall be documented. Representations must be consistent with Offeror's original proposal and may only be used for purposes of clarifying or filling in gaps in Offeror's proposal. Interviews and presentations will be at Offeror's expense.

2.8 RIGHT TO PUBLISH

Throughout the duration of this procurement and Master Agreement term, Offerors, OEM's and their Fulfillment Partners must secure from the Lead State prior approval for the release of any information that pertains to the potential work or activities covered by this procurement or the Master Agreement. The OEM must not make any representations of Utah's or the ValuePoint cooperative's opinion or position as to the quality or effectiveness of the products and/or services that are the subject of this Master Agreement without prior written consent of the Lead State. Failure to adhere to this requirement may result in disqualification of the Offerors proposal or termination of the Master Agreement for cause.

2.9 CHANGES IN REPRESENTATION

The Contracted Manufacturer must notify the Lead State of changes in the Contracted Manufacturer's Contract Administrator or Contract Usage Report Administrator, in advance and in writing and upon approval by the Lead State. The Lead State reserves the right to require a change in Contracted Supplier(s) representatives if the assigned representative(s) is not, in the opinion of the Lead State, meeting the Terms and Conditions of the contract.

2.10 STATE SEAL USE

The Utah Great Seal Rule states, in section R622-2-3.Custody and Use, that "no facsimile or reproduction of the Great Seal may be manufactured, used, displayed, or otherwise employed by anyone without the written approval of the Lieutenant Governor."

Other Participating Entities have similar rules that must be adhered to by offerors or interested parties.

2.11 USAGE REPORTING AND ADMINISTRATIVE FEE REQUIREMENT

Refer to Terms and Conditions for NASPO ValuePoint usage reporting and administrative fee requirements. Some States may require additional usage reporting and administrative fee be paid directly to the State only on purchases made by Purchasing Entities within that State. For all such requests, the fee level, payment method and schedule for such reports and payments

will be incorporated into the Participating Addendum that is made part of the Master Agreement. The Contractor may adjust the Master Agreement pricing accordingly for purchases made by Purchasing Entities within the jurisdiction of the State.

2.12 GLOSSARY

Authorized Representative: An individual with the authority to legally bind the Offeror to the Terms and Conditions of the Master Agreement (s) established as a result of this RFP. This individual must have the authority and ability to accurately reflect the ability of the Offeror to meet the requirements detailed in this RFP.

Contract Administrator: A dedicated person with the authority and ability to manage compliance with the scope and Terms and Conditions for this contract.

Contracted Supplier or Contractor or Contracted OEM Supplier: An Original Equipment Manufacturer (OEM) of the offered Data Communications products that has been awarded a Master Agreement as a result of this procurement.

Lead State: The State issuing the Request for Proposal, in this case, Utah.

Mandatory Minimum Requirements: Requirements that must be met in order to be considered for further evaluation. Mandatory minimum requirements are non-negotiable. An offer that does not meet the mandatory minimum requirements will be disqualified from further consideration.

Master Agreement: The underlying agreement executed by and between the Lead State, acting on behalf of NASPO ValuePoint and the Contractor, as now or hereafter amended.

NASPO ValuePoint: Unified, nationally focused cooperative allegiance aggregating the demand of all 50 states, the District of Columbia and the organized US territories, their political subdivisions and other eligible entities, spurring best innovation and competition in the marketplace. See http://www.naspovaluepoint.com/ for more information.

OEM: Original Equipment Manufacturer of the data communications products and services.

Participating Addendum: A Participating Addendum must be executed by any State that decides to adopt a NASPO ValuePoint Master Agreement. A Participating Addendum must be executed for each Contractor by the individual State desiring to use their contract. Additional States may be added with the consent of the Contractor and the Lead State (on behalf of NASPO ValuePoint) through execution of Participating Addendums. A Participating Addendum allows for each Participating State to add Terms and Conditions that may be unique to their State.

The Participating State and the Contractor must negotiate and agree upon any additional Terms and Conditions prior to the signing and execution of the Participating Addendum. States are not mandated to sign a Participating Addendum with all awarded vendors.

Participating Entity: A state, or other legal entity, properly authorized to enter into a Participating Addendum. See Attachment A.

Price Guarantee Period: One (1) Year.

Published Commercial Price List: Manufacturer's Price list, also known as the list price.

Purchasing Entity: A state (as well as the District of Columbia and U.S territories), city, county, district, other political subdivision of a State, and a nonprofit organization under the laws of some states if authorized by a Participating Addendum, that issues a Purchase Order against the Master Agreement and becomes financially committed to the purchase.

Qualified Entity: An entity that is eligible to use the Master Agreement(s).

Usage Report Administrator: A person responsible for the quarterly sales reporting and payments described in this RFP.

SECTION 3: EVALUATION AND AWARD

3.1 PROPOSAL EVALUATION

All proposals in response to this RFP will be evaluated in a manner consistent with the Utah Procurement Code, Administrative Rules, policies and the evaluation criteria in this RFP. Offerors bear sole responsibility for the items included or not included within the submitted proposal. Each area of the evaluation criteria must be addressed in detail in the proposal. Each product category will be awarded separately. Offeror's may respond to one or any of the product categories.

The Lead State reserves the right to very that Offeror's proposal meets the required mandatory minimums and technical requirements.

3.2 PROPOSAL EVALUATION PROCESS

Stage 1: Initial Review

In the initial phase of the evaluation process, the Lead State will review all proposals timely received. The mandatory minimum requirements are provided in Section 4.1, and will scored on a pass/fail basis. A "Fail" on any one criteria will result in a proposal being deemed non-responsive. Failure to provide a response to each Mandatory requirement will result in disqualification. These requirements are summarized below.

Mandatory Minimum Requirements	RFP Section	Pass/Fail
RFP Development	4.1.1	Pass/Fail
Evaluation of Proposals	4.1.2	Pass/Fail
Proposed Categories	4.1.3	Pass/Fail
Delivery	4.1.4	Pass/Fail
Credit Rating	4.1.5	Pass/Fail
OEMs Only	4.1.6	Pass/Fail

Non-responsive proposals not conforming to the RFP requirements or unable to meet the mandatory minimum requirements will be eliminated from further consideration. Offerors that meet all minimum requirements will move on to the Stage 2 evaluation.

Stage 2: OEM Evaluated Qualifications

Responsive proposals will be evaluated by an evaluation committee appointed by the Lead State against the criteria described in Section 4.2 OEM Evaluated Qualifications.

The listed criteria in Section 4.2 are weighted as follows:

Evaluation Criteria	RFP Section	Points Possible
Company Profile and References	4.2.1	50.0
Ability to Supply NASPO ValuePoint Member States	4.2.2	50.0
Ability to Provide Technical Support to End Users	4.2.3	50.0
Qualifications and Technical Ability	4.2.4	25.0
Security	4.2.5	50.0
Environmental	4.2.6	25.0
Total Stage 2 Points		*250.0 points*

The evaluation committee will tally the final scores for the OEM Evaluated Qualifications criteria to arrive at a consensus score by averaging the individual scores. Offerors that achieve the **minimum score threshold of 162.5 points within the Stage 2** evaluation will proceed to the

Stage 3 Category Qualification Evaluation. Offeror's who do not achieve the required minimum score threshold will be disqualified and eliminated from further consideration.

Stage 3: Category Qualification Evaluation
Responsive proposals that meet the minimum score threshold from Stage 2 will then be evaluated for responsiveness in each Category that Offeror is seeking an award in.

The listed criteria in Section 4.3 are weighted as follows:

Evaluation Criteria	RFP Section	Points Possible
Ability to meet Requirements of Selected Category	4.3.1	100.0
Consumption Models	4.3.2	25.0
Category Specific Security	4.3.3	50.0
Open Standards and Interoperability	4.3.4	50.0
Value Added Services	4.3.5	25.0
Total Stage 3 Points Per Category		*250.0 points*

The total possible points and the minimum score threshold that must be achieved for each Category that Offeror is seeking an award in are as follows:

Award Categories	**Total Points Possible**	**Stage 3: Minimum Threshold**
Unified Communications	250.0	175.0
Networking	250.0	175.0
Routers, Switches, Security, and Storage Networking	250.0	175.0
Wireless	250.0	175.0
Facility Management, Monitoring, and Control	250.0	175.0

The evaluation committee will tally the final scores for in each Category to arrive at a consensus score by averaging the individual evaluator scores.

Proposals that achieve the minimum score threshold listed above for a given Award Category will proceed to the Final Stage: Cost Proposal Evaluation. Offerors with a score of less than the minimum required technical points (Minimum Threshold) will be deemed non-responsive and ineligible for further consideration.

The evaluation score sheet has been attached to this RFP (Attachment F) for reference. This provided scoresheet states the relative weight for each evaluation criteria.

Final Stage: Cost Proposal Evaluation
Offerors successful in the Stage 3 Product Qualification Evaluation will advance to the Final Stage: Cost Proposal Evaluation. At this stage, the Lead State will then separate all responsive proposals into the following groups:

- Group 1: those Offerors whose proposal qualifies for all Award Categories.

- Group 2: those Offerors whose proposal qualifies one or more Award Categories, but not all Award Categories.

The Minimum Discount % off within Group 1 proposals will be compared against the Group 1 proposals. The Minimum Discount % off within Group 2 proposals will be compared against the

Group 2 proposals.

Group 1 – Within Group 1, the Offeror with the highest proposed Average Minimum Discount % off List for all Award Categories (See Attachment E) will receive 166.7 cost points. All other Offerors within Group 1 will receive a percentage of the cost points possible based on the percentage by which their proposed discount % is lower than the highest discount % in the given category. The formula to compute cost points is: **(Proposed Average Discount % / Highest Average Minimum Discount %) * Total Cost Points Available.**

Group 2 – Within Group 2, the Offeror with the highest proposed Minimum Discount % off List for the given Award Category 166.7 cost points. All other Offerors within Group 2 will receive a percentage of the cost points possible based on the percentage by which their proposed discount % is lower than the highest discount % in the given category. The formula to compute cost points is: **(Proposed Minimum Discount % / Highest Minimum Discount %) * Total Cost Points Available.**

Refer to Section 5 below and Attachment E for additional information pertaining to the cost evaluation.

3.3 AWARD OF MASTER AGREEMENT(S)

In order to be eligible for a contract award under this RFP a proposal must have a combined total score, of OEM, technical points, and cost points meeting the minimum threshold for award for the given Category as provided below:

Product Category	Total Possible Technical Points*	Total Possible Cost Points	Grand Total Possible Points	Minimum Threshold for Award
Unified Communications	500.0	166.7	666.7	466.69
Networking	500.0	166.7	666.7	466.69
Routers, Switches, Security, and Storage Networking	500.0	166.7	666.7	466.69
Wireless	500.0	166.7	666.7	466.69
Facility Management, Monitoring, and Control	500.0	166.7	666.7	466.69

**Technical Points is a combination of Stage 2 and Stage 3 Technical Points.*

All Offerors whose proposals meet or exceed this minimum threshold for award in a given Category are determined to provide the best value. After final selections are made, the Lead State will issue an intent-to-award announcement by letter to all responsive Offerors.

3.4 PROTEST PROCESS

Offerors are directed to Utah Code Part 16 and Utah Administrative Code Rule R16 available at http://le.utah.gov/xcode/Title63G/Chapter6a/63G-6a-S1601.html and http://www.rules.utah.gov/publicat/code/r033/r033-016.htm for available protest processes.

3.5 PUBLICIZING AWARD(S)

The Lead State shall, on the next business day after the award of a contract(s) is announced,

make available to each Offeror and to the public a written justification statement that includes:

(a) the name of the offeror to which the contract is awarded and the total score awarded by the evaluation committee to that offeror;

(b) the justification statement under UCA § 63G-6a-708, including any required cost-benefit analysis; and

(c) the total score awarded by the evaluation committee to each offeror to which the contract is not awarded, without identifying which offeror received which score.

SECTION 4: ADMINISTRATIVE AND TECHNICAL RESPONSE REQUIREMENTS

4.1 Mandatory Minimum Requirements

This section contains mandatory minimum requirements that must be met in order for an offer to be considered responsive.

Failure to meet any one of the mandatory requirements/qualifications will result in the proposal being rejected pursuant to UCA § 63G-6a-704 and the proposal will not move forward in the evaluation process. All of the items described in this section are non-negotiable. A rejection of a proposal due to a proposal not meeting mandatory minimum requirements can occur at any time that the non-compliance is discovered.

4.1.1 RFP Development. Did your company, an employee, agent, or representative of your company, or any affiliated entity participate in developing any component of this solicitation? For purposes of this question, business concerns, organizations, or individuals are affiliates of each other if, directly or indirectly: (1) either one controls or has power to control the other or (2) a third party controls or has the power to control both. Indicia of control include, but are not limited to, interlocking management or ownership, identity of interests among family members, shared facilities or equipment, and common use of employees. A response of other than "no" is subject to disqualification.

4.1.2 Evaluation of Proposals. Will your company, or an employee, agent, or representative of your company, participate in the evaluation of the proposals received in response to this RFP? A response of other than "no" is subject to disqualification.

4.1.3 Proposed Categories. Identify all categories your firm is seeking an award in from the following:

1. Unified Communications
2. Networking
3. Routers, Switches, Security, and Storage Networking
4. Wireless
5. Facility Management, Monitoring, and Control

4.1.4 Delivery. The extended prices are the delivered price to any Purchasing Entity. The extended price must reflect the minimum discount % off list price, as well as the price to deliver the item/services to the Purchasing Entity. See Attachment A section 14 for the required shipping and delivery. Offeror shall affirm its' acknowledgement of this requirement.

4.1.5 Credit Rating. Vendor must meet a minimum Dun and Bradstreet (D&B) credit rating of 3A2 or better, or a recognized equivalent rating. Please provide the Respondent's D&B Number and the composite credit rating. The State reserves the right to verify this information. If a branch or wholly owned subsidiary is bidding on this RFP, please provide the D&B Number and score for the parent company that will be financially responsible for performance of the agreement.

4.1.6 OEMs Only. Master Agreements will only be established with qualified Original Equipment Manufacturers (OEM's) resulting from this Data Communication's Products and Services RFP. Offeror must affirm its acknowledgement of this requirement, and that it is the OEM of all proposed solutions, hardware, services, etc. within its proposal.

4.2 OEM EVALUATED QUALIFICATIONS

Offeror's who meet all mandatory minimum requirements outlined above will then be evaluated on the qualifications detailed in Attachment B.1.

4.2.1 Company Profile and References
4.2.2 Ability to Supply NASPO ValuePoint Member States
4.2.3 Ability to Provide Technical Support to End Users
4.2.4 Qualifications and Technical Ability
4.2.5 Security
4.2.6 Environmental

All Offerors are required to complete and submit a point by point response to the items detailed in Attachment B.1, in the format provided in Attachment B.1.

4.3 CATEGORY QUALIFICATIONS

Offerors who meet all mandatory minimum requirements from section 4.1, and the required score thresholds for the criteria outlined in section 4.2, will then be evaluated on the following items for EACH category Offeror is seeking an award. Non-responsive proposals not conforming to RFP or unable to meet the Stage 2 required thresholds will be disqualified and eliminated from further consideration. All Offerors are required to complete and submit a point by point response to the following items detailed in Attachment B.2 **for each category Offeror is seeking an award** (i.e., if Offeror is seeking qualification in Categories 1.1 and 1.2, then Offeror must complete Attachment B.2 twice, once for each category Offeror is seeking an award):

4.3.1 Ability to meet Scope/Service Requirements of Selected Category
4.3.2 Consumption Models
4.3.3 Category Specific Security
4.3.4 Open Standards and Interoperability
4.3.5 Value Added Services

SECTION 5: COST INFORMATION AND COST PROPOSAL

5.1 PRICE GUARANTEE PERIOD

All pricing must be guaranteed as provided within Attachment A section 11. Price increases or decreases during the contract term will be resolved pursuant to Attachment A section 11.

5.2 PRODUCT LINE ADDITIONS AND FULFILLMENT PARTNER UPDATES

During the term of the contract, Data Communications Providers may submit a request to update the awarded items (within the scope listed in Attachment B) as new technology is introduced, updated or removed from the market. The Master Agreement Administrator will evaluate requests and update the contract offering as appropriate. The Data Communications Service Provider shall update the dedicated website, price lists, and catalogs to reflect approved changes. Pricing must utilize the same pricing structure as was used for services falling into the same service category.

The process for adding or removing a fulfillment partner at the State level may be negotiated and described in the Participating Addendum. Each participating State may determine, negotiate with the contractor, and describe the process in the Participating Addendum. Contractors shall follow the process described in the Participating Addendum for each State when adding or removing a fulfillment partner per State.

5.3 COST PROPOSAL

Given that technology products generally depreciate over time and go through typical product lifecycles, it is more favorable for Purchasing Entities to have the Master Agreement be based on minimum discounts off the Offeror's' commercially published pricelists versus fixed pricing. (Orders, however, will be fixed-price or fixed-rate and not cost reimbursable contracts.) In addition, Offerors will have the ability to update and refresh their respective price catalog, as long as the agreed-upon discounts are fixed, subject to prior approval by the Lead State.

Offeror must identify its offered Minimum Discount % off List within Attachment E.

The Minimum Discount % off List shall be firm fixed for the duration of the contract. However, the list prices may fluctuate through the life of the contract, as provided herein this Section 5. Offeror may offer increased discounts upon achievement of contract volume milestones. Minimum guaranteed contract discounts do not preclude an Offeror and/or its authorized resellers from providing deeper or additional, incremental discounts at their sole discretion. Purchasing entities shall benefit from any promotional pricing offered by the Contractor to similar customers. Promotional pricing shall not be cause for a permanent price change.

An Offeror's price catalog should be clear and readable. All firms awarded a particular Category will be awarded their entire product line within the scope of the product category. Participating Entities, in reviewing an Offeror's Master Agreement, will take into account the discount offered by the Offeror along with the transparent, publicly available, up-to-date pricing and tools that will allow customers to evaluate their pricing.

Individual Participating Addendums may use a vendor's proposed minimum discount percentage off (Attachment E), and offered catalog, as a base and may elect to negotiate an adjusted (i.e., greater) minimum discount percentage off.

Value Added Services. Some Participating Entities may desire to use an Offeror for other related application modifications to optimize or deploy hardware and service applications. Responses to the RFP must include hourly rates by job specialty for use by Participating Entities for these types

of database/application administration, systems engineering & configuration services and consulting throughout the contract period. The hourly rates should be a fully burdened rate that includes labor, overhead, and any other costs related to the service. The specific rate (within a range) charged for each proposed contracted service would be the lowest rate shown unless justified in writing and approved by the Lead State. Any of these valued-added services must be included in your cost proposal, e.g., by an hourly rate.

Attachment A: NASPO ValuePoint Master Agreement Terms and Conditions

1. Master Agreement Order of Precedence

a. Any Order placed under this Master Agreement shall consist of the following documents:

(1) A Participating Entity's Participating Addendum ("PA");
(2) NASPO ValuePoint Master Agreement Terms & Conditions;
(3) A Purchase Order issued against the Master Agreement, including a Service Level Agreement;
(4) The Solicitation; and
(5) Contractor's response to the Solicitation, as revised (if permitted) and accepted by the Lead State.

b. These documents shall be read to be consistent and complementary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above. Contractor terms and conditions that apply to this Master Agreement are only those that are expressly accepted by the Lead State and must be in writing and attached to this Master Agreement as an Exhibit or Attachment.

2. Definitions - Unless otherwise provided in this Master Agreement, capitalized terms will have the meanings given to those terms in this Section.

Acceptance is defined by the applicable commercial code, except Acceptance shall not occur before the completion of delivery in accordance with the Order, installation if required, and a reasonable time for inspection of the Product.

Contractor means the person or entity delivering Products or performing services under the terms and conditions set forth in this Master Agreement.

Data means all information, whether in oral or written (including electronic) form, created by or in any way originating with a Participating Entity or Purchasing Entity, and all information that is the output of any computer processing, or other electronic manipulation, of any information that was created by or in any way originating with a Participating Entity or Purchasing Entity, in the course of using and configuring the Services provided under this Agreement.

Data Breach means any actual or reasonably suspected non-authorized access to or acquisition of computerized Non-Public Data or Personal Data that compromises the security, confidentiality, or integrity of the Non-Public Data or Personal Data, or the

ability of Purchasing Entity to access the Non-Public Data or Personal Data.

Disabling Code means computer instructions or programs, subroutines, code, instructions, data or functions, (including but not limited to viruses, worms, date bombs or time bombs), including but not limited to other programs, data storage, computer libraries and programs that self-replicate without manual intervention, instructions programmed to activate at a predetermined time or upon a specified event, and/or programs purporting to do a meaningful function but designed for a different function, that alter, destroy, inhibit, damage, interrupt, interfere with or hinder the operation of the Purchasing Entity's' software, applications and/or its end users processing environment, the system in which it resides, or any other software or data on such system or any other system with which it is capable of communicating.

Embedded Software means one or more software applications which permanently reside on a computing device.

Fulfillment Partner means a third-party contractor qualified and authorized by Contractor, and approved by the Participating State under a Participating Addendum, who may, to the extent authorized by Contractor, fulfill any of the requirements of this Master Agreement including but not limited to providing Services under this Master Agreement and billing Customers directly for such Services. Contractor may, upon written notice to the Participating State, add or delete authorized Fulfillment Partners as necessary at any time during the contract term. Fulfillment Partner has no authority to amend this Master Agreement or to bind Contractor to any additional terms and conditions.

Intellectual Property means any and all patents, copyrights, service marks, trademarks, trade secrets, trade names, patentable inventions, or other similar proprietary rights, in tangible or intangible form, and all rights, title, and interest therein.

Lead State means the State centrally administering any resulting Master Agreement(s).

Master Agreement means the underlying agreement executed by and between the Lead State, acting on behalf of the NASPO ValuePoint program, and the Contractor, as now or hereafter amended.

NASPO ValuePoint is the NASPO Cooperative Purchasing Organization LLC, doing business as NASPO ValuePoint, a 501(c)(3) limited liability company that is a subsidiary organization the National Association of State Procurement Officials (NASPO), the sole member of NASPO ValuePoint. NASPO ValuePoint facilitates administration of the NASPO cooperative group contracting consortium of state chief procurement officials for the benefit of state departments, institutions, agencies, and political subdivisions and other eligible entities (i.e., colleges, school districts, counties, cities, some nonprofit organizations, etc.) for all states, the District of Columbia, and territories of the United States. NASPO ValuePoint is identified in the Master Agreement as the recipient of reports and may perform contract administration functions relating to collecting and

receiving reports as well as other contract administration functions as assigned by the Lead State.

Order or **Purchase Order** means any purchase order, sales order, contract or other document used by a Purchasing Entity to order the Products.

Participating Addendum means a bilateral agreement executed by a Contractor and a Participating Entity incorporating this Master Agreement and any other additional Participating Entity specific language or other requirements, e.g. ordering procedures specific to the Participating Entity, other terms and conditions.

Participating Entity means a state, or other legal entity, properly authorized to enter into a Participating Addendum.

Participating State means a state, the District of Columbia, or one of the territories of the United States that is listed in the Request for Proposal as intending to participate. Upon execution of the Participating Addendum, a Participating State becomes a Participating Entity; however, a Participating State listed in the Request for Proposal is not required to participate through execution of a Participating Addendum.

Personal Data means data alone or in combination that includes information relating to an individual that identifies the individual by name, identifying number, mark or description can be readily associated with a particular individual and which is not a public record. Personal Information may include the following personally identifiable information (PII): government-issued identification numbers (e.g., Social Security, driver's license, passport); financial account information, including account number, credit or debit card numbers; or Protected Health Information (PHI) relating to a person.

Product means any equipment, software (including embedded software), documentation, service or other deliverable supplied or created by the Contractor pursuant to this Master Agreement. The term Products, supplies and services, and products and services are used interchangeably in these terms and conditions.

Purchasing Entity means a state (as well as the District of Columbia and U.S territories), city, county, district, other political subdivision of a State, and a nonprofit organization under the laws of some states if authorized by a Participating Addendum, that issues a Purchase Order against the Master Agreement and becomes financially committed to the purchase.

Services mean any of the specifications described in the Scope of Services that are supplied or created by the Contractor pursuant to this Master Agreement.

Security Incident means the possible or actual unauthorized access to a Purchasing Entity's Non-Public Data and Personal Data the Contractor believes could reasonably result in the use, disclosure or theft of a Purchasing Entity's Non-Public Data within the possession or control of the Contractor. A Security Incident also includes a major

security breach to the Contractor's system, regardless if Contractor is aware of unauthorized access to a Purchasing Entity's Non-Public Data. A Security Incident may or may not turn into a Data Breach.

Service Level Agreement (SLA) means a written agreement between both the Purchasing Entity and the Contractor that is subject to the terms and conditions in this Master Agreement and relevant Participating Addendum unless otherwise expressly agreed in writing between the Purchasing Entity and the Contractor. SLAs should include: (1) the technical service level performance promises, (i.e. metrics for performance and intervals for measure), (2) description of service quality, (3) identification of roles and responsibilities, (4) remedies, such as credits, and (5) an explanation of how remedies or credits are calculated and issued.

Solicitation means the documents used by the State of Utah, as the Lead State, to obtain Contractor's Proposal.

Statement of Work means a written statement in a solicitation document or contract that describes the Purchasing Entity's service needs and expectations.

NASPO ValuePoint Program Provisions

3. Term of the Master Agreement

a. The initial term of this Master Agreement is for five (5) years. This Master Agreement may be extended beyond the original contract period for two (2) additional years at the Lead State's discretion and by mutual agreement and upon review of requirements of Participating Entities, current market conditions, and Contractor performance.

b. The Master Agreement may be extended for a reasonable period of time, not to exceed six months, if in the judgment of the Lead State a follow-on, competitive procurement will be unavoidably delayed (despite good faith efforts) beyond the planned date of execution of the follow-on master agreement. This subsection shall not be deemed to limit the authority of a Lead State under its state law otherwise to negotiate contract extensions.

4. Amendments

The terms of this Master Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written agreement of the Lead State and Contractor.

5. Participants and Scope

a. Contractor may not deliver Products under this Master Agreement until a Participating Addendum acceptable to the Participating Entity and Contractor is executed. The NASPO ValuePoint Master Agreement Terms and Conditions are applicable to any Order by a Participating Entity (and other Purchasing Entities covered by their Participating Addendum), except to the extent altered, modified, supplemented or

amended by a Participating Addendum. By way of illustration and not limitation, this authority may apply to unique delivery and invoicing requirements, confidentiality requirements, defaults on Orders, governing law and venue relating to Orders by a Participating Entity, indemnification, and insurance requirements. Statutory or constitutional requirements relating to availability of funds may require specific language in some Participating Addenda in order to comply with applicable law. The expectation is that these alterations, modifications, supplements, or amendments will be addressed in the Participating Addendum or, with the consent of the Purchasing Entity and Contractor, may be included in the ordering document (e.g. purchase order or contract) used by the Purchasing Entity to place the Order.

b. Use of specific NASPO ValuePoint cooperative Master Agreements by state agencies, political subdivisions and other Participating Entities (including cooperatives) authorized by individual state's statutes to use state contracts are subject to the approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the respective State Chief Procurement Official.

c. Obligations under this Master Agreement are limited to those Participating Entities who have signed a Participating Addendum and Purchasing Entities within the scope of those Participating Addenda. States or other entities permitted to participate may use an informal competitive process to determine which Master Agreements to participate in through execution of a Participating Addendum. Financial obligations of Participating Entities who are states are limited to the orders placed by the departments or other state agencies and institutions having available funds. Participating Entities who are states incur no financial obligations on behalf of other Purchasing Entities. Contractor shall email a fully executed PDF copy of each Participating Addendum to PA@naspovaluepoint.org to support documentation of participation and posting in appropriate data bases.

d. NASPO Cooperative Purchasing Organization LLC, doing business as NASPO ValuePoint, is not a party to the Master Agreement. It is a nonprofit cooperative purchasing organization assisting states in administering the NASPO cooperative purchasing program for state government departments, institutions, agencies and political subdivisions (e.g., colleges, school districts, counties, cities, etc.) for all 50 states, the District of Columbia and the territories of the United States.

e. Participating Addenda shall not be construed to amend the following provisions in this Master Agreement between the Lead State and Contractor that prescribe NASPO ValuePoint Program requirements: Term of the Master Agreement; Amendments; Participants and Scope; Administrative Fee; NASPO ValuePoint Summary and Detailed Usage Reports; NASPO ValuePoint Cooperative Program Marketing and Performance Review; NASPO ValuePoint eMarketCenter; Right to Publish; Price and Rate Guarantee Period; and Individual Customers. Any such language shall be void and of no effect.

f. Participating Entities who are not states may under some circumstances sign their own Participating Addendum, subject to the consent to participation by the Chief Procurement Official of the state where the Participating Entity is located. Coordinate requests for such participation through NASPO ValuePoint. Any permission to participate through execution of a Participating Addendum is not a determination that procurement authority exists in the Participating Entity; they must ensure that they have the requisite procurement authority to execute a Participating Addendum.

g. **Resale**. "Resale" means any payment in exchange for transfer of tangible goods, software, or assignment of the right to services. Subject to any specific conditions included in the solicitation or Contractor's proposal as accepted by the Lead State, or as explicitly permitted in a Participating Addendum, Purchasing Entities may not resell Products (the definition of which includes services that are deliverables). Absent any such condition or explicit permission, this limitation does not prohibit: payments by employees of a Purchasing Entity for Products; sales of Products to the general public as surplus property; and fees associated with inventory transactions with other governmental or nonprofit entities and consistent with a Purchasing Entity's laws and regulations. Any sale or transfer permitted by this subsection must be consistent with license rights granted for use of intellectual property.

6. Administrative Fees

a. The Contractor shall pay to NASPO ValuePoint, or its assignee, a NASPO ValuePoint Administrative Fee of one-quarter of one percent (0.25% or 0.0025) no later than sixty (60) days following the end of each calendar quarter. The NASPO ValuePoint Administrative Fee shall be submitted quarterly and is based on all sales of products and services under the Master Agreement (less any charges for taxes or shipping). The NASPO ValuePoint Administrative Fee is not negotiable. This fee is to be included as part of the pricing submitted with proposal.

b. Additionally, some states may require an additional fee be paid directly to the state only on purchases made by Purchasing Entities within that state. For all such requests, the fee level, payment method and schedule for such reports and payments will be incorporated into the Participating Addendum that is made a part of the Master Agreement. The Contractor may adjust the Master Agreement pricing accordingly for purchases made by Purchasing Entities within the jurisdiction of the state. All such agreements shall not affect the NASPO ValuePoint Administrative Fee percentage or the prices paid by the Purchasing Entities outside the jurisdiction of the state requesting the additional fee. The NASPO ValuePoint Administrative Fee in subsection 6a shall be based on the gross amount of all sales (less any charges for taxes or shipping) at the adjusted prices (if any) in Participating Addenda.

7. NASPO ValuePoint Summary and Detailed Usage Reports

In addition to other reports that may be required by this solicitation, the Contractor shall provide the following NASPO ValuePoint reports.

a. Summary Sales Data. The Contractor shall submit quarterly sales reports directly to

NASPO ValuePoint using the NASPO ValuePoint Quarterly Sales/Administrative Fee Reporting Tool found at http://calculator.naspovaluepoint.org. Any/all sales made under this Master Agreement shall be reported as cumulative totals by state. Even if Contractor experiences zero sales during a calendar quarter, a report is still required. Reports shall be due no later than thirty (30) days following the end of the calendar quarter (as specified in the reporting tool).

b. Detailed Sales Data. Contractor shall also report detailed sales data by: (1) state; (2) entity/customer type, e.g. local government, higher education, K12, non-profit; (3) Purchasing Entity name; (4) Purchasing Entity bill-to and ship-to locations; (4) Purchasing Entity and Contractor Purchase Order identifier/number(s); (5) Purchase Order Type (e.g. sales order, credit, return, upgrade, determined by industry practices); (6) Purchase Order date; (7) Ship Date; (8) and line item description, including product number if used. The report shall be submitted in any form required by the solicitation. Reports are due on a quarterly basis and must be received by the Lead State and NASPO ValuePoint Cooperative Development Team no later than thirty (30) days after the end of the reporting period. Reports shall be delivered to the Lead State and to the NASPO ValuePoint Cooperative Development Team electronically through a designated portal, email, CD-ROM, flash drive or other method as determined by the Lead State and NASPO ValuePoint. Detailed sales data reports shall include sales information for all sales under Participating Addenda executed under this Master Agreement. The format for the detailed sales data report is in shown in Attachment H.

c. Reportable sales for the summary sales data report and detailed sales data report includes sales to employees for personal use where authorized by the solicitation and the Participating Addendum. Report data for employees should be limited to ONLY the state and entity they are participating under the authority of (state and agency, city, county, school district, etc.) and the amount of sales. No personal identification numbers, e.g. names, addresses, **social security numbers or any other numerical identifier**, may be submitted with any report.

d. Contractor shall provide the NASPO ValuePoint Cooperative Development Coordinator with an executive summary each quarter that includes, at a minimum, a list of states with an active Participating Addendum, states that Contractor is in negotiations with and any Participating Addendum roll out or implementation activities and issues. NASPO ValuePoint Cooperative Development Coordinator and Contractor will determine the format and content of the executive summary. The executive summary is due thirty (30) days after the conclusion of each calendar quarter.

e. Timely submission of these reports is a material requirement of the Master Agreement. The recipient of the reports shall have exclusive ownership of the media containing the reports. The Lead State and NASPO ValuePoint shall have a perpetual, irrevocable, non-exclusive, royalty free, transferable right to display, modify, copy, and otherwise use reports, data and information provided under this section.

8. NASPO ValuePoint Cooperative Program Marketing, Training, and Performance Review

a. Contractor agrees to work cooperatively with NASPO ValuePoint personnel. Contractor agrees to present plans to NASPO ValuePoint for the education of Contractor's contract administrator(s) and sales/marketing workforce regarding the Master Agreement contract, including the competitive nature of NASPO ValuePoint procurements, the Master agreement and participating addendum process, and the manner in which qualifying entities can participate in the Master Agreement.

b. Contractor agrees, as Participating Addendums become executed, if requested by ValuePoint personnel to provide plans to launch the program within the participating state. Plans will include time frames to launch the agreement and confirmation that the Contractor's website has been updated to properly reflect the contract offer as available in the participating state.

c. Contractor agrees, absent anything to the contrary outlined in a Participating Addendum, to consider customer proposed terms and conditions, as deemed important to the customer, for possible inclusion into the customer agreement. Contractor will ensure that their sales force is aware of this contracting option.

d. Contractor agrees to participate in an annual contract performance review at a location selected by the Lead State and NASPO ValuePoint, which may include a discussion of marketing action plans, target strategies, marketing materials, as well as Contractor reporting and timeliness of payment of administration fees.

e. Contractor acknowledges that the NASPO ValuePoint logos may not be used by Contractor in sales and marketing until a logo use agreement is executed with NASPO ValuePoint.

f. The Lead State expects to evaluate the utilization of the Master Agreement at the annual performance review. Lead State may, in its discretion, terminate the Master Agreement pursuant to section 28, or not exercise an option to renew, when Contractor utilization does not warrant further administration of the Master Agreement. The Lead State may exercise its right to not renew the Master Agreement if vendor fails to record or report revenue for three consecutive quarters, upon 60-calendar day written notice to the Contractor. Termination based on nonuse or under-utilization will not occur sooner than two years after award (or execution if later) of the Master Agreement. This subsection does not limit the discretionary right of either the Lead State or Contractor to terminate the Master Agreement pursuant to section 28 or to terminate for default pursuant to section 30.

g. Contractor agrees, within 30 days of their effective date, to notify the Lead State and NASPO ValuePoint of any contractual most-favored-customer provisions in third-part contracts or agreements that may affect the promotion of this Master Agreements or whose terms provide for adjustments to future rates or pricing based on rates, pricing in,

or Orders from this master agreement. Upon request of the Lead State or NASPO ValuePoint, Contractor shall provide a copy of any such provisions.

9. NASPO ValuePoint eMarket Center

a. In July 2011, NASPO ValuePoint entered into a multi-year agreement with SciQuest, Inc. (doing business as JAGGAER) whereby JAGGAER will provide certain electronic catalog hosting and management services to enable eligible NASPO ValuePoint's customers to access a central online website to view and/or shop the goods and services available from existing NASPO ValuePoint Cooperative Contracts. The central online website is referred to as the NASPO ValuePoint eMarket Center.

b. The Contractor will have visibility in the eMarket Center through Ordering Instructions. These Ordering Instructions are available at no cost to the Contractor and provide customers information regarding the Contractors website and ordering information. The Contractor is required at a minimum to participate in the eMarket Center through Ordering Instructions.

c. At a minimum, the Contractor agrees to the following timeline: NASPO ValuePoint eMarket Center Site Admin shall provide a written request to the Contractor to begin Ordering Instruction process. The Contractor shall have thirty (30) days from receipt of written request to work with NASPO ValuePoint to provide any unique information and ordering instructions that the Contractor would like the customer to have.

d. If the solicitation requires either a catalog hosted on or integration of a punchout site with eMarket Center, or either solution is proposed by a Contractor and accepted by the Lead State, the provisions of the eMarket Center Appendix to these NASPO ValuePoint Master Agreement Terms and Conditions apply.

10. Right to Publish

Throughout the duration of this Master Agreement, Contractor must secure from the Lead State prior approval for the release of information that pertains to the potential work or activities covered by the Master Agreement. This limitation does not preclude publication about the award of the Master Agreement or marketing activities consistent with any proposed and accepted marketing plan. The Contractor shall not make any representations of NASPO ValuePoint's opinion or position as to the quality or effectiveness of the services that are the subject of this Master Agreement without prior written consent. Failure to adhere to this requirement may result in termination of the Master Agreement for cause.

11. Price and Rate Guarantee Period

All pricing must be guaranteed for the first year of the Master Agreement.

Following the guarantee period, any request for price increases must be for an equal guarantee period (1 year), and must be submitted to the Lead State at least thirty (30) calendar days prior to the effective date. The Lead State will review a documented request for an MSRP price list increase only after the Price Guarantee Period.

Requests for price increases must include sufficient documentation supporting the request and demonstrating a reasonableness of the adjustment when comparing the current price list to the proposed price list. Documentation may include: the manufacturers national price increase announcement letter, a complete and detailed description of what products are increasing and by what percentage, a complete and detailed description of what raw materials and/or other costs have increased and provide proof of increase, index data and other information to support and justify the increase. The price increase must not produce a higher profit margin than the original contract, and must be accompanied by sufficient documentation and nationwide notice of price adjustment to the published commercial price list.

No retroactive price increases will be allowed.

Price Reductions. In the event of a price decrease in any category of product at any time during the contract in an OEM's published commercial price list, including renewal options, the Lead State shall be notified immediately. All published commercial price list price reductions shall be effective upon the notification provided to the Lead State.

12. Individual Customers

Except to the extent modified by a Participating Addendum, each Purchasing Entity shall follow the terms and conditions of the Master Agreement and applicable Participating Addendum and will have the same rights and responsibilities for their purchases as the Lead State has in the Master Agreement, including but not limited to, any indemnity or right to recover any costs as such right is defined in the Master Agreement and applicable Participating Addendum for their purchases. Each Purchasing Entity will be responsible for its own charges, fees, and liabilities. The Contractor will apply the charges and invoice each Purchasing Entity individually.

Administration of Orders

13. Ordering

a. Master Agreement order and purchase order numbers shall be clearly shown on all acknowledgments, shipping labels, packing slips, invoices, and on all correspondence.

b. Purchasing Entities may define entity or project-specific requirements and informally compete the requirement among companies having a Master Agreement on an "as needed" basis. This procedure may also be used when requirements are aggregated or other firm commitments may be made to achieve reductions in pricing. This procedure may be modified in Participating Addenda and adapted to the Purchasing Entity's rules and policies. The Purchasing Entity may in its sole discretion determine which Master Agreement Contractors should be solicited for a quote. The Purchasing Entity may select the quote that it considers most advantageous, cost and other factors considered.

c. Each Purchasing Entity will identify and utilize its own appropriate purchasing procedure and documentation. Contractor is expected to become familiar with the Purchasing Entities' rules, policies, and procedures regarding the ordering of supplies and/or services contemplated by this Master Agreement.

d. Contractor shall not begin work without a valid Purchase Order or other appropriate commitment document under the law of the Purchasing Entity.

e. Orders may be placed consistent with the terms of this Master Agreement during the term of the Master Agreement.

f. All Orders pursuant to this Master Agreement, at a minimum, shall include:

(1) The services or supplies being delivered;
(2) The place and requested time of delivery;
(3) A billing address;
(4) The name, phone number, and address of the Purchasing Entity representative;
(5) The price per hour or other pricing elements consistent with this Master Agreement and the contractor's proposal;
(6) A ceiling amount of the order for services being ordered; and
(7) The Master Agreement identifier.

g. All communications concerning administration of Orders placed shall be furnished solely to the authorized purchasing agent within the Purchasing Entity's purchasing office, or to such other individual identified in writing in the Order.

h. Orders must be placed pursuant to this Master Agreement prior to the termination date thereof, but may have a delivery date or performance period up to 120 days past the then-current termination date of this Master Agreement. Maintenance agreements may have terms as prescribed in section 27. Contractor is reminded that financial obligations of Purchasing Entities payable after the current applicable fiscal year are contingent upon agency funds for that purpose being appropriated, budgeted, and otherwise made available.

i. Notwithstanding the expiration or termination of this Master Agreement, Contractor agrees to perform in accordance with the terms of any Orders then outstanding at the time of such expiration or termination. Contractor shall not honor any Orders placed after the expiration or termination of this Master Agreement, or otherwise inconsistent with its terms. Orders from any separate indefinite quantity, task orders, or other form of indefinite delivery order arrangement priced against this Master Agreement may not be placed after the expiration or termination of this Master Agreement, notwithstanding the term of any such indefinite delivery order agreement.

14. Shipping and Delivery

a. The prices are the delivered price to any Purchasing Entity. All deliveries shall be

F.O.B. destination, freight pre-paid, with all transportation and handling charges paid by the Contractor. Responsibility and liability for loss or damage shall remain the Contractor's until final inspection and acceptance when responsibility shall pass to the Purchasing Entity except as to latent defects, fraud and Contractor's warranty obligations. The minimum shipment amount, if any, will be found in the special terms and conditions. Any order for less than the specified amount is to be shipped with the freight prepaid and added as a separate item on the invoice. Any portion of an Order to be shipped without transportation charges that is back ordered shall be shipped without charge.

b. All deliveries will be "Inside Deliveries" as designated by a representative of the Purchasing Entity placing the Order. Inside Delivery refers to a delivery to other than a loading dock, front lobby, or reception area. Specific delivery instructions will be noted on the order form or Purchase Order. Any damage to the building interior, scratched walls, damage to the freight elevator, etc., will be the responsibility of the Contractor. If damage does occur, it is the responsibility of the Contractor to immediately notify the Purchasing Entity placing the Order.

c. All products must be delivered in the manufacturer's standard package. Costs shall include all packing and/or crating charges. Cases shall be of durable construction, good condition, properly labeled and suitable in every respect for storage and handling of contents. Each shipping carton shall be marked with the commodity, brand, quantity, item code number and the Purchasing Entity's Purchase Order number.

15. Laws and Regulations

Any and all Products offered and furnished shall comply fully with all applicable Federal and State laws and regulations.

16. Inspection and Acceptance

a. Where the Master Agreement or an Order does not otherwise specify a process for inspection and Acceptance, this section governs. This section is not intended to limit rights and remedies under the applicable commercial code.

b. All Products are subject to inspection at reasonable times and places before Acceptance. Contractor shall provide right of access to the Lead State, or to any other authorized agent or official of the Lead State or other Participating or Purchasing Entity, at reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance requirements under this Master Agreement. Products that do not meet specifications may be rejected. Failure to reject upon receipt, however, does not relieve the contractor of liability for material (nonconformity that substantial impairs value) latent or hidden defects subsequently revealed when goods are put to use. Acceptance of such goods may be revoked in accordance with the provisions of the applicable commercial code, and the Contractor is liable for any resulting expense incurred by the Purchasing Entity related to the preparation and shipping of Product rejected and returned, or for which Acceptance is revoked.

c. If any services do not conform to contract requirements, the Purchasing Entity may require the Contractor to perform the services again in conformity with contract requirements, at no increase in Order amount. When defects cannot be corrected by re-performance, the Purchasing Entity may require the Contractor to take necessary action to ensure that future performance conforms to contract requirements; and reduce the contract price to reflect the reduced value of services performed.

d. The warranty period shall begin upon Acceptance.

e.

17. Payment

Payment after Acceptance is normally made within 30 days following the date the entire order is delivered or the date a correct invoice is received, whichever is later. After 45 days the Contractor may assess overdue account charges up to a maximum rate of one percent per month on the outstanding balance, unless a different late payment amount is specified in a Participating Addendum, Order, or otherwise prescribed by applicable law. Payments will be remitted by mail. Payments may be made via a State or political subdivision "Purchasing Card" with no additional charge.

18. Warranty

Warranty provisions govern where specified elsewhere in the documents that constitute the Master Agreement; otherwise this section governs. The Contractor warrants for a period of one year from the date of Acceptance that: (a) the Product performs according to all specific claims that the Contractor made in its response to the solicitation, (b) the Product is suitable for the ordinary purposes for which such Product is used, (c) the Product is suitable for any special purposes identified in the solicitation or for which the Purchasing Entity has relied on the Contractor's skill or judgment, (d) the Product is designed and manufactured in a commercially reasonable manner, and (e) the Product is free of defects. Upon breach of the warranty, the Contractor will repair or replace (at no charge to the Purchasing Entity) the Product whose nonconformance is discovered and made known to the Contractor. If the repaired and/or replaced Product proves to be inadequate, or fails of its essential purpose, the Contractor will refund the full amount of any payments that have been made. The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation, actual damages, and, as applicable and awarded under the law, to a prevailing party, reasonable attorneys' fees and costs.

19. Title of Product

Upon Acceptance by the Purchasing Entity, Contractor shall convey to Purchasing Entity title to the Product free and clear of all liens, encumbrances, or other security interests. Transfer of title to the Product shall include an irrevocable and perpetual license to use any Embedded Software in the Product. If Purchasing Entity subsequently transfers title of the Product to another entity, Purchasing Entity shall have the right to transfer the license to use the Embedded Software with the transfer of Product title. A subsequent transfer of this software license shall be at no additional

cost or charge to either Purchasing Entity or Purchasing Entity's transferee.

20. License of Pre-Existing Intellectual Property

Contractor grants to the Purchasing Entity a nonexclusive, perpetual, royalty-free, irrevocable, license to use, publish, translate, reproduce for Purchasing Entity's own use, transfer with any sale of tangible media or Product, perform, display, and dispose of the Intellectual Property, and its derivatives, used or delivered under this Master Agreement, but not created under it ("Pre-existing Intellectual Property"). The Contractor shall be responsible for ensuring that this license is consistent with any third party rights in the Pre-existing Intellectual Property.

21. No Guarantee of Service Volumes: The Contractor acknowledges and agrees that the Lead State and NASPO ValuePoint makes no representation, warranty or condition as to the nature, timing, quality, quantity or volume of business for the Services or any other products and services that the Contractor may realize from this Master Agreement, or the compensation that may be earned by the Contractor by offering the Services. The Contractor acknowledges and agrees that it has conducted its own due diligence prior to entering into this Master Agreement as to all the foregoing matters.

22. Purchasing Entity Data: Purchasing Entity retains full right and title to Data provided by it and any Data derived therefrom, including metadata.
Contractor shall not collect, access, or use user-specific Purchasing Entity Data except as strictly necessary to provide Service to the Purchasing Entity. No information regarding Purchasing Entity's use of the Service may be disclosed, provided, rented or sold to any third party for any reason unless required by law or regulation or by an order of a court of competent jurisdiction. The obligation shall extend beyond the term of this Master Agreement in perpetuity.

Contractor shall not use any information collected in connection with this Master Agreement, including Purchasing Entity Data, for any purpose other than fulfilling its obligations under this Master Agreement.

23. System Failure or Damage: In the event of system failure or damage caused by Contractor or its Services, the Contractor agrees to use its best efforts to restore or assist in restoring the system to operational capacity.

24. Title to Product: If access to the Product requires an application program interface (API), Contractor shall convey to Purchasing Entity an irrevocable and perpetual license to use the API.

25. Data Privacy: The Contractor must comply with all applicable laws related to data privacy and security, including IRS Pub 1075. Prior to entering into a SLA with a Purchasing Entity, the Contractor and Purchasing Entity must cooperate and hold a meeting to determine the Data Categorization to determine what data the Contractor will hold, store, or process. The Contractor must document the Data Categorization in the SLA or Statement of Work.

26. Transition Assistance:

a. The Contractor shall reasonably cooperate with other parties in connection with all Services to be delivered under this Master Agreement, including without limitation any successor service provider to whom a Purchasing Entity's Data is transferred in connection with the termination or expiration of this Master Agreement. The Contractor shall assist a Purchasing Entity in exporting and extracting a Purchasing Entity's Data, in a format usable without the use of the Services and as agreed by a Purchasing Entity, at no additional cost to the Purchasing Entity. Any transition services requested by a Purchasing Entity involving additional knowledge transfer and support may be subject to a separate transition Statement of Work.

b. A Purchasing Entity and the Contractor shall, when reasonable, create a Transition Plan Document identifying the transition services to be provided and including a Statement of Work if applicable.

c. The Contractor must maintain the confidentiality and security of a Purchasing Entity's Data during the transition services and thereafter as required by the Purchasing Entity.

27. Performance and Payment Time Frames that Exceed Contract Duration: All maintenance or other agreements for services entered into during the duration of an SLA and whose performance and payment time frames extend beyond the duration of this Master Agreement shall remain in effect for performance and payment purposes (limited to the time frame and services established per each written agreement). No new leases, maintenance or other agreements for services may be executed after the Master Agreement has expired. For the purposes of this section, renewals of maintenance, subscriptions, and other service agreements, shall not be considered as "new."

General Provisions

28. Insurance

a. Unless otherwise agreed in a Participating Addendum, Contractor shall, during the term of this Master Agreement, maintain in full force and effect, the insurance described in this section. Contractor shall acquire such insurance from an insurance carrier or carriers licensed to conduct business in each Participating Entity's state and having a rating of A-, Class VII or better, in the most recently published edition of A.M. Best's Insurance Reports. Failure to buy and maintain the required insurance may result in this Master Agreement's termination or, at a Participating Entity's option, result in termination of its Participating Addendum.

b. Coverage shall be written on an occurrence basis. The minimum acceptable limits shall be as indicated below:

(1) Commercial General Liability covering premises operations, independent contractors, products and completed operations, blanket contractual liability, personal injury (including death), advertising liability, and property damage, with a limit of not less than $1 million per occurrence/$3 million general aggregate;

(2) Contractor must comply with any applicable State Workers Compensation or Employers Liability Insurance requirements.

c. Contractor shall pay premiums on all insurance policies. Contractor shall provide notice to a Participating Entity who is a state within five (5) business days after Contractor is first aware of expiration, cancellation or nonrenewal of such policy or is first aware that cancellation is threatened or expiration, nonrenewal or expiration otherwise may occur.

d. Prior to commencement of performance, Contractor shall provide to the Lead State a written endorsement to the Contractor's general liability insurance policy or other documentary evidence acceptable to the Lead State that (1) names the Participating States identified in the Request for Proposal as additional insureds, (2) provides that written notice of cancellation shall be delivered in accordance with the policy provisions, and (3) provides that the Contractor's liability insurance policy shall be primary, with any liability insurance of any Participating State as secondary and noncontributory. Unless otherwise agreed in any Participating Addendum, other state Participating Entities' rights and Contractor's obligations are the same as those specified in the first sentence of this subsection except the endorsement is provided to the applicable state.

e. Contractor shall furnish to the Lead State copies of certificates of all required insurance in a form sufficient to show required coverage within thirty (30) calendar days of the execution of this Master Agreement and prior to performing any work. Copies of renewal certificates of all required insurance shall be furnished within thirty (30) days after any renewal date to the applicable state Participating Entity. Failure to provide evidence of coverage may, at the sole option of the Lead State, or any Participating Entity, result in this Master Agreement's termination or the termination of any Participating Addendum.

f. Coverage and limits shall not limit Contractor's liability and obligations under this Master Agreement, any Participating Addendum, or any Purchase Order.

29. Records Administration and Audit

a. The Contractor shall maintain books, records, documents, and other evidence pertaining to this Master Agreement and Orders placed by Purchasing Entities under it to the extent and in such detail as shall adequately reflect performance and administration of payments and fees. Contractor shall permit the Lead State, a Participating Entity, a Purchasing Entity, the federal government (including its grant awarding entities and the U.S. Comptroller General), and any other duly authorized agent of a governmental agency, to audit, inspect, examine, copy and/or transcribe Contractor's books, documents, papers and records directly pertinent to this Master

Agreement or orders placed by a Purchasing Entity under it for the purpose of making audits, examinations, excerpts, and transcriptions. This right shall survive for a period of six (6) years following termination of this Agreement or final payment for any order placed by a Purchasing Entity against this Agreement, whichever is later, or such longer period as is required by the Purchasing Entity's state statutes, to assure compliance with the terms hereof or to evaluate performance hereunder.

b. Without limiting any other remedy available to any governmental entity, the Contractor shall reimburse the applicable Lead State, Participating Entity, or Purchasing Entity for any overpayments inconsistent with the terms of the Master Agreement or Orders or underpayment of Administrative Fees found as a result of the examination of the Contractor's records.

c. The rights and obligations herein exist in addition to any quality assurance obligation in the Master Agreement requiring the Contractor to self-audit contract obligations and that permits the Lead State to review compliance with those obligations.

30. Confidentiality, Non-Disclosure, and Injunctive Relief

a. Confidentiality. Contractor acknowledges that it and its employees or agents may, in the course of providing a Product under this Master Agreement, be exposed to or acquire information that is confidential to Purchasing Entity or Purchasing Entity's clients. Any and all information of any form that is marked as confidential or would by its nature be deemed confidential obtained by Contractor or its employees or agents in the performance of this Master Agreement, including, but not necessarily limited to (1) any Purchasing Entity's records, (2) personnel records, and (3) information concerning individuals, is confidential information of Purchasing Entity ("Confidential Information"). Any reports or other documents or items (including software) that result from the use of the Confidential Information by Contractor shall be treated in the same manner as the Confidential Information. Confidential Information does not include information that (1) is or becomes (other than by disclosure by Contractor) publicly known; (2) is furnished by Purchasing Entity to others without restrictions similar to those imposed by this Master Agreement; (3) is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Master Agreement; (4) is obtained from a source other than Purchasing Entity without the obligation of confidentiality, (5) is disclosed with the written consent of Purchasing Entity or; (6) is independently developed by employees, agents or subcontractors of Contractor who can be shown to have had no access to the Confidential Information.

b. Non-Disclosure. Contractor shall hold Confidential Information in confidence, using at least the industry standard of confidentiality, and shall not copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than what is necessary to the performance of Orders placed under this Master Agreement. Contractor shall advise each of its employees and agents of their obligations to keep Confidential Information confidential. Contractor shall use commercially reasonable efforts to assist Purchasing Entity in identifying and preventing

any unauthorized use or disclosure of any Confidential Information. Without limiting the generality of the foregoing, Contractor shall advise Purchasing Entity, applicable Participating Entity, and the Lead State immediately if Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Master Agreement, and Contractor shall at its expense cooperate with Purchasing Entity in seeking injunctive or other equitable relief in the name of Purchasing Entity or Contractor against any such person. Except as directed by Purchasing Entity, Contractor will not at any time during or after the term of this Master Agreement disclose, directly or indirectly, any Confidential Information to any person, except in accordance with this Master Agreement, and that upon termination of this Master Agreement or at Purchasing Entity's request, Contractor shall turn over to Purchasing Entity all documents, papers, and other matter in Contractor's possession that embody Confidential Information. Notwithstanding the foregoing, Contractor may keep one copy of such Confidential Information necessary for quality assurance, audits and evidence of the performance of this Master Agreement.

c. Injunctive Relief. Contractor acknowledges that breach of this section, including disclosure of any Confidential Information, will cause irreparable injury to Purchasing Entity that is inadequately compensable in damages. Accordingly, Purchasing Entity may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of Purchasing Entity and are reasonable in scope and content.

d. Purchasing Entity Law. These provisions shall be applicable only to extent they are not in conflict with the applicable public disclosure laws of any Purchasing Entity.

e. The rights granted Purchasing Entities and Contractor obligations under this section shall also extend to Confidential Information, defined to include Participating Addenda, as well as Orders or transaction data relating to Orders under this Master Agreement that identify the entity/customer, Order dates, line item descriptions and volumes, and prices/rates. This provision does not apply to disclosure to the Lead State, a Participating State, or any governmental entity exercising an audit, inspection, or examination pursuant to section 29. To the extent permitted by law, Contractor shall notify the Lead State of the identify of any entity seeking access to the Confidential Information described in this subsection.

31. Public Information

This Master Agreement and all related documents are subject to disclosure pursuant to the Purchasing Entity's public information laws.

32. Assignment/Subcontracts

a. Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Master Agreement, in whole or in part, without the prior written approval of the Lead State.

b. The Lead State reserves the right to assign any rights or duties, including written assignment of contract administration duties to NASPO Cooperative Purchasing Organization LLC, doing business as NASPO ValuePoint and other third parties.

32. Changes in Contractor Representation

The Contractor must notify the Lead State of changes in the Contractor's key administrative personnel managing the Master Agreement in writing within 10 calendar days of the change. The Lead State reserves the right to approve changes in key personnel, as identified in the Contractor's proposal. The Contractor agrees to propose replacement key personnel having substantially equal or better education, training, and experience as was possessed by the key person proposed and evaluated in the Contractor's proposal.

33. Independent Contractor

The Contractor shall be an independent contractor. Contractor shall have no authorization, express or implied, to bind the Lead State, Participating States, other Participating Entities, or Purchasing Entities to any agreements, settlements, liability or understanding whatsoever, and agrees not to hold itself out as agent except as expressly set forth herein or as expressly agreed in any Participating Addendum.

34. Termination

Unless otherwise stated, this Master Agreement may be terminated by either Lead State or Contractor upon 60 days written notice prior to the effective date of the termination. Further, any Participating Entity may terminate its participation upon 30 days written notice, unless otherwise limited or stated in the Participating Addendum. Termination may be in whole or in part. Any termination under this provision shall not affect the rights and obligations attending orders outstanding at the time of termination, including any right of a Purchasing Entity to indemnification by the Contractor, rights of payment for Products delivered and accepted, rights attending any warranty or default in performance in association with any Order, and requirements for records administration and audit. Termination of the Master Agreement due to Contractor default may be immediate.

35. Force Majeure

Neither party to this Master Agreement shall be held responsible for delay or default caused by fire, riot, unusually severe weather, other acts of God, or war which are beyond that party's reasonable control. The Lead State may terminate this Master Agreement after determining such delay or default will reasonably prevent successful performance of the Master Agreement.

36. Defaults and Remedies

a. The occurrence of any of the following events by Contractor shall be an event of default under this Master Agreement:

(1) Nonperformance of contractual requirements; or

(2) A material breach of any term or condition of this Master Agreement; or

(3) Any certification, representation or warranty by Contractor in response to the solicitation or in this Master Agreement that proves to be untrue or materially misleading; or

(4) Institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Contractor, or the appointment of a receiver or similar officer for Contractor or any of its property, which is not vacated or fully stayed within thirty (30) calendar days after the institution or occurrence thereof; or

(5) Any default specified in another section of this Master Agreement.

b. Upon the occurrence of an event of default, the Lead State shall issue a written notice of default, identifying the nature of the default, and providing a period of 15 calendar days in which Contractor shall have an opportunity to cure the default. The Lead State shall not be required to provide advance written notice or a cure period and may immediately terminate this Master Agreement in whole or in part if the Lead State, in its sole discretion, determines that it is reasonably necessary to preserve public safety or prevent immediate public crisis. Time allowed for cure shall not diminish or eliminate Contractor's liability for damages, including liquidated damages to the extent provided for under this Master Agreement.

c. If Contractor is afforded an opportunity to cure and fails to cure the default within the period specified in the written notice of default, Contractor shall be in breach of its obligations under this Master Agreement and the Lead State shall have the right to exercise any or all of the following remedies:

(1) Exercise any remedy provided by law; and

(2) Terminate this Master Agreement and any related Contracts or portions thereof; and

(3) Impose liquidated damages as provided in this Master Agreement; and

(4) Suspend Contractor from being able to respond to future bid solicitations; and

(5) Suspend Contractor's performance; and

(6) Withhold payment until the default is remedied.

d. Unless otherwise specified in the Participating Addendum, in the event of a default under a Participating Addendum, a Participating Entity shall provide a written notice of default as described in this section and shall have all of the rights and remedies under this paragraph regarding its participation in the Master Agreement, in addition to those set forth in its Participating Addendum. Unless otherwise specified in a Purchase Order, a Purchasing Entity shall provide written notice of default as described in this section and have all of the rights and remedies under this paragraph and any applicable Participating Addendum with respect to an Order placed by the Purchasing Entity. Nothing in these Master Agreement Terms and Conditions shall be construed to limit the rights and remedies available to a Purchasing Entity under the applicable commercial code.

37. Waiver of Breach

Failure of the Lead State, Participating Entity, or Purchasing Entity to declare a default or enforce any rights and remedies shall not operate as a waiver under this Master Agreement or Participating Addendum. Any waiver by the Lead State, Participating Entity, or Purchasing Entity must be in writing. Waiver by the Lead State or Participating Entity of any default, right or remedy under this Master Agreement or Participating Addendum, or by Purchasing Entity with respect to any Purchase Order, or breach of any terms or requirements of this Master Agreement, a Participating Addendum, or Purchase Order shall not be construed or operate as a waiver of any subsequent default or breach of such term or requirement, or of any other term or requirement under this Master Agreement, Participating Addendum, or Purchase Order.

38. Debarment

The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. This certification represents a recurring certification made at the time any Order is placed under this Master Agreement. If the Contractor cannot certify this statement, attach a written explanation for review by the Lead State.

39. Indemnification

a. The Contractor shall defend, indemnify and hold harmless NASPO, NASPO Cooperative Purchasing Organization LLC (doing business as NASPO ValuePoint), the Lead State, Participating Entities, and Purchasing Entities, along with their officers and employees, from and against third-party claims, damages or causes of action including reasonable attorneys' fees and related costs for any death, injury, or damage to tangible property arising from act(s), error(s), or omission(s) of the Contractor, its employees or subcontractors or volunteers, at any tier, relating to the performance under the Master Agreement.

b. Indemnification – Intellectual Property. The Contractor shall defend, indemnify and hold harmless NASPO, NASPO Cooperative Purchasing Organization LLC (doing business as NASPO ValuePoint), the Lead State, Participating Entities, Purchasing Entities, along with their officers and employees ("Indemnified Party"), from and against claims, damages or causes of action including reasonable attorneys' fees and related costs arising out of the claim that the Product or its use, infringes Intellectual Property rights ("Intellectual Property Claim") of another person or entity.

(1) The Contractor's obligations under this section shall not extend to any combination of the Product with any other product, system or method, unless the Product, system or method is:

(a) provided by the Contractor or the Contractor's subsidiaries or affiliates;

(b) specified by the Contractor to work with the Product; or

(c) reasonably required, in order to use the Product in its intended manner, and the infringement could not have been avoided by substituting another reasonably available product, system or method capable of performing the same function; or

(d) It would be reasonably expected to use the Product in combination with such product, system or method.

(2) The Indemnified Party shall notify the Contractor within a reasonable time after receiving notice of an Intellectual Property Claim. Even if the Indemnified Party fails to provide reasonable notice, the Contractor shall not be relieved from its obligations unless the Contractor can demonstrate that it was prejudiced in defending the Intellectual Property Claim resulting in increased expenses or loss to the Contractor. If the Contractor promptly and reasonably investigates and defends any Intellectual Property Claim, it shall have control over the defense and settlement of it. However, the Indemnified Party must consent in writing for any money damages or obligations for which it may be responsible. The Indemnified Party shall furnish, at the Contractor's reasonable request and expense, information and assistance necessary for such defense. If the Contractor fails to vigorously pursue the defense or settlement of the Intellectual Property Claim, the Indemnified Party may assume the defense or settlement of it and the Contractor shall be liable for all costs and expenses, including reasonable attorneys' fees and related costs, incurred by the Indemnified Party in the pursuit of the Intellectual Property Claim. Unless otherwise agreed in writing, this section is not subject to any limitations of liability in this Master Agreement or in any other document executed in conjunction with this Master Agreement.

40. No Waiver of Sovereign Immunity

In no event shall this Master Agreement, any Participating Addendum or any contract or any Purchase Order issued thereunder, or any act of the Lead State, a Participating Entity, or a Purchasing Entity be a waiver of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court.

This section applies to a claim brought against the Participating Entities who are states only to the extent Congress has appropriately abrogated the state's sovereign immunity and is not consent by the state to be sued in federal court. This section is also not a waiver by the state of any form of immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

41. Governing Law and Venue

a. The procurement, evaluation, and award of the Master Agreement shall be governed by and construed in accordance with the laws of the Lead State sponsoring and administering the procurement. The construction and effect of the Master Agreement

after award shall be governed by the law of the state serving as Lead State. The construction and effect of any Participating Addendum or Order against the Master Agreement shall be governed by and construed in accordance with the laws of the Participating Entity's or Purchasing Entity's State.

b. Unless otherwise specified in the RFP, the venue for any protest, claim, dispute or action relating to the procurement, evaluation, and award is in the Lead State. Venue for any claim, dispute or action concerning the terms of the Master Agreement shall be in the state serving as Lead State. Venue for any claim, dispute, or action concerning any Order placed against the Master Agreement or the effect of a Participating Addendum shall be in the Purchasing Entity's State.

c. If a claim is brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for (in decreasing order of priority): the Lead State for claims relating to the procurement, evaluation, award, or contract performance or administration if the Lead State is a party; a Participating State if a named party; the state where the Participating Entity or Purchasing Entity is located if either is a named party.

42. Assignment of Antitrust Rights

Contractor irrevocably assigns to a Participating Entity who is a state any claim for relief or cause of action which the Contractor now has or which may accrue to the Contractor in the future by reason of any violation of state or federal antitrust laws (15 U.S.C. § 1-15 or a Participating Entity's state antitrust provisions), as now in effect and as may be amended from time to time, in connection with any goods or services provided in that state for the purpose of carrying out the Contractor's obligations under this Master Agreement or Participating Addendum, including, at the Participating Entity's option, the right to control any such litigation on such claim for relief or cause of action.

43. Contract Provisions for Orders Utilizing Federal Funds

Pursuant to Appendix II to 2 Code of Federal Regulations (CFR) Part 200, Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, Orders funded with federal funds may have additional contractual requirements or certifications that must be satisfied at the time the Order is placed or upon delivery. These federal requirements may be proposed by Participating Entities in Participating Addenda and Purchasing Entities for incorporation in Orders placed under this Master Agreement.

44. Leasing or Alternative Financing Methods

The procurement and other applicable laws of some Purchasing Entities may permit the use of leasing or alternative financing methods for the acquisition of Products under this Master Agreement. Where the terms and conditions are not otherwise prescribed in an applicable Participating Addendum, the terms and conditions for leasing or alternative financing methods are subject to negotiation between the Contractor and Purchasing Entity.

45. Entire Agreement: This Master Agreement, along with any attachment, contains the entire understanding of the parties hereto with respect to the Master Agreement unless a term is modified in a Participating Addendum with a Participating Entity. No click-through, or other end user terms and conditions or agreements required by the Contractor ("Additional Terms") provided with any Services hereunder shall be binding on Participating Entities or Purchasing Entities, even if use of such Services requires an affirmative "acceptance" of those Additional Terms before access is permitted.

eMarket Center Appendix

a. This Appendix applies whenever a catalog hosted by or integration of a punchout site with eMarket Center is required by the solicitation or either solution is proposed by a Contractor and accepted by the Lead State.

b. Supplier's Interface with the eMarket Center. There is no cost charged by JAGGAER to the Contractor for loading a hosted catalog or integrating a punchout site.

c. At a minimum, the Contractor agrees to the following:

(1) Implementation Timeline: NASPO ValuePoint eMarket Center Site Admin shall provide a written request to the Contractor to begin enablement process. The Contractor shall have fifteen (15) days from receipt of written request to work with NASPO ValuePoint and JAGGAER to set up an enablement schedule, at which time JAGGAER's technical documentation shall be provided to the Contractor. The schedule will include future calls and milestone dates related to test and go live dates. The contractor shall have a total of Ninety (90) days to deliver either a (1) hosted catalog or (2) punch-out catalog, from date of receipt of written request.

(2) NASPO ValuePoint and JAGGAER will work with the Contractor, to decide which of the catalog structures (either hosted or punch-out as further described below) shall be provided by the Contractor. **Whether hosted or punch-out, the catalog must be strictly limited to the Contractor's awarded contract offering (e.g. products and/or services not authorized through the resulting cooperative contract should not be viewable by NASPO ValuePoint Participating Entity users).**

(a) Hosted Catalog. By providing a hosted catalog, the Contractor is providing a list of its awarded products/services and pricing in an electronic data file in a format acceptable to JAGGAER, such as Tab Delimited Text files. In this scenario, the Contractor must submit updated electronic data no more than once per 30 days to the eMarket Center for the Lead State's approval to maintain the most up-to-date version of its product/service offering under the cooperative contract in the eMarket Center.

(b) Punch-Out Catalog. By providing a punch-out catalog, the Contractor is providing its own online catalog, which must be capable of being integrated with the eMarket Center as a. Standard punch-in via Commerce eXtensible Markup Language (cXML). In this scenario, the Contractor shall validate that its online catalog is up-to-date by providing a written update no more than once per 30 days to the Lead State stating they have audited the offered products/services and pricing listed on its online catalog. The site must also return detailed UNSPSC codes (as outlined in line 3) for each line item. Contractor also agrees to provide e-Quote functionality to facilitate volume discounts.

d. Revising Pricing and Product Offerings: Any revisions to product/service offerings (new products, altered SKUs, new pricing etc.) must be pre-approved by the Lead State and shall be subject to any other applicable restrictions with respect to the frequency or

amount of such revisions. However, no cooperative contract enabled in the eMarket Center may include price changes on a more frequent basis than once per year (see required Price Guarantee Period section 11). The following conditions apply with respect to hosted catalogs:

(1) Updated pricing files are required each calendar month of the month and shall go into effect in the eMarket Center on as approved by the Lead State contract administrator.

(2) Lead State-approved price changes are not effective until implemented within the eMarket Center. Errors in the Contractor's submitted pricing files will delay the implementation of the price changes in eMarket Center.

e. Supplier Network Requirements: Contractor shall join the JAGGAER Supplier Network (SQSN) and shall use JAGGAER's Supplier Portal to import the Contractor's catalog and pricing, into the JAGGAER system, and view reports on catalog spend and product/pricing freshness. The Contractor can receive orders through electronic delivery (cXML) or through low-tech options such as fax. More information about the SQSN can be found at: www.sciquest.com or call the JAGGAER Supplier Network Services team at 800-233-1121.

f. Minimum Requirements: Whether the Contractor is providing a hosted catalog or a punch-out catalog, the Contractor agrees to meet the following requirements:

(1) Catalog must contain the most current pricing, including all applicable administrative fees and/or discounts, as well as the most up-to-date product/service offering the Contractor is authorized to provide in accordance with the cooperative contract; and

(2) The accuracy of the catalog must be maintained by Contractor throughout the duration of the cooperative contract; and

(3) The Catalog must include a Lead State contract identification number; and

(4) The Catalog must include detailed product line item descriptions; and

(5) The Catalog must include pictures when possible; and

(6) The Catalog must include any additional NASPO ValuePoint and Participating Addendum requirements. Although suppliers in the SQSN normally submit one (1) catalog, it is possible to have multiple contracts applicable to different NASPO ValuePoint Participating Entities. For example, a supplier may have different pricing for state government agencies and Board of Regents institutions. Suppliers have the ability and responsibility to submit separate contract pricing for the same catalog if applicable. The system will deliver the appropriate contract pricing to the user viewing the catalog.

g. Order Acceptance Requirements: Contractor must be able to accept Purchase Orders via fax or cXML. The Contractor shall provide positive confirmation via phone or email within 24 hours of the Contractor's receipt of the Purchase Order. If the Purchasing Order is received after 3pm EST on the day before a weekend or holiday, the Contractor must provide positive confirmation via phone or email on the next business day.

h. UNSPSC Requirements: Contractor shall support use of the United Nations Standard Product and Services Code (UNSPSC). UNSPSC versions that must be adhered to are driven by JAGGAER for the suppliers and are upgraded every year. NASPO ValuePoint reserves the right to migrate to future versions of the UNSPSC and the Contractor shall be required to support the migration effort. All line items, goods or services provided under the resulting statewide contract must be associated to a UNSPSC code. All line items must be identified at the most detailed UNSPSC level indicated by segment, family, class and commodity.

i. Applicability: Contractor agrees that NASPO ValuePoint controls which contracts appear in the eMarket Center and that NASPO ValuePoint may elect at any time to remove any supplier's offering from the eMarket Center.

j. The Lead State reserves the right to approve the pricing on the eMarket Center. This catalog review right is solely for the benefit of the Lead State and Participating Entities, and the review and approval shall not waive the requirement that products and services be offered at prices (and approved fees) required by the Master Agreement.

k. Several NASPO ValuePoint Participating Entities currently maintain separate JAGGAER eMarketplaces, these Participating Entities do enable certain NASPO ValuePoint Cooperative Contracts. In the event one of these entities elects to use this NASPO ValuePoint Cooperative Contract (available through the eMarket Center) but publish to their own eMarketplace, the Contractor agrees to work in good faith with the entity and NASPO ValuePoint to implement the catalog. NASPO ValuePoint does not anticipate that this will require substantial additional efforts by the Contractor; however, the supplier agrees to take commercially reasonable efforts to enable such separate JAGGAER catalogs.

(December 2017)

Attachment B – Scope of Work

I. Data Communications Award Categories

The scope for this RFP and resulting contract is as provided below. A vendor may offer products (i.e. white box, artificial intelligence, etc.) under multiple categories so long as the vendor has received an award for the applicable category it is offering the provided equipment / service. Each category also allows for Internet of Things (IoT) products. These products must be an IoT product that can be deployed within, upon, or integrated into a government agency's physical asset to address government line of business needs. Proposals are expected to include IoT products designed to support common government lines of business in specific subcategories i.e. routers, switches, end points, etc. IoT products can only be provided in categories that the vendor is awarded in and can include endpoints that support items in that category.

Category 1.1: UNIFIED COMMUNICATIONS (UC).

A set of products that provides a consistent unified user interface and user experience across multiple devices and modes of communications. Unified Communications that is able to provide services such as session management, voice, video, messaging, mobility, and meeting solutions (i.e., web, audio, IM&P, file sharing, white boarding, guest support, etc.). It can provide the foundation for advanced unified communications capabilities of IM and presence-based services and extends telephony features and capabilities to packet telephony network devices such as IP phones, media processing devices, Voice over IP (VoIP) gateways, and multimedia applications. Additional services, such as unified messaging, multimedia conferencing, collaborative contact centers, and interactive multimedia response systems, are made possible through open telephony APIs. General UC solution capabilities should include:

- High Availability for Call Processing
- Hardware Platform High Availability
- Network Connectivity High Availability
- PSTN Access resiliency
- Call Processing Redundancy
- Optional Branch Office Survivability Services

1.1.1 IP Telephony — Solutions utilized to provide the delivery of the telephony application (for example, call setup and teardown, and telephony features) over IP, instead of using circuit-switched or other modalities. Capabilities should include:

- Support for analog, digital, and IP endpoints
- Centralized Management
- Enterprise Telephony Features (CFx, Transfer, CID, Shared line appearance, One Number Service, etc.)
- Provide basic hunt group and call queuing capabilities
- Flexibility to configure queue depth and hold time, play unique announcements and Music on Hold (MoH), log in and log out users from a queue and basic queue statistics (from the phone
- E911 Support
    - National E911 Routing Services (proper PSAP routing when PSTN access is centralized)
    - 911 Device Tracking Services
    - 911 On-Site Notification Services

1.1.2 Instant messaging/ Presence — Solutions that allow communication over the Internet Protocol, within the enterprise, and remotely, as well as with guest users that offers quick transmission of text-based messages from sender to receiver. In push mode between two or more people using personal computers, Desktop (Windows/Mac/VDI/Linux), Mobile/Smartphone, Tablet, along with shared clients, instant messaging basically offers real-time direct written language-based online chat. Instant messaging may also provide video calling, file sharing, PC-to-PC voice calling and PC-to-regular-phone calling.

- IM Persistency / Workstream Collab
- File Sharing Services, Desktop Sharing Services

1.1.3 Unified messaging — Integration of different electronic messaging and communications media (e-mail, SMS, Fax, voicemail, video messaging, etc.) technologies into a single interface, accessible from a variety of different devices.

- Ability to access and manage voice messages in a variety of ways, using email inbox, Web browser, desktop client, VoIP phone, or mobile phone
- Visual Voicemail Support (Optional)
- ASR / Transcription Services for recorded messages

1.1.4 Contact Center — A computer-based system that provides call and contact routing for high-volume telephony transactions, with specialist answering "agent" stations and a sophisticated real-time contact management system. The definition includes all contact center systems that provide inbound contact handling capabilities, outbound call/contact center and automatic contact distribution, combined with a high degree of sophistication in terms of dynamic contact traffic routing management.

1.1.5 Communications End Points and Applications

- Attendant Consoles (Telephone Station)
- IP Phones (desktop devices and accessories)
- Room Based Conferencing Endpoints (Conf Phones, SparkBoard, JamBoard, Surface Hub)

1.1.6 UC Network Monitoring — Provides end-to-end service management for Unified Communications. Capabilities include testing, performance monitoring, configuration management, accounting/billing, analytics (capacity planning), contact center specialized reports (utilization, queue KIIs, call abandonment rations, etc.), and business intelligence reporting.

1.1.7 Collaboration — Voice, video, workstream collaboration, and web conferencing; messaging; mobile applications; and enterprise social software. Doesn't include the audio visional software or hardware.

1.1.8 Collaborative Video — A set of immersive video technologies that enable people to feel or appear as if they were present in a location that they are not physically in. Immersive video consists of a multiple codec video system, where each meeting attendee uses an immersive video room to "dial in" and can see/talk to every other member on a screen (or screens) as if they were in the same room and provides call control that enables intelligent video bandwidth management.

1.1.9 Content Delivery Systems (CDS) — A large distributed system of servers deployed in multiple data centers connected by the Internet. The purpose of the content delivery system is to serve content to a

very large number of end-users (i.e., quarterly all hands meetings/webinar) with high availability and high performance. CDSs serve content over the Internet, including web objects (text, graphics, URLs, and scripts), downloadable objects (media files, software, documents), applications (e-commerce, portals), live streaming media, on-demand streaming media, and social networks.

Category 1.2: NETWORKING

1.2.1 Network Application Services.

Application networking solutions and technologies that enable the successful and secure delivery of applications to local, remote, and branch-office users using technology to accelerate, secure, and increase availability of both application traffic and computing resources.

1.2.1.1 Virtualized Load Balancers — Virtual devices that act like a reverse proxy to distribute network and/or application traffic across multiple servers to improve the concurrent user capacity and overall reliability of applications. Capabilities should include:

- SSL (Secure Sockets Layer) Off-loading
- Caching capabilities
- Layer 4 Load Balancing
- Layer 7 Load Balancing
- Detailed Reporting
- Supports multiple load balancers in the same system for multiple groups
- Supports TLS1.2

1.2.1.2 WAN Optimization — An appliance utilizing a collection of techniques for increasing data-transfer efficiencies across wide-area networks (WAN). Capabilities should include:

- CIFS (Common Internet File System) acceleration
- Data Compression
- SSL encryption/decryption for acceleration (Optional)
- Layer 4-7 visibility
- Application Specific optimization
- Network analysis tools (solutions utilized to collect, classify, analyze, and securely store log messages).

1.2.2 Networking Software.

Software that runs on a server, or within the Cloud, and enables the server to manage data, users, groups, security, applications, and other networking functions. The network operating system is designed to allow transfer of data among multiple computers in a network, typically a local area network (LAN), a private network or to other networks. Networking software capabilities should include:

- Restartable Process
- High availability options
- Targeted operating systems, i.e. DC, campus, core, wan, etc.
- Operating System Efficiencies

- Network analysis tools (solutions utilized to collect, classify, analyze, and securely store log messages).

1.2.2.1 Network Management and Automation — Software products and solutions for network automation, cloud computing, and IT systems management.

1.2.2.2 Data Center Management and Automation — Software products and solutions that capture and automate manual tasks across servers, network, applications, and virtualized infrastructure.

1.2.2.3 Cloud Portal and Automation — Software products and solutions for cloud management with policy-based controls for provisioning virtual and physical resources.

1.2.2.4 Branch Office Management and Automation — Software products and solutions for management of branch offices. Capabilities include remote troubleshooting, device management, and WAN performance monitoring.

1.2.3 Network Optimization and Acceleration.

Devices and tools for increasing data-transfer efficiencies across wide-area networks.

1.2.3.1 Data Analytics — Appliance for improving network management by more effectively factoring in issues related to congestion, such as utilization, service consumption and routing. Provides real-time insights into network traffic to determine the value of different portions of that traffic.

1.2.3.2 Dynamic Load Balancing (Network Traffic Management) — An appliance that performs a series of checks and calculations to determine which server can best service each client request in order to select the server that can successfully fulfill the client request and do so in the shortest amount of time without overloading either the server or the server farm as a whole.

1.2.3.3 WAN Acceleration — Appliance that optimizes bandwidth to improve the end user's experience on a wide area network (WAN). Capabilities should include:

- CIFS acceleration
- Data Compression
- SSL encryption/decryption for acceleration (Optional)
- Layer 4-7 visibility
- Application Specific optimization

1.2.3.4 High Availability and Redundancy — Limits any disruption to network uptime should an appliance face unforeseen performance issues. Transparently redistributes workloads to surviving cluster appliances without impacting communication throughout the cluster.

1.2.4 Optical Networking.

High capacity networks based on optical technology and components that provide routing, grooming, and restoration at the wavelength level as well as wavelength based services.

1.2.4.1 Core DWDM (Dense Wavelength Division Multiplexing) Switches — Switches used in systems designed for long haul and ultra long-haul optical networking applications.

1.2.4.2 Edge Optical Switches — Provide entry points into the enterprise or service provider core networks.

1.2.4.3 Optical Network Management — Provides capabilities to manage the optical network and allows operators to execute end-to-end circuit creation.

1.2.4.4 IP over DWDM (IPoDWDM) — A device utilized to integrate IP Routers and Switches in the OTN (Optical Transport Network).

Category 1.3: ROUTERS, SWITCHES, SECURITY, AND NETWORKING STORAGE

1.3.1 Routers.

A device that forwards data packets along networks. A router is connected to at least two networks, commonly two LANs or WANs or a LAN and its ISP's network. Routers are located at gateways, the places where two or more networks connect, and are the critical device that keeps data flowing between networks and keep the networks connected to the Internet.

1.3.1.1 Branch Routers — A multiservice router typically used in branch offices or locations with limited numbers of users and supports flexible configurations/feature. For example: security, VoIP, wan acceleration, etc.

1.3.1.2 Network Edge Routers — A specialized router residing at the edge or boundary of a network. This router ensures the connectivity of its network with external networks, a wide area network or the Internet. An edge router uses an External Border Gateway Protocol, which is used extensively over the Internet to provide connectivity with remote networks.

1.3.1.3 Core Routers - High performance, high speed, low latency routers that enable Enterprises to deliver a suite of data, voice, and video services to enable next-generation applications such as IPTV and Video on Demand (VoD), and Software as a Service (SaaS).

1.3.1.4 Service Aggregation Routers — Provides multiservice adaptation, aggregation and routing for Ethernet and IP/MPLS networks to enable service providers and enterprise edge networks simultaneously host resource-intensive integrated data, voice and video business and consumer services.

1.3.1.5 Carrier Ethernet Routers — High performance routers that enable service providers to deliver a suite of data, voice, and video services to enable next-generation applications such as IPTV, Video on Demand (VoD), and Software as a Service (SaaS).

1.3.2 Security.

1.3.2.1 Data Center and Virtualization Security Products and Appliances — Products designed to protect high-value data and data center resources with threat defense and policy control.

1.3.2.2 Intrusion Detection/Protection and Firewall Appliances — Provide comprehensive inline network firewall security from worms, Trojans, spyware, key loggers, and other malware. This includes Next-Generation Firewalls (NGFW), which offer a wire-speed integrated network platform that performs deep inspection of traffic and blocking of attacks. Intrusion Detection/Protection and Firewall Appliances should provide:

- Non-disruptive in-line bump-in-the-wire configuration
- Standard first-generation firewall capabilities, e.g., network-address translation (NAT), stateful protocol inspection (SPI) and virtual private networking (VPN), etc.
- Application awareness, full stack visibility and granular control
- Capability to incorporate information from outside the firewall, e.g., directory-based policy, blacklists, white lists, etc.
- Upgrade path to include future information feeds and security threats
- SSL decryption to enable identifying undesirable encrypted applications (Optional)

1.3.2.3 Logging Appliances and Analysis Tools — Solutions utilized to collect, classify, analyze, and securely store log messages.

1.3.2.4 Secure Edge and Branch Integrated Security Products — Network security, VPN, and intrusion prevention for branches and the network edge. Products typically consist of appliances or routers.

1.3.2.5 Secure Mobility Products — Delivers secure, scalable access to corporate applications across multiple mobile devices.

1.3.2.6 Encryption Appliances — A network security device that applies crypto services at the network transfer layer - above the data link level, but below the application level.

1.3.2.7 On-premise and Cloud-based services for Network Communications Integrity — Solutions that provide threat protection, data loss prevention, message level encryption, acceptable use and application control capabilities to secure web and email communications. This could include cloud access security brokers (CASBs) and DNS security.

1.3.2.8 Secure Access — Products that provide secure access to the network for any device, including personally owned mobile devices (laptops, tablets, and smart phones). Capabilities should include:

- Management visibility for device access
- Self-service on-boarding
- Centralized policy enforcement
- Differentiated access and services
- Device Management

1.3.3 Storage Networking.

High-speed network of shared storage devices connecting different types of storage devices with data servers.

1.3.3.1 Director Class SAN (Storage Area Network) Switches and Modules — A scalable, high-performance, and protocol-independent designed primarily to fulfill the role of core switch in a core-edge Fibre Channel (FC), FCOE or similar SAN topology. A Fibre Channel director is, by current convention, a switch with at least 128 ports. It does not differ from a switch in core FC protocol functionality. Fibre Channel directors provide the most reliable, scalable, high-performance foundation for private cloud storage and highly virtualized environments.

1.3.3.2 Fabric and Blade Server Switches — A Fibre Channel switch is a network switch compatible with the Fibre Channel (FC) protocol. It allows the creation of a Fibre Channel fabric, which is currently the core

component of most SANs. The fabric is a network of Fibre Channel devices, which allows many-to-many communication, device name lookup, security, and redundancy. FC switches implement zoning; a mechanism that disables unwanted traffic between certain fabric nodes.

1.3.3.3 Enterprise and Data Center SAN and VSAN (Virtual Storage Area Network) Management — Management tools to provisions, monitors, troubleshoot, and administers SANs and VSANs.

1.3.3.4 SAN Optimization — Tools to help optimize and secure SAN performance (ie. Encryption of data-at-rest, data migration, capacity optimization, data reduction, etc.

1.3.4: Switches.

Layer 2/3 devices that are used to connect segments of a LAN (local area network) or multiple LANs and to filter and forward packets among them.

1.3.4.1 Campus LAN – Access Switches — Provides initial connectivity for devices to the network and controls user and workgroup access to internetwork resources. The following are some of the features a campus LAN access switch should support:

1. Security
    a. SSHv2 (Secure Shell Version 2)
    b. 802.1X (Port Based Network Access Control)
    c. Port Security
    d. DHCP (Dynamic Host Configuration Protocol) Snooping
2. VLANs
3. Fast Ethernet/Gigabit Ethernet
4. PoE (Power over Ethernet)
5. link aggregation
6. 10 Gb support
7. Port mirroring
8. Span Taps
9. Support of IPv6 and IPv4
10. Standards-based rapid spanning tree
11. Netflow Support (Optional).

1.3.4.2 Campus LAN – Core Switches — Campus core switches are generally used for the campus backbone and are responsible for transporting large amounts of traffic both reliably and quickly. Core switches should provide:

- High bandwidth
- Low latency
- Hot swappable power supplies and fans
- Security
    - SSHv2
    - MacSec encryption
    - Role-Based Access Control Lists (ACL)
- Support of IPv6 and IPv4
- 1/10/40/100 Gbps support

- IGP (Interior Gateway Protocol) routing
- EGP (Exterior Gateway Protocol) routing
- VPLS (Virtual Private LAN Service) Support
- VRRP (Virtual Router Redundancy Protocol) Support
- Netflow Support.

1.3.4.3 Campus Distribution Switches — Collect the data from all the access layer switches and forward it to the core layer switches. Traffic that is generated at Layer 2 on a switched network needs to be managed, or segmented into Virtual Local Area Networks (VLANs), Distribution layer switches provides the inter-VLAN routing functions so that one VLAN can communicate with another on the network. Distribution layer switches provides advanced security policies that can be applied to network traffic using Access Control Lists (ACLs).

- High bandwidth
- Low latency
- Hot swappable power supplies and fans
- Security (SSHv2 and/or 802.1X)
- Support of IPv6 and IPv4
- Jumbo Frames Support
- Dynamic Trunking Protocol (DTP)
- Per-VLAN Rapid Spanning Tree (PVRST+)
- Switch-port auto recovery
- NetFlow Support or equivalent

1.3.4.4 Data Center Switches — Data center switches, or Layer 2/3 switches, switch all packets in the data center by switching or routing good ones to their final destinations, and discard unwanted traffic using Access Control Lists (ACLs) a minimum of 10 Gigabit speeds. High availability and modularity differentiates a typical Layer 2/3 switch from a data center switch. Capabilities should include:

- High bandwidth
- Low latency
- Hot swappable power supplies and fans
- Ultra-low latency through wire-speed ports with nanosecond port-to-port latency and hardware-based Inter-Switch Link (ISL) trunking
- Load Balancing across Trunk group able to use packet based load balancing scheme
- Bridging of Fibre Channel SANs and Ethernet fabrics
- Jumbo Frame Support
- Plug and Play Fabric formation that allows a new switch that joins the fabric to automatically become a member
- Ability to remotely disable and enable individual ports
- Support NetFlow or equivalent

1.3.4.5 Software Defined Networks (SDN) — An application in SDN that manages flow control to enable intelligent networking.

1.3.4.6 Software Defined Networks (SDN) - Virtualized Switches and Routers — Technology utilized to support software manipulation of hardware for specific use cases.

1.3.4.7 Software Defined Networks (SDN) — Controllers - is an application in software-defined networking (SDN) that manages flow control to enable intelligent networking. SDN controllers are based on protocols, such as OpenFlow, that allow servers to tell switches where to send packets. The SDN controller lies between network devices at one end and applications at the other end. Any communications between applications and devices have to go through the controller. The controller uses multiple routing protocols including OpenFlow to configure network devices and choose the optimal network path for application traffic.

1.3.4.8 Carrier Aggregation Switches — Carrier aggregation switches route traffic in addition to bridging (transmitted) Layer 2/Ethernet traffic. Carrier aggregation switches' major characteristics are:

- Designed for Metro Ethernet networks
- Designed for video and other high bandwidth applications
- Supports a variety of interface types, especially those commonly used by Service Providers

Capabilities should include:

- Redundant Processors
- Redundant Power
- IPv4 and IPv6 unicast and multicast
- High bandwidth
- Low latency
- Hot swappable power supplies and fans
- MPLS (Multiprotocol Label Switching)
- BGP (Border Gateway Protocol)
- Software router virtualization and/or multiple routing tables
- Policy based routing
- Layer 2 functionality
    - Per VLAN Spanning Tree
    - Rapid Spanning Tree
    - VLAN IDs up to 4096
    - Layer 2 Class of Service (IEEE 802.1p)
    - Link Aggregation Control Protocol (LACP)
    - QinQ (IEEE 802.1ad)

1.3.4.9 Carrier Ethernet Access Switches — A carrier Ethernet access switch can connect directly to the customer or be utilized as a network interface on the service side to provide layer 2 services.

- Hot-swappable and field-replaceable integrated power supply and fan tray
- AC or DC power supply with minimum DC input ranging from 18V to 32 VDC and 36V to 72 VDC
- Ethernet and console port for manageability
- SD flash card slot for additional external storage
- Stratum 3 network clock
- Line-rate performance with a minimum of 62-million packets per second (MPPS) forwarding rate

- Support for dying gasp on loss of power
- Support for a variety of small form factor pluggable transceiver (SFP and SFP+) with support for Device Object Model (DOM)
- Timing services for a converged access network to support mobile solutions, including Radio Access Network (RAN) applications
- Support for Synchronous Ethernet (SyncE) services
- Supports Hierarchical Quality of Service (H-QoS) to provide granular traffic-shaping policies
- Supports Resilient Ethernet Protocol REP/G.8032 for rapid layer-two convergence

Category 1.4: WIRELESS.

Provides connectivity to wireless devices within a limited geographic area. System capabilities should include:

- Redundancy and automatic failover
- IPv6 compatibility
- NTP Support

1.4.1 Access Points — A wireless Access Point (AP) is a device that allows wireless devices to connect to a wired network using Wi-Fi, or related standards. Capabilities should include:

- 802.11a/b/g/n
- 802.11n
- 802.11ac
- Capable of controller discovery method via DHCP (onsite controller or offsite through Cloud Architecture)
- UL2043 plenum rated for safe mounting in a variety of indoor environments
- Support AES-CCMP (128-bit)
- Provides real-time wireless intrusion monitoring and detection

1.4.2 Outdoor Wireless Access Points — Outdoor APs are rugged, with a metal cover and a DIN rail or other type of mount. During operations they can tolerate a wide temperature range, high humidity and exposure to water, dust, and oil. Capabilities should include:

- Flexible Deployment Options
- Provides real-time wireless intrusion monitoring and detection
- Capable of controller discovery method via DHCP (onsite controller or offsite through Cloud Architecture)

1.4.3 Wireless LAN Controllers — An onsite or offsite solution utilized to manage Light-weight access points in large quantities by the network administrator or network operations center. The WLAN controller automatically handles the configuration of wireless access-points. Capabilities should include:

- Ability to monitor and mitigate RF interference/self-heal
- Support seamless roaming from AP to AP without requiring re-authentication
- Support configurable access control lists to filter traffic and denying wireless peer to peer traffic

- System encrypts all management layer traffic and passes it through a secure tunnel
- Policy management of users and devices provides ability to de-authorize or deny devices without denying the credentials of the user, nor disrupting other AP traffic
- Support configurable access control lists to filter traffic and denying wireless peer to peer traffic

1.4.4 Wireless LAN Network Services and Management — Enables network administrators to quickly plan, configure and deploy a wireless network, as well as provide additional WLAN services. Some examples include wireless security, asset tracking, and location services. Capabilities should include:

- Provide for redundancy and automatic failover
- Historical trend and real time performance reporting is supported
- Management access to wireless network components is secured
- SNMPv3 enabled
- RFC 1213 compliant
- Automatically discover wireless network components
- Capability to alert for outages and utilization threshold exceptions
- Capability to support Apple's Bonjour Protocol / mDNS
- QoS / Application identification capability

1.4.5 Cloud-based services for Access Points — Cloud-based management of campus-wide WiFi deployments and distributed multi-site networks. Capabilities include:

- Zero-touch access point provisioning
- Network-wide visibility and control
- RF optimization,
- Firmware updates

1.4.6 Mobile Device Management (MDM) — MDM technology utilized to allow employees to bring personally owned mobile devices (laptops, tablets, and smart phones) to their workplace, and use those devices to access privileged government information and applications in a secure manner. Capabilities should include:

- Ability to apply corporate policy to new devices accessing the network resources, whether wired or wireless
- Provide user and devices authentication to the network
- Provide secure remote access capability
- Support 802.1x
- Network optimization for performance, scalability, and user experience

Category 1.5: FACILITY MANAGEMENT, MONITORING, AND CONTROL.

Technology utilized in the management, monitoring and control of facilities. Technologies include:

a. Access control systems
b. Detection/Identification systems, such as surveillance systems, closed circuit television cameras, or IP camera networks and the associated monitoring systems.

c. Response systems such as alert systems, desktop monitoring systems, radios, and digital signage.
d. Building and energy controls

II. Value Added Services

For each Award Category above, the following valued services should also be available for procurement at the time of product purchase or anytime afterwards. This provided list of value added services is not intended to be exhaustive, and may be updated pursuant to the terms of the resulting Master Agreement (see main RFP document section 5.2).

2.1 Maintenance Services — Capability to provide technical support, software maintenance, flexible hardware coverage, and smart, proactive device diagnostics for hardware.

2.2 Professional Services

a. Deployment Services
    i. Survey/ Design Services — Includes, but not limited to, discovery, design, architecture review/validation, and readiness assessment.
    ii. Implementation Services — Includes, but not limited to, basic installation and configuration or end-to-end integration and deployment.
    iii. Optimization — Includes, but not limited to, assessing operational environment readiness, identify ways to increase efficiencies throughout the network, and optimize Customer's infrastructure, applications and service management.
b. Remote Management Services — Includes, but not limited to, continuous monitoring, incident management, problem management, change management, and utilization and performance reporting that may be on a subscription basis.
c. Consulting/Advisory Services — Includes, but not limited to, assessing the availability, reliability, security and performance of Customer's existing solutions.
d. Data Communications Architectural Design Services — Developing architectural strategies and roadmaps for transforming Customer's existing network architecture and operations management.
e. Statement of Work (SOW) Services — Customer-specific tasks to be accomplished and/or services to be delivered based on Customer's business and technical requirements.
f. Testing Services – Includes, but not limited to, testing the availability, reliability, security and performance of Customer's existing solutions

2.3 Partner Services — Provided by Contractor's Authorized Partners/Resellers.

a. Subject to Contractor's approval and the certifications held by its Partners/Resellers, many Partners/Resellers can also offer and provide some or all of the Services as listed above at competitive pricing, along with local presence and support. As the primary Contractor (OEM), Contractor is ultimately responsible for the service and performance of its Partners/ Resellers. Customers may have the option to purchase the Services to be directly delivered by Contractor (OEM) or its certified Partners/Resellers.

2.4 **Training** — Learning offerings for IT professionals on networking technologies, including but not limited to designing, implementing, operating, configuring, and troubleshooting network systems pertaining to items provided under the master agreement.

ATTACHMENT B.1
OEM EVALUATED QUALIFICATIONS

Per RFP Section 4.2, OEM Evaluated Qualifications, Offeror's **must** complete this Attachment and submit it with their response.

Offeror's who meet all mandatory minimum requirements outlined above will then be evaluated on the following items. All Offerors are required to submit a point by point response to the following items.

Provide the information requested below detailing how your organization has the ability to provide the following criteria. Do not submit a full catalog herein this section or generic literature. Submit information specific to the characteristics listed below.

Vendor Name: [vendor input]

Information Sought	Vendor Response
4.2.1. Company Profile and References	
4.2.1.1 Years. Number of years in business and number of employees.	
4.2.1.2 Organizational Structure. Has there been a recent change in organizational structure (e.g., management team) or control (e.g., merger or acquisition) of your company? If the answer is yes: (a) explain why the change occurred and (b) how this change has affected your company.	
4.2.1.3 Company History. Discuss your company's history. Has growth been organic, through mergers and acquisitions, or both?	
4.2.1.4 Debarment. Has bidder ever been debarred, suspended, or disqualified from bidding or contracting with any public entity? If yes, provide the date, the entity, and details about the situation.	
4.2.1.5 Litigation. Provide details of all past or pending litigation or government action filed or claims that could affect Respondent's performance under a resulting master agreement. Please provide the date of initial filing, case name and court number, and jurisdiction.	
4.2.1.6 Default. Within the last 5 years, has your company or any of its related business entities defaulted on a contract or had a contract terminated for cause? If yes, provide the date, contracting entity, type of contract, and details about the termination or default.	
4.2.1.7 Annual Sales. State your gross annual sales for the last 5 years. If receiving a contract under this RFP will increase your gross revenue by more than 25% from last year's sales, explain how the company will scale-up to manage this increase.	

4.2.1.8 Financial Statements. Provide audited financial statements to the State and should meet a minimum Dun and Bradstreet (D&B) credit rating of 3A2 or better, or a recognized equivalent rating. Please provide the Respondent's D&B Number and the composite credit rating. The State reserves the right to verify this information. If a branch or wholly owned subsidiary is bidding on this RFP, please provide the D&B Number and score for the parent company that will be financially responsible for performance of the agreement. Prime contractors working on behalf of Respondents must submit financial statements that demonstrate financial stability, and adequate working capital, but do not need to meet 3A2 credit rating requirements.	[Vendor upload file named – Vendor Name 4.2.1.8 Financial Statements]
4.2.1.9 Experience & References. Describe at least 3 relevant experiences (below) from the last 5 years supporting your ability to successfully manage a contract of similar size and scope for the work described in this RFP.	
1st Experience & Reference	
Company name Contact name Contact role at time of project Contact phone Contact email City State Zip	
1. Project name and description of the scope of the project 2. What role did your company play? 3. How is this project experience relevant to the subject of this RFP?	
Dollar value	
Start and end date (mm/yy – mm/yy)	
Status (completed, live, other – specify phase)	
Results obtained	
2nd Experience & Reference	
Company name Contact name Contact role at time of project Contact phone Contact email City State Zip	
1. Project name and description of the scope of the project 2. What role did your company play? 3. How is this project experience relevant to the subject of this RFP?	
Dollar value	
Start and end date (mm/yy – mm/yy)	
Status (completed, live, other – specify phase)	
Results obtained	
3rd Experience & Reference	

Company name Contact name Contact role at time of project Contact phone Contact email City State Zip	
1. Project name and description of the scope of the project 2. What role did your company play? 3. How is this project experience relevant to the subject of this RFP?	
Dollar value	
Start and end date (mm/yy – mm/yy)	
Status (completed, live, other – specify phase)	
Results obtained	
4.2.1.10 Marketing Plan. Describe your how you intend to market your equipment and services to NASPO ValuePoint and Participating Entities.	
4.2.2. Ability to Supply NASPO ValuePoint Member States	
4.2.2.1 Strategic Relationships. Describe partnerships and strategic relationships you think will bring significant value to the resulting Master Agreement.	
4.2.2.2 Reseller Program. Demonstrate how you will provide an Effective Reseller Program managed by the OEM (Contract holder) in NASPO ValuePoint States.	
4.2.2.3 Onboarding. Describe your process to qualifying and onboarding partners and sales personnel to represent the product.	
4.2.2.4 Partner Training. Any training for partners and sales staff to ensure they understand the terms and conditions of the Master Agreement and individual Participating Addenda. Does your company provide follow-up refresher training on a semi-annual or annual basis for partners and sales staff.	
4.2.2.5 Partner Restrictions. Describe any restrictions you place on your partners / resellers from selling other OEM solutions.	
4.2.2.6 Proposed Partner List. Provide your proposed list of partners in the structure outlined in Attachment D and which Award Categories they will service for all States.	[Vendor upload file named – Vendor Name 4.2.2.6 Proposed Partner List]
4.2.3. Ability to Provide Technical Support to End Users	
4.2.3.1 SLA. Provide your proposed Service Level Agreement (SLA) that includes, but is not limited to: help desk support, response times, resolution, downtime credits, etc.	
4.2.3.2 Escalation. Describe your escalation procedures.	
4.2.3.3 End User Training. Describe your offered training program to end users.	

4.2.3.4 Maintenance Program. Describe your offered maintenance program.	
4.2.4. Qualifications and Technical Ability	
4.2.4.1 Resume. Provide a resume, in the format of Attachment C, for the Contract Manager who will be assigned to this contract, including, but not limited to the following qualifications: -- Minimum 2 years' experience in contract management with public sector clients, -- Minimum 2 years' experience in leadership roles overall, and -- Minimum 2 years' experience in the Data Communications Products and Services industry.	[Vendor upload file named – Vendor Name 4.2.4.1 Resume]
4.2.4.2 Key Personnel. Describe the key personnel titles and descriptions your firm will assign to service this contract. Outline such personnel qualifications.	
4.2.4.3 R&D Initiatives. Describe your firm's research & development (R&D) initiatives.	
4.2.5. Security	
4.2.5.1 Security. Describe how your firm ensures the security of your equipment and services are maintained against industry standards.	
4.2.5.2 Industry Security. Describe your firms approach in complying with industry standards for: patching, vulnerability testing, etc.	
4.2.5.3 Vulnerabilities. Identify any known circumstances where a vulnerability in any of your products has resulted in a data breach for an end user.	
4.2.6. Environmental	
4.2.6.1 Environmental. Describe your use of environmentally preferable goods and services, including post-consumer waste and recycled content.	
4.2.6.2 Product Lifecycle. Describe your product life recycling and trade-in program.	

ATTACHMENT B.2
CATEGORY QUALIFICATIONS
(as amended August 23, 2018)

Per RFP Section 4.3, Category Qualifications, Offeror's **must** complete this Attachment for each Product Category it is seeking an award in.

Provide the information requested below detailing how your organization has the ability to service the given Product Category. Do not submit a full catalog here in this section or generic literature. Submit information specific to the characteristics listed below. Offerors are required to submit a point by point response to the following items, for EACH Product Category Offeror is seeking an award.

Vendor Name: [vendor input]

Award Category Seeking Qualification: [vendor input]

Information Sought	Vendor Response
4.3.1 Ability to meet Scope/Service Requirements of Selected Category	
4.3.1.1 Scope/Service Requirements. Demonstrate your ability to meet Scope/Service requirements for this category.	
4.3.1.2 Scope Offered. Describe the scope and variety of products offered.	
4.3.1.3 Experience. Describe your experience and technical ability as an OEM to service this category.	
4.3.1.4 Warranty Program. Describe your offered Service and Warranty Program.	
4.3.1.5 Product Life Cycle. Describe your product life cycle management.	
4.3.1.6 Solution Models. Describe the models proposed for delivering the solution (Software Defined Networks (SDN), white boxes, etc.)	
4.3.1.7 Innovation. Describe any differentiating or highly innovative features of the products and services.	
4.3.2 Consumption Models	
4.3.2.1 Consumption Models. Describe your offered consumption models (i.e., purchase / CAPX model, communication infrastructure as-a-service, etc.	
4.3.3 Category Specific Security	
4.3.3.1 Security Standards. Describe the security standards your firm's equipment and services comply with in the industry.	
4.3.3.2 3rd Party Security Assessments. Describe any 3rd party security assessments or certifications provided on your offerings.	
4.3.4 Open Standards and Interoperability	

4.3.4.1 Open Standards. Describe any open standards of your equipment.	
4.3.4.2 Cloud Security Assessments. If Offeror is proposing a Cloud hosted solution, Offeror is to complete, provide, and maintain a completed CSA STAR Registry Self-Assessment[1]. Offeror is to submit a completed Consensus Assessments Initiative Questionnaire (CAIQ), **Exhibit 1 to Attachment B.2**. Offeror must also represent and warrant the accuracy and currency of the information on the completed attachments.	[Vendor upload file named – Vendor Name 4.3.4.2 Cloud Security Assessments]
4.3.4.3 Cloud Security Alliance. If Offeror is proposing a Cloud hosted solution, describe and provide your level of disclosure with CSA Star Registry for each Category seeking qualification.	
4.3.4.4 Interoperability. Describe the interoperability of your equipment and services to other OEMs.	
4.3.5 Value Added Services	
4.3.5.1 Value Added Services. Describe any additional value added services you offer under this Award Category.	
4.3.5.2 IoT Solutions. Describe any IoT products that you offer under this Award Category.	
4.3.5.3 Acceptance Testing / Procedures. Please provide your acceptance and testing procedures available to Purchasing Entities for this Category. Provide your standard of performance for this Category.	

[1] CSA STAR Self-Assessment documents the security controls provided by an Offeror's offerings, thereby helping Purchasing Entities assess the security of an Offeror, if awarded a Master Agreement, they currently use or are considering using.

ATTACHMENT C
CONTRACT MANAGER RESUME TEMPLATE

Vendor Name:	
Proposed Resource Name:	
Proposed Classification:	**Contract Manager**
If Contract Manager is associated with a subcontractor provide name of company:	
Percentage of time Contract Manager will be allocated to resulting master agreement:	

Instructions: Provide the skills, experience, education, etc. that qualify the individual for the duties and responsibilities outlined in this RFP for a contract manager.

EXPERIENCE & QUALIFICATIONS

The experience requirements detailed in the RFP are restated as follows:

Required Skills	Bidder's Response
Minimum 2 years' experience in contract management with public sector clients.	**Does Contract Manager have this required skill: Yes □ or No □** **Describe your skills and experience:** **Name of project(s) and year(s) experience was obtained:**
Minimum 2 years' experience in leadership roles overall, and	**Does Contract Manager have this required skill: Yes □ or No □** **Description of skills and experience:** **Name of project(s) and year(s) experience was obtained:**
Minimum 2 years' experience in the Data Communications Products and Services industry.	**Does Contract Manager have this required skill: Yes □ or No □** **Description of skills and experience:** **Name of project(s) and year(s) experience was obtained:**

ADDITIONAL SKILLS

Describe any other relevant experiences that qualify your contract manager to perform the responsibilities under this contract:

ATTACHMENT C
CONTRACT MANAGER RESUME TEMPLATE

List client references for work performed to meet the requirements stated above, and all projects the proposed Contract Manager has worked on in the last three (3) years. A minimum of three (3) references are required. By submission of this information, the bidder and identified key person authorize the State of Utah to contact references and previous employers provided to verify the accuracy of the information. Provide the identified information for each:

Start Date: *date started on project*	End Date: *date rolled off project*
Client/Project: *Client, with contact information (i.e.: address, phone #s , and email address), and project name*	
Employer: *identify employer at the time of experience*	
Title/Percentage of time: *title of role on project and percentage of time spent on project*	
Description: *brief description of responsibilities for the project. Include software version*	

Start Date:	End Date:
Client/Project:	
Employer:	
Title/Percentage of time:	
Description:	

Start Date:	End Date:
Client/Project:	
Employer:	
Title/Percentage of time:	
Description:	

EDUCATION

Education		
Degree (i.e. PhD, Master's, Bachelors)	*Example: Master in Engineering*	Year Completed: *1998*
Program	*Major(s) area of study: Computer Science*	
University		

Additional Education		
Degree (i.e. PhD, Master's, Bachelors)	*Example: Bachelors' in Business Administration*	Year Completed: *1994*
Program	Major(s) area of study: *Example: Management*	Minor area of study: *Example: Economics*
University		

CERTIFICATIONS / AFFILIATIONS – Provide any relevant certifications or affiliations the Contract Manager may have.

Certifications/Affiliations	
Name	
Topic/Description	
Date completed	

The Bidder must submit a letter of commitment for Key Personnel, signed by the identified resource, stating their commitment to work for the bidder/subcontractor on this project contingent on award of the bid.

Attachment D - Partner List Template

Solicitation # SK18001

Vendor Name:

Fulfillment Partner Company Name	Partner Address	Partner City, State & Zip	State Participation	Diverse Business Participation States (see section 1.11)	Award Categories Servicing	Sales POC Name	Sales Email	Sales Phone	website
Example - Utah Inc.	*453 E. State Street*	*Salt Lake City, UT 84115*	*UT, HI, NV*	*None*	*Routers, Switches, IoTs*	*John Doe*	*john.doe@abccompany.com*	*801-123-4567*	*www.abccompany.com*
Example - Florida Inc.	*453 E. State Street*	*Salt Lake City, FL 84115*	*FL, GA*	*FL, GA*	*Routers, IoTs*	*John Doe*	*john.doe@abccompany.com*	*801-123-4567*	*www.abccompany.com*

Attachment E Cost Proposal Form (amended 8.9.2018)

Solicitation # SK18001

Vendor Name

Section 1: Instructions

1. Offeror shall provide a Minimum Discount % within Section 2 for each Category it is seeking an award in. A vendor will be deemed non-responsive for any Category that it does not provide a Minimum Discount % of at least greater than 0%.
2. If you are not seeking an award in a given Category, simply provide NA in the Minimum Discount % field.
3. The offered Minimum Discount % off must be guaranteed for the full duration of the Contract term.
4. The Minimum Discount % provided herein shall apply to all offerings in a given category.

5. In a separate document, provide a detailed product offering for each Category Offeror is seeking an award in. Title this document - Solicitation # Vendor Name - Detailed Product Offering. Offeror's proposed Minimum Discount % for a given Category must be reflected on all offerings within this offered catalog.
6. Within Section 3, provide the rates for those Value Added Services Offeror is seeking to offer under the resulting contract. Within the Job Description field, provide the role this position fills, and what is included within the proposed rate.

Section 2: Minimum Discount % off List	
Category 1.1 Unified Communications (UC)	**0.00%**
Hardware and Software (on premise)	
Cloud Services	
Service Packages (i.e., Maintenance, etc.)	
Category 1.2 Networking	**0.00%**
Hardware and Software (on premise)	
Cloud Services	
Service Packages (i.e., Maintenance, etc.)	
Category 1.3 Routers, Switches, Secuirty, and Networking Storage	**0.00%**
Hardware and Software (on premise)	
Cloud Services	
Service Packages (i.e., Maintenance, etc.)	
Category 1.4 Wireless	**0.00%**
Hardware and Software (on premise)	
Cloud Services	
Service Packages (i.e., Maintenance, etc.)	
Category 1.5 Facility Management, Monitoring, and Control	**0.00%**
Hardware and Software (on premise)	
Cloud Services	
Service Packages (i.e., Maintenance, etc.)	

Section 3: Value Added Services

Provide the title, job description for each title, and associated hourly rate. Add additional rows as necessary.

		Hourly Rates					
		Weekday		Weekend		State Holiday	
Title	**Job Description**	**Onsite**	**Remote**	**Onsite**	**Remote**	**Onsite**	**Remote**
Maintenance Services							
Professional Services							
Deployment Services							
Consulting Advisory Services							
Architectural Design Services							
Statement of Work Services							
Partner Services							
Training Deployment Services							
[add any additional Value Added Services]							
[add any additional Value Added Services]							
[add any additional Value Added Services]							
[add any additional Value Added Services]							

Attachment F - Interactive Scorecard
Data Communications Products and Services
SOLICITATION # SK18001

RFP EVALUATION SCORESHEET

DRAFT: This document is intended to be a draft and should not be returned to the Division of Purchasing. Please return this document to the evaluation committee chairperson
This document is not subject to GRAMA pursuant to Utah Administrative Code R33-7-702(2).

Firm Name:

Evaluator:

Date:

Score will be assigned as follows:

1 = Fail, the proposal fails to address some or all of the requirements; fails to accurately address some or all of the requirements, or fails to demonstrate they can perform.
2 = Unsatisfactory, the proposal addresses the requirements or criteria in the RFP unsatisfac
3 = Satisfactory, the proposal addresses all requirements or criteria in the RFP satisfactorily.
4 = Good, the proposal addresses all requirements or criteria in the RFP and may exceed sor
5 = Excellent, the proposal addresses all requirements in the RFP and exceeds them.

	Stage 1: Minimum Mandatory Requirements	RFP Section	Evaluation (Pass/Fail)
1	Acknowledgement of Amendments	SciQuest: Questions > Acknowledgements	
2	RFP Development	4.1.1	
3	Evaluation of Proposals	4.1.2	
4	Proposed Categories	4.1.3	
5	Delivery	4.1.4	
6	Credit Rating	4.1.5	
7	OEMs Only	4.1.6	

	Stage 2: OEM Evaluated Qualifications	RFP Section	Evaluator Score (1-5)	Criteria Weight	% of Tech Criteria	Points Possible	Points Earned	Minimum Required
1	Company Profile and References	4.2.1		10	20.0%	50.0	0.0	
2	Ability to Supply NASPO ValuePoint Member States	4.2.2		10	20.0%	50.0	0.0	
3	Ability to Provide Technical Support to End Users	4.2.3		10	20.0%	50.0	0.0	
4	Qualifications and Technical Ability	4.2.4		5	10.0%	25.0	0.0	
5	Security	4.2.5		10	20.0%	50.0	0.0	
6	Environmental	4.2.6		5	10.0%	25.0	0.0	
					100.0%	**250.0**	**0.0**	**0.0**

Stage 2: Required Technical Point Threshold	RFP Section	Min Percent	Min Points Required	Points Earned	Percent Earned	Evaluation
		65%	162.5	0.0	0.0%	

	Stage 3: Category Evaluation (Per Category)	RFP Section	Evaluator Score (1-5)	Criteria Weight	% of Tech Criteria	Points Possible	Points Earned	Minimum Required
1	Ability to meet Scope/Service Requirements of Selected Category	4.3.1		20	40.0%	100.0	0.0	
2	Consumption Models	4.3.2		5	10.0%	25.0	0.0	
3	Category Specific Security	4.3.3		10	20.0%	50.0	0.0	
4	Open Standards and Interoperability	4.3.4		10	20.0%	50.0	0.0	
5	Value Added Services	4.3.5		5	10.0%	25.0	0.0	
					100.0%	**250.0**	**0.0**	**0.0**

Stage 3: Required Technical Point Threshold	RFP Section	Min Percent	Min Points Required	Points Earned	Percent Earned	Evaluation
		70%	175.0	0.0	0.0%	

Stage 4: Cost Proposal Evaluation	RFP Section	Low Cost Option	Offered Cost	Percent of Total	Points Possible	Points Earned
				25%	166.7	0.0

* Purchasing will use the following cost formula: The points assigned to each offerors cost proposal will be as outlined in section 3.2 "Final Stage: Cost Proposal Evaluation".

Total Evaluation Points	Percent of Total	Points Possible	Points Earned
Stage 2: OEM Evaluated Qualifications	38%	250.0	0.0
Stage 3: Category Evaluation	38%	250.0	0.0
Stage 4: Cost Evaluation Points	25%	166.7	0.0
Total Evaluation Points	100%	666.7	0.0

CLAIM OF BUSINESS CONFIDENTIALITY

Pursuant to Utah Code Annotated, Subsections 63G-2-305(1) and (2), and in accordance with Section 63G-2-309, _____ (company name) asserts a claim of business confidentiality to protect the following information submitted as part of this solicitation. Pricing/Cost Proposals may not be classified as confidential or protected and will be considered public information. **An entire proposal cannot be identified as "PROTECTED", "CONFIDENTIAL" or "PROPRIETARY".**

☐ Non-public financial statements
☐ Specific employee name and contact information
☐ Specific customer information, client lists, or subscription lists
☐ Other (specify): _____

This claim is asserted because this information requires protection as it includes:

☐ trade secrets as defined in Utah Code Annotated Section 13-24-2 ("Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that: (a) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy).

☐ commercial information or non-individual financial information obtained from a person if: (a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future; [and] (b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access.

This statement of reasons supporting the claim of business confidentiality applies to the following information in this proposal:

Page	Paragraph	Reason

Please use additional sheets if needed.

You will be notified if a record claimed to be protected herein under Utah Code Annotated § 63G-2-305(1) or (2) is classified public or if the governmental entity determines that the record should be released after weighing interests under Utah Code Annotated § 63G-2-201(5)(b) or Utah Code Annotated § 63G-2-401(6). See Utah Code Annotated § 63G-2-309.

Signed: _____
On behalf of (company): _____
Date: _____

(Revision 6/4/2015)

Attachment H: NASPO ValuePoint Cooperative Contract Detailed Sales Report

Contractor: **Quarter:**

☐ No Quarterly Sales

Vendor Name	Vendor Contract Number	State	Customer Type	Bill to Name	Bill to Address	Bill to City	Bill to Zipcode	Ship to Name	Ship to Address	Ship to City	Ship to Zipcode	Order Number	Customer PO Number	Customer Number	Order Type	PO Date	Ship Date	Invoice Date	Invoice Number	Awarded Category #	Product Number	Product Description	UNSPSC Commodity	List Price/MSRP	NASPO ValuePoint Price	Quantity	Total Price	Admin Fee	VAR/Reseller/Partner/Distributor NAME	Energy Star Compliant Yes-1 No-2 NA-0

Attachment I: Intent to Participate

States with an Intent to Participate. The States listed below have submitted and signed the Intent to Participate form to the State of Utah under this Data Communications Products and Services RFP (solicitation # SK18001). Some of these States have attached additional information, including state specific terms and conditions that need to be posted as part of this RFP. The below listed States reserve the right to modify the terms and conditions of any awarded Master Agreement in a Participating Addendum.

California	Colorado
Florida	Hawaii
Illinois	Louisiana
Michigan	Montana
New Jersey	South Dakota
Utah	Washington
Amended into RFP After Release	
Minnesota	Maryland
Oregon	

NASPO ValuePoint
INTENT TO PARTICPATE
Cooperative Contract(s) for

Data Communications Products & Services (2019-2024)

I. PURPOSE

The purpose of this Agreement is to provide interested NASPO states with the opportunity to participate in multi-state cooperative contract(s) for the **Data Communications Products & Services.**

II. SCOPE OF THE CONTRACT(S)

The State of Utah is authorized by agreement of the participants to act as the procurement officer in developing multi-state cooperative contract(s) for **Data Communications Products & Services.**

The resulting contracts will be permissive contracts.

Administrative Fee

There will be a 0.25% NASPO ValuePoint administrative fee associated with these contracts. It is anticipated that the individual states will be able to add an administrative fee when the state executes its Participating Addendum.

III. TERM OF THE CONTRACT

The initial term of the contract will be established for five (5) years from the date of award with options to extend the contract for (2) two additional years.

IV. SOLICITATION AND CONTRACT DEVELOPMENT/ADDITIONAL INFORMATION

The solicitation and contract development shall be accomplished in compliance with the NASPO ValuePoint Process Guide and the NASPO Memorandum of Agreement for the NASPO cooperative purchasing program, incorporated herein by reference.

Solicitation Publication Period

Bidders/Offerors will be given at least 40 days after publication to submit proposals.

Solicitation Type and Evaluation Criteria

This RFP will be issued and evaluated in concert with the procurement laws and rules of the State of Utah by a sourcing team comprised of members from several states.

Award(s)

The solicitation will permit multiple awards.

Additional Requested Information

State Specific Terms and Conditions: If the participating state wishes to include any State specific terms and conditions with the release of this RFP, please attach those with this Intent to Participate.

Annual Estimated Volume: If your State has an existing contract for this commodity or service, please indicate your annual volume of spend (including any potential political subdivision usage if available).

Annual State Spend	Not Available
Annual Political Subdivision Spend	Not Available
Total Spend	Approximately $62 million

State of California

Angela Shell
Director Name

(916) 375-4417 — **Director Phone**

Angela.Shell@dgs.ca.gov — **Director Email**

Director has approved ITP to be submitted? Yes ☒ No ☐
(Click appropriate box)

State Specific T&Cs to be included in RFP? Yes ☒ No ☐
(Click appropriate box)

Julie Matthews, Contract Administrator
State Point of Contact Name and Title

(916) 375-4612 — **Phone**

julie.matthews@dgs.ca.gov — **Email**

Please email completed "Intent to Participate" document by **Tuesday, July 10, 2018** to:
Shannon Berry
Cooperative Development Coordinator
NASPO ValuePoint
sberry@naspovaluepoint.org

Terms and conditions listed below will be incorporated and made a part of California Participating Addenda. The State of California reserves the right to add additional terms and conditions to individual Participating Addenda.

A. Terms

1. Information Technology (IT) General Provisions – GSPD401IT, effective 09/05/14.
   Document can be viewed at:
   http://www.documents.dgs.ca.gov/pd/poliproc/GSPD401IT14_0905.pdf.

2. Cloud Computing Special Provisions for Software as a Service (SaaS), effective 03/15/18.
   Document can be viewed at:
   http://www.documents.dgs.ca.gov/pd/poliproc/CLOUDCOMPUTINGSERVICESSPECIALPROVISIONS_18_0301.docx

B. Administrative Fee

Contractor shall submit a check, payable to the State of California, remitted to the Cooperative Agreement Unit for the calculated amount equal to one percent (0.01) of the sales for the quarterly period.

Contractor must include the Participating Addendum Number on the check. Those checks submitted to the State without the Participating Addendum Number will be returned to Contractor for additional identifying information.

Administrative fee checks shall be submitted to:

State of California
Department of General Services, Procurement Division
Attention: Cooperative Agreement Payment Processing
707 3rd Street, 2nd Floor, MS 2-202
West Sacramento, CA 95605

The administrative fee shall not be included as an adjustment to Contractor's NASPO ValuePoint Master Agreement pricing.

The administrative fee shall not be invoiced or charged to the ordering agency.

Payment of the administrative fee is due irrespective of payment status on orders or service contracts from a purchasing entity.

Administrative fee checks are due for each quarter as follows:

Reporting Period			Due Date
JAN 1	to	MAR 31	APR 30
APR 1	to	JUN 30	JUL 31
JUL 1	to	SEP 30	OCT 31
OCT 1	to	DEC 31	JAN 31

Failure to meet administrative fee requirements and submit fees on a timely basis shall constitute grounds for suspension of the Participating Addendum.

PARTICIPATING ADDENDUM

(hereinafter "Addendum")

For

NASPO VALUEPOINT Add description of goods & servcies

MASTER AGREEMENT NO. Add contract no.

(hereinafter "Master Agreement")

Between

Insert Contractor Name

(hereinafter "Contractor")

and

State of Hawaii

(hereinafter "Participating State")

State of Hawaii, State Procurement Office (SPO) Price List Contact No. add PL No.

This Addendum will add the State of Hawaii as a Participating State to purchase from the NASPO ValuePoint Master Agreement Number insert contract number with insert contractor name.

1. Scope:

   This addendum covers NASPO ValuePoint describe services lead by insert lead State for use by state agencies and other entities located in the Participating State authorized by the state's statutes to utilize state contracts.

2. Participation:

   All jurisdictions located within the State of Hawaii, which have obtained prior written approval by its Chief Procurement Officer, will be allowed to purchase from the Master Agreement. Private nonprofit health or human services organizations with current purchase of service contracts governed by Hawaii Revised Statutes (HRS) chapter 103F are eligible to participate in the SPO price/vendor list contracts upon mutual agreement between the Contractor and the non-profit. (Each such participating jurisdiction and participating nonprofit is hereinafter referred to as a "Participating Entity"). Issues of interpretation and eligibility for participation are solely within the authority of the Administrator, State Procurement Office.

3. Changes: Replace with specific changes or statements that no changes are required

   A. Usage Reports. Contractor shall submit a quarterly gross sales report (including zero dollar sales) in EXCEL to the contact person listed in the Participating Addendum, Paragraph 6 (or as amended) in accordance with the following schedule (or as requested):

Quarter Ending	Report Due
March 31	April 30
June 30	July 31
September 30	October 31
December 31	January 31

The report shall identify each transaction and include the following information:

Department/Agency Name
Date of Purchase
Product/Service Description
Quantity
Unit of Measure
Item No. Part Number (if applicable)
MSRP List Price
NASPO ValuePoint Contract Price

The quarterly report shall also include any adjustment from prior periods (i.e. exchanges and/or return).

B. The validity of this Addendum, any of its terms or provisions, as well as the right and duties of the parties in this Addendum, shall be governed by the laws of the State of Hawaii. A copy of the Attorney General's General Conditions, which is made a part of this Addendum, can be found at http://spo.hawaii.gov/wp-content/uploads/2014/02/103D-General-Conditions.pdf. Any action at law or in equity to enforce or interpret the provisions of this Addendum shall be brought in a court of competent jurisdiction in Honolulu, Hawaii.

C. Inspection of Facilities. Pursuant to HRS § 103D-316, the Participating State, at reasonable times, may inspect the part of the plant or place of business of the Contractor or any subcontractor that is related to the performance of a Master Agreement and this Addendum.

D. Campaign Contributions. The Contractor is notified of the applicability of HRS § 11-355, which prohibits campaign contributions from Contractor during the term of the Addendum if the contractor is paid with funds appropriated by the Hawaii State Legislature.

E. Purchases by State of Hawaii government entities under this Master Agreement is not mandatory. This Addendum is secondary and non-exclusive.

F. The State of Hawaii's purchasing card (pCard) is required to be used by the State's executive departments/agencies (excluding the Department of Education, the Hawaii Health System Corporation, the Office of Hawaiian Affairs, and the University of Hawaii) for all orders totaling less than $2,500. For purchases of $2,500 or more, agencies may use the pCard, subject to its credit limit or issue a purchase order.

Contractor(s) shall forward original invoice(s), directly to the ordering agency. General excise tax shall not be applied to the delivery charge.

Pursuant to HRS § 103-10, Participating State and any agency of the Participating State or any county, shall have thirty (30) calendar days after receipt of invoice or satisfactory delivery of goods to make payment. Any interest for delinquent payment shall be as allowed by HRS § 103-10.

G. Pursuant to HRS §103D-310(c), if Contractor is doing business in the Participating State, Contractor is required to comply with all laws governing entities doing business in the Participating State, including the following HRS chapters.

1. Chapter 237, General Excise Tax Law;
2. Chapter 383, Hawaii Employment Security Law;
3. Chapter 386, Workers' Compensation;
4. Chapter 392, Temporary Disability Insurance;
5. Chapter 393, Prepaid Health Care Act; and

A Certificate of Good Standing is required for entities doing business in the State.

The Hawaii Compliance Express (HCE) is utilized for verification of compliance. The SPO will conduct periodic checks to confirm Contractor's compliance on HCE throughout the term of the Addendum.

Alternatively, Contractors not utilizing HCE to demonstrate compliance shall provide paper certificates to the SPO as instructed below. All certificates must be valid on the date it is received by the SPO. All applications for applicable clearances are the responsibility of the Contractor.

HRS Chapter 237 tax clearance requirement. Pursuant to Section 103D-328, HRS, Contractor shall be required to submit a tax clearance certificate issued by the Hawaii State Department of Taxation (DOTAX) and the Internal Revenue Service (IRS). The certificate shall have an original green certified copy stamp and shall be valid for six (6) months from the most recent approval stamp date on the certificate.

The Tax Clearance Application, Form A-6, and its completion and filing instructions, are available on the DOTAX website: http://tax.hawaii.gov/forms/.

HRS Chapters 383 (Unemployment Insurance), 386 (Workers' Compensation), 392 (Temporary Disability Insurance), and 393 (Prepaid Health Care) requirements. Pursuant to Section 103D-310(c) Contractor shall be required to submit a certificate of compliance issued by the Hawaii State Department of Labor and Industrial Relations (DLIR). The certificate is valid for six (6) months from the date of issue. A photocopy of the certificate is acceptable to the SPO.

The DLIR Form LIR#27 Application for Certificate of Compliance with Section 3-122-112, HAR, and its filing instructions are available on the DLIR website: http://labor.hawaii.gov/forms/.

Compliance with Section 103D-310(c), HRS, for an entity doing business in the State. Contractor shall be required to submit a Certificate of Good Standing (COGS) issued by the State of Hawaii Department of Commerce and Consumer Affairs (DCCA) – Business Registration Division (BREG). The Certificate is valid for six (6) months from date of issue. A photocopy of the certificate is acceptable to the SPO.

To obtain the Certificate, the Offeror must be registered with the BREG. A sole proprietorship is not required to register with the BREG and is therefore not required to submit the certificate.

For more information regarding online business registration and the COGS is available at http://cca.hawaii.gov/breg/.

H. Effective Date and Contract Period. This Addendum is effective upon the date of execution by the Participating State and shall continue for the term set forth in the Master Agreement.

4. Licensing

Offerors(Bidders) and Contractors must be properly licensed and capable of performing the Work as described in the RFP(IFB), at the time of submission of the Proposal(Bid), in accordance with the Professional and Vocational licensing laws of the state. Contractors under Participating Addendums must maintain any and all required licenses through the duration of the contract and Participating Addendum.

5. Lease Agreements:

Leasing is not authorized by this Addendum

6. Primary Contact:

The primary contact individuals for this Addendum are as follows (or their named successors:

Participating State	
Name:	Name of purchasing specialist
Address:	State Procurement Office 1151 Punchbowl Street, Room 416 Honolulu, HI 96813
Telephone:	phone number
Fax:	(808) 586-0570
E-Mail:	specialist e-mail address

Contractor	
Name:	
Address:	
Telephone:	
Fax:	
E-Mail:	

7. Subcontractors:

Subcontractors are (or are not) allowed under this Addendum.

8. Freight Charges (unless otherwise stated in the master contract):

Prices proposed will be the delivered price to any state agency or political subdivision. All deliveries will be F.O.B. destination with all transportation and handling charges paid by the Contractor. Responsibility and liability for loss or damage will remain with Contractor until final inspection and acceptance when responsibility will pass to the Buyer except as to latent defects, fraud, and Contractor's warranty obligations. Any portion of a full order originally shipped without transportation charges (that failed to ship with the original order, thereby becoming back-ordered) will also be shipped without transportation charges.

9. Purchase Order and Payment Instructions:

All purchase orders issued by Participating Entities under this Addendum shall include the Participating State contract number: SPO Price List Contract No. 16-07 and the NASPO ValuePoint Master Agreement Number 06913.

- Purchase Orders and Payments shall be made to add contractor name or authorized subcontractors, if any.

10. Participating Entity as Individual Customer:

Each Participating Entity shall be treated as an individual customer. Except to the extent modified by this Addendum, each Participating Entity will be responsible to follow the terms and conditions of the Master Agreement; and will have the same rights and responsibilities for their purchases as the Lead State has in the Master Agreement. Each Participating Entity will be responsible for its own charges, fees, and liabilities. Each Participating Entity will have the same rights to any indemnity or to recover any costs allowed in the Master Agreement for their purchases. The Contractor will apply the charges to each Participating Entity individually.

11. Entire Contract:

This Addendum, the Master Agreement, and the Attorney General's General Conditions, set forth the entire agreement, and all the conditions, understandings, promises, warranties and representations among the parties with respect to this Addendum and the Master Agreement, and supersedes any prior communications, representations or agreements whether, oral or written, with respect to the subject matter hereof.

Terms and conditions inconsistent with, contrary or in addition to the terms and conditions of this Addendum, the Master Agreement, and the Attorney General's General Conditions that are included in any purchase order or other document shall be void. The terms and conditions of this Addendum, the Master Agreement, and the Attorney General's General Conditions, shall govern in the case of any such inconsistent, contrary, or additional terms.

IN VIEW OF THE ABOVE, the parties execute this Addendum by their signatures, on the dates below.

Participating State: STATE OF HAWAII	Contractor:
Signature:	Signature:
Name: SARAH ALLEN	Name:
Title: Administrator, SPO	Title:
Date:	Date:

APPROVED AS TO FORM:

Deputy Attorney General

1. Participating Addendum executed by the State of Illinois will be designated as available to governmental units in Illinois. "Governmental unit" means State of Illinois, any State agency as defined in Section 1-15.100 of the Illinois Procurement Code (30 ILCS 500/), officers of the State of Illinois, any public authority which has the power to tax, or any other public entity created by statute. 30ILCS 525/.
2. In no event will the total term of any Participating Addendum, including the initial term and any extensions or amendments, exceed ten (10) years.
3. This contract and all related public records maintained by, provided to, or required to be provided to the State are subject to the Illinois Freedom of Information Act notwithstanding any provision to the contrary that may be found in this contract. 5 ILCS 140.
4. Any Participating Addendum executed by the State of Illinois is contingent upon and subject to the availability of funds. The State of Illinois, at its sole option, may terminate or suspend any Participating Addendum, in whole or in part, without penalty or further payment being required, if (1) the Illinois General Assembly or the Federal funding source fails to make an appropriation sufficient to pay such obligation, or if funds needed are insufficient for any reason (30 ILCS 500/20-60), (2) the Governor of Illinois decreases the Agency's funding by reserving some or all of the Agency's appropriation(s) pursuant to power delegated to the Governor by the Illinois General Assembly, that a reduction is necessary or advisable based upon actual or projected budgetary considerations. Vendor will be notified in writing of the failure of appropriation or of a reduction or decrease.
5. Any claim against any State of Illinois, any State of Illinois agency as defined in Section 1-15.100 of the Illinois Procurement Code (30 ILCS 500/), or officers of the State of Illinois arising out of any Participating Addendum must be filed exclusively with the Illinois Court of Claims. 705 ILCS 505/1. Payments, including late payment charges, will be paid in accordance with the State Prompt Payment Act and rules when applicable. 30 ILCS 540; 74 Ill. Adm. Code 900. This shall be Vendor's sole remedy for late payments by the State of Illinois. Payment terms contained in Vendor's invoices shall have no force or effect. The State of Illinois shall not enter into binding arbitration to resolve any dispute arising out of any Participating Addendum. The State of Illinois does not waive sovereign immunity.
6. Illinois may further evaluate the lead state's awarded contracts to make best value determinations.
7. Registration in the Illinois Procurement Gateway is required before a Participating Addendum with the State of Illinois may be executed. For information on registration, please visit www.ipg.vendorreg.com.
8. Registration in BidBuy is required before a contract with the State of Illinois can be executed. For information on registration, please see the BidBuy Vendor Registration Manual.

NASPO ValuePoint
INTENT TO PARTICPATE
Cooperative Contract(s) for

Data Communications Products & Services (2019-2024)

I. PURPOSE

The purpose of this Agreement is to provide interested NASPO states with the opportunity to participate in multi-state cooperative contract(s) for the **Data Communications Products & Services.**

II. SCOPE OF THE CONTRACT(S)

The State of Utah is authorized by agreement of the participants to act as the procurement officer in developing multi-state cooperative contract(s) for **Data Communications Products & Services.**

The resulting contracts will be permissive contracts.

Administrative Fee

There will be a 0.25% NASPO ValuePoint administrative fee associated with these contracts. It is anticipated that the individual states will be able to add an administrative fee when the state executes its Participating Addendum.

III. TERM OF THE CONTRACT

The initial term of the contract will be established for five (5) years from the date of award with options to extend the contract for (2) two additional years.

IV. SOLICITATION AND CONTRACT DEVELOPMENT/ADDITIONAL INFORMATION

The solicitation and contract development shall be accomplished in compliance with the NASPO ValuePoint Process Guide and the NASPO Memorandum of Agreement for the NASPO cooperative purchasing program, incorporated herein by reference.

Solicitation Publication Period

Bidders/Offerors will be given at least 40 days after publication to submit proposals.

Solicitation Type and Evaluation Criteria

This RFP will be issued and evaluated in concert with the procurement laws and rules of the State of Utah by a sourcing team comprised of members from several states.

Award(s)

The solicitation will permit multiple awards.

Additional Requested Information

State Specific Terms and Conditions: If the participating state wishes to include any State specific terms and conditions with the release of this RFP, please attach those with this Intent to Participate.

Annual Estimated Volume: If your State has an existing contract for this commodity or service, please indicate your annual volume of spend (including any potential political subdivision usage if available).

Annual State Spend	$13,000,000
Annual Political Subdivision Spend	included
Total Spend	included

State of Montana

Meghan Holmlund
Director Name

406-444-1459 mholmlund@mt.gov
Director Phone **Director Email**

Director has approved ITP to be submitted? Yes ☒ No ☐
(Click appropriate box)

State Specific T&Cs to be included in RFP? Yes ☒ No ☐
(Click appropriate box)

Tia Snyder
State Point of Contact Name and Title

406-444-3315 tsnyder@mt.gov
Phone **Email**

Please email completed "Intent to Participate" document by **Tuesday, July 10, 2018** to:
Shannon Berry
Cooperative Development Coordinator
NASPO ValuePoint
sberry@naspovaluepoint.org

State Terms and Conditions

ACCESS AND RETENTION OF RECORDS: Contractor agrees to provide the department, Legislative Auditor, or their authorized agents, access to any records necessary to determine contract compliance. (Section 18-1-118, MCA). Contractor agrees to create and retain records supporting the services rendered or supplies delivered for a period of eight years after either the completion date of the contract or the conclusion of any claim, litigation, or exception relating to the contract taken by the State of Montana or third party.

ASSIGNMENT, TRANSFER AND SUBCONTRACTING: Contractor shall not assign, transfer or subcontract any portion of the contract without the express written consent of the department. (Section 18-4-141, MCA.)

COMPLIANCE WITH LAWS: Contractor shall, in performance of work under this Contract, fully comply with all applicable federal, state, or local laws, rules, regulations, and executive orders including but not limited to, the Montana Human Rights Act, the Equal Pay Act of 1963, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Contractor is the employer for the purpose of providing healthcare benefits and paying any applicable penalties, fees and taxes under the Patient Protection and Affordable Care Act [P.I. 111-148, 124 Stat. 119]. Any subletting or subcontracting by Contractor subjects subcontractors to the same provisions. In accordance with 49-3-207, MCA, and Executive Order No. 04-2016 Contractor agrees that the hiring of persons to perform this Contract will be made on the basis of merit and qualifications and there will be no discrimination based on race, color, sex, pregnancy, childbirth or medical conditions related to pregnancy or childbirth, political or religious affiliation or ideas, culture, creed, social origin or condition, genetic information, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, military service or veteran status, or marital status by the persons performing this Contract.

HOLD HARMLESS/INDEMNIFICATION: Contractor agrees to protect, defend, and save the State, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of Contractor's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of Contractor and/or its agents, employees, representatives, assigns, subcontractors, except the sole negligence of the State, under this agreement.

REDUCTION OF FUNDING: State must by law terminate this Contract if funds are not appropriated or otherwise made available to support State's continuation of performance of this Contract in a subsequent fiscal period. (18-4-313(4), MCA) If state or federal government funds are not appropriated or otherwise made available through the state budgeting process to support continued performance of this Contract (whether at an initial contract payment level or any contract increases to that initial level) in subsequent fiscal periods, State shall terminate this Contract as required by law. State shall provide Contractor the date State's termination shall take effect. State shall not be liable to Contractor for any payment that would have been payable had the Contract not been terminated under this provision. As stated above, State shall be liable to Contractor only for the payment, or prorated portion of that payment, owed to Contractor up to the date State's termination takes effect. This is Contractor's sole remedy. State shall not be liable to Contractor for any other payments or damages arising from termination under this section, including but not limited to general, special, or consequential damages such as lost profits or revenues.

VENUE: This solicitation is governed by the laws of Montana. The parties agree that any litigation concerning this bid, request for proposal, limited solicitation, or subsequent contract, must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees. (Section 18-1-401, MCA.)

TAX EXEMPTION: State of Montana is exempt from Federal Excise Taxes (#81-0302402) except as otherwise provided in the federal Patient Protection and Affordable Care Act [P.I. 111-148, 124 Stat. 119].

STATE OF MONTANA ADMINISTRATIVE FEE: The State of Montana assesses an Administrative Fee of one and one-half percent (1.50%) for all net sales (sales less credits and returns) made under this PA. The prices

paid to Contractor must include the 1.5% Administrative Fee. The Contractor shall remit this Administrative Fee concurrent with the Required Usage Reporting described below. The Administrative Fee must be submitted by ACH along with email notification to the State of Montana Contracts Officer. This Administrative Fee is effective upon execution of this Participating Addendum.

REQUIRED REPORTING: Contractor shall submit quarterly reports to the Contracts Officer (CO) assigned by the State to manage this contract. Contractor shall provide CO with an electronic usage report (Excel), which must list the following information at the minimum: purchasing entity; description of items purchased; date of purchase; contract price; and the extended price for each transaction. These reports are due no more than 30 days after the end of the quarter.

First Quarter:	July 1 through September 30
Second Quarter:	October 1 through December 31
Third Quarter:	January 1 through March 31
Fourth Quarter:	April 1 through June 30

Federal Terms and Conditions
(Non-Construction)

1. NONDISCRIMINATION

The Contractor agrees that no person shall be denied benefits of, or otherwise be subjected to discrimination in connection with the Contractor's performance under this contract, on the ground of race, religion, color, national origin, sex or handicap. Accordingly, and to the extent applicable, the Contractor agrees to comply with the following:

a. On the basis of race, color or national origin, in Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d et seq.) as implemented by DoD regulations at 32 CFR part 195.

b. On the basis of race, color, religion, sex, or national origin, in Executive Order 11246 {3 CFR, 1964-1965 Comp. pg. 339}, as implemented by Department of Labor regulations at 41 CFR part 60.

c. On the basis of sex or blindness, in Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.), as implemented by DoD regulations at 32 CFR part 196.

d. On the basis of age, in The Age Discrimination Act of 1975 (42 U.S.C. Section 6101 et seq.), as implemented by Department of Health and Human Services regulations at 45 CFR part 90.

e. On the basis of handicap, in Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by Department of Justice regulations at 28 CFR part 41 and DoD regulations at 32 CFR part 56.

2. LOBBYING

a. The Contractor agrees that it will not expend any funds appropriated by Congress to pay any person for influencing or attempting to influence an officer or employee of any agency, or a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any Federal grant; the making of any Federal loan; the entering into of any cooperative agreement; and, the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. The Final Rule, New Restrictions on Lobbying, issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 28) to implement the provisions of Section 319 of Public Law 101-121 (31 U.S.C. Section 1352) is incorporated by reference and the State agrees to comply with all the provisions thereof, including any amendments to the Interim Final Rule that may hereafter be issued.

3. DRUG-FREE WORK PLACE

The Contractor agrees to comply with the requirements regarding drug-free workplace requirements in Subpart B of 32 CFR part 26, which implements sec. 5151-5160 of the Drug-Free Workplace Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. 701, et seq.).

4. ENVIRONMENTAL PROTECTION

a. The Contractor agrees that its performance under this contract shall comply with:

(1) The requirements of Section 114 of the Clean Air Act (42 U.S.C. Section 7414);

(2) Section 308 of the Federal Water Pollution Control Act (33 U.S.C. Section 1318), that relates generally to inspection, monitoring, entry reports, and information, and with all regulations and guidelines issued thereunder;

(3) The Resources Conservation and Recovery Act (RCRA);

(4) The Comprehensive Environmental Response, Compensation and Liabilities Act (CERCLA);

(5) The National Environmental Policy Act (NEPA);

(6) The Solid Waste Disposal Act (SWDA);

(7) The applicable provisions of the Clean Air Act (42 U.S.C. 7401, et seq.) and Clean Water Act (33 U.S.C. 1251, et seq.), as implemented by Executive Order 11738 and Environmental Protection Agency (EPA) rules at 40 CFR Part 31;

(8) To identify any impact this contract may have on the quality of the human environment and provide help as needed to comply with the National Environmental Policy Act (NEPA, at 42 U.S.C. 4321, et seq.) and any applicable federal, state or local environmental regulation.

b. In accordance with the EPA rules, the parties further agree that the Contractor shall also identify to the state any impact this contract may have on:

(1) The quality of the human environment, and provide help the agency may need to comply with the National Environmental Policy Act (NEPA, at 42 U.S.C 4321, et seq.) and to prepare Environment Impact Statements or other required environmental documentation. In such cases, the recipient agrees to take no action that will have an adverse

environmental impact (e.g., physical disturbance of a site such as breaking of ground) until the agency provides written notification of compliance with the environmental impact analysis process.

(2) Flood-prone areas, and provide help the agency may need to comply with the National Flood Insurance Act of 1968 and Flood Disaster Protection Act of 1973 (42 U.S.C. 4001, et seq.), which require flood insurance, when available, for federally assisted construction or acquisition in flood-prone areas.

(3) Coastal zones, and provide help the agency may need to comply with the Coastal Zone Management Act of 1972 (16 U.S.C. 1451, et seq.), concerning protection of U.S. coastal resources.

(4) Coastal barriers, and provide help the agency may need to comply with the Coastal Barriers Resource Act (16 U.S.C. 3501 et seq.), concerning preservation of barrier resources.

(5) Any existing or proposed component of the National Wild and Scenic Rivers System, and provide help the agency may need to comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.).
Underground sources of drinking water in areas that have an aquifer that is the sole or principal drinking water source, and provide help the agency may need to comply with the Safe Drinking Water Act (42 U.S.C 300H-3).

(6) Underground sources of drinking water in areas that have an aquifer that is the sole or principal drinking work source, and provide help the agency may need to comply with the Safe Drinking Water Act (42 U.S.C 300H-3)

5. USE OF UNITED STATES FLAG VESSELS

a. The Contactor agrees that travel under this contract shall use U.S.-flag air carriers (air carriers holding certificates under 49 U.S.C. 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) and the inter-operative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B138942.

b. The Contactor agrees that it will comply with the Cargo Preference Act of 1954 (46 U.S.C. 1241), as implemented by Department of Transportation regulation at 46 CFR 381.7, and 46 CFR 381.7(b).

6. DEBARMENT AND SUSPENSION

a. The Contractor shall not make any award or permit any award (sub-contract or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension.

b. The Contractor agrees to comply with the requirements regarding debarment and suspension in Subpart C of the OMB guidance in 2 CFR part 180, as implemented by the DoD in 2 CFR part 1125. The Contractor shall comply with 2 CFR Part 1125 by checking the Excluded Parties List System (EPLS) at www.sam.gov to verify Contractor eligibility to receive contracts and subcontracts resulting from this Agreement. The Contractor shall not solicit offers from, nor award contracts to Contractors listed in EPLS. This verification shall be documented in the Contractor's contract files, and shall be subject to audit by federal/State audit agencies

The Contractor agrees to communicate the requirement to comply with Subpart C to persons at the next lower tier with whom the Contractor enters into transactions that are "covered transactions" under Subpart B of 2 CFR part 180 and the DoD implementation in 2 CFR part 1125.

7. BUY AMERICAN ACT

The Contractor agrees that it will not expend any funds appropriated by Congress without complying with The Buy American Act (41 U.S.C. 10a et seq). The Buy American Act gives preference to domestic end products and domestic construction material. In addition, the Memorandum of Understanding between the United States of America and the European Economic Community on Government Procurement, and the North American Free Trade Agreement (NAFTA), provide that EEC and NAFTA end products and construction materials are exempted from application of the Buy American Act.

8. UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY POLICES

The Contractor agrees that it will comply with CFR 49 part 24, which implements the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 et seq.) and provides for fair and equitable treatment of persons displaced by federally assisted programs or persons whose property is acquired as a result of such programs.

9. COPELAND "ANTI-KICKBACK" ACT

The Contractor agrees that it will comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). As applied to this contract, the Copeland "Anti-Kickback" Act makes it unlawful to induce, by force, intimidation, threat or procuring dismissal from employment, or otherwise, any person employed in the construction or repair of public buildings or public works, financed in whole or in part by the United States, to give up any part of the compensation to which that person is entitled under a contract of employment.

10. CONTRACT WORK HOURS AND SAFETY STANDARDS

The Contractor agrees that it will comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act.(40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). As applied to this agreement, the Contract Work Hours and Safety Standards Act specifies that no laborer or mechanic doing any part of the work contemplated by this agreement shall be required or permitted to work more than 40 hours in any workweek unless paid for all additional hours at not less than 1 1/2 times the basic rate of pay.

11. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

Any discovery or invention that arises during the course of the contract shall be reported to the non-Federal entity. Contractor must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

12. CLEAN AIR ACT (42 U.S.C. 7401-7671Q.) AND THE FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. 1251-1387), AS AMENDED

Any Contract or subcontract in excess of $150,000 must comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the State who in turn will report to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

13. BYRD ANTI-LOBBYING AMENDMENT (31 U.S.C. 1352)

Contractors that bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

14. PROCUREMENT OF RECOVERED MATERIALS

Contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

State of New Jersey Standard Terms and Conditions

(Rev: 5/8/18)

1. STANDARD TERMS AND CONDITIONS APPLICABLE TO THE CONTRACT

Unless the bidder/offeror is specifically instructed otherwise in the Request for Proposals (RFP), the following terms and conditions shall apply to all contracts or purchase agreements made with the State of New Jersey. These terms are in addition to the terms and conditions set forth in the RFP and should be read in conjunction with same unless the RFP specifically indicates otherwise. In the event that the bidder/offeror would like to present terms and conditions that are in conflict with either these terms and conditions or those set forth in the RFP, the bidder/offeror must present those conflicts during the Question and Answer period for the State to consider. Any conflicting terms and conditions that the State is willing to accept will be reflected in an addendum to the RFP. The State's terms and conditions shall prevail over any conflicts set forth in a bidder/offeror's Proposal that were not submitted through the question and answer process and approved by the State. Nothing in these terms and conditions shall prohibit the Director of the Division of Purchase and Property (Director) from amending a contract when the Director determines it is in the best interests of the State.

1.1 CONTRACT TERMS CROSSWALK

NJSTART Term	Equivalent Existing New Jersey Term
Bid/Bid Solicitation	RFP/Solicitation
Bid Amendment	Addendum
Change Order	Contract Amendment
Master Blanket Purchase Order (Blanket P.O.)	Contract
Offer and Acceptance Page	Signatory Page
Quote	Proposal
Vendor	Bidder/Contractor

2. STATE LAW REQUIRING MANDATORY COMPLIANCE BY ALL CONTRACTORS

The statutes, laws or codes cited herein are available for review at the New Jersey State Library, 185 West State Street, Trenton, New Jersey 08625.

2.1 BUSINESS REGISTRATION

Pursuant to N.J.S.A. 52:32-44, the State is prohibited from entering into a contract with an entity unless the bidder and each subcontractor named in the proposal have a valid Business Registration Certificate on file with the Division of Revenue and Enterprise Services. A subcontractor named in a bid or other proposal shall provide a copy of its business registration to the bidder who shall provide it to the State.

The contractor shall maintain and submit to the State a list of subcontractors and their addresses that may be updated from time to time with the prior written consent of the Director during the course of contract performance. The contractor shall submit to the State a complete and accurate list of all subcontractors used and their addresses before final payment is made under the contract.

Pursuant to N.J.S.A. 54:49-4.1, a business organization that fails to provide a copy of a business registration, or that provides false business registration information, shall be liable for a penalty of $25 for each day of violation, not to exceed $50,000 for each business registration copy not properly provided under a contract with a contracting agency.

The contractor and any subcontractor providing goods or performing services under the contract, and each of their affiliates, shall, during the term of the contract, collect and remit to the Director of the Division of Taxation in the Department of the Treasury, the Use Tax due pursuant to the "Sales and Use Tax Act, P.L. 1966, c. 30 (N.J.S.A. 54:32B-1 et seq.) on all sales of tangible personal property delivered into the State. Any questions in this regard can be directed to the Division of

Revenue at (609) 292-1730. Form NJ-REG can be filed online at http://www.state.nj.us/treasury/revenue/busregcert.shtml.

2.2 ANTI-DISCRIMINATION

All parties to any contract with the State agree not to discriminate in employment and agree to abide by all anti-discrimination laws including those contained within N.J.S.A. 10:2-1 through N.J.S.A. 10:2-4, N.J.S.A. 10:5-1 et seq. and N.J.S.A. 10:5-31 through 10:5-38, and all rules and regulations issued thereunder are hereby incorporated by reference. The agreement to abide by the provisions of N.J.S.A. 10:5-31 through 10:5-38 include those provisions indicated for Goods, Professional Service and General Service Contracts (Exhibit A, attached) and Constructions Contracts (Exhibit B and Executive Order 151, August 28, 2009, attached) as appropriate.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time.

2.3 PREVAILING WAGE ACT

The New Jersey Prevailing Wage Act, N.J.S.A. 34: 11-56.25 et seq. is hereby made part of every contract entered into on behalf of the State of New Jersey through the Division of Purchase and Property, except those contracts which are not within the contemplation of the Act. The bidder's signature on [this proposal] is his/her guarantee that neither he/she nor any subcontractors he/she might employ to perform the work covered by [this proposal] has been suspended or debarred by the Commissioner, Department of Labor and Workforce Development for violation of the provisions of the Prevailing Wage Act and/or the Public Works Contractor Registration Acts; the bidder's signature on the proposal is also his/her guarantee that he/she and any subcontractors he/she might employ to perform the work covered by [this proposal] shall comply with the provisions of the Prevailing Wage and Public Works Contractor Registration Acts, where required.

2.4 AMERICANS WITH DISABILITIES ACT

The contractor must comply with all provisions of the Americans with Disabilities Act (ADA), P.L 101-336, in accordance with 42 U.S.C. 12101, et seq.

2.5 MACBRIDE PRINCIPLES

The bidder must certify pursuant to N.J.S.A. 52:34-12.2 that it either has no ongoing business activities in Northern Ireland and does not maintain a physical presence therein or that it will take lawful steps in good faith to conduct any business operations it has in Northern Ireland in accordance with the MacBride principles of nondiscrimination in employment as set forth in N.J.S.A. 52:18A-89.5 and in conformance with the United Kingdom's Fair Employment (Northern Ireland) Act of 1989, and permit independent monitoring of their compliance with those principles.

2.6 PAY TO PLAY PROHIBITIONS

Pursuant to N.J.S.A. 19:44A-20.13 et seq. (P.L. 2005, c. 51), and specifically, N.J.S.A. 19:44A-20.21, it shall be a breach of the terms of the contract for the business entity to:

A. Make or solicit a contribution in violation of the statute;

B. Knowingly conceal or misrepresent a contribution given or received;

C. Make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution;

D. Make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee or any candidate of holder of the public office of Governor or Lieutenant Governor, or to any State or county party committee;

E. Engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the business entity itself, would subject that entity to the restrictions of the Legislation;

F. Fund contributions made by third parties, including consultants, attorneys, family members, and employees;

G. Engage in any exchange of contributions to circumvent the intent of the Legislation; or

H. Directly or indirectly through or by any other person or means, do any act which would subject that entity to the restrictions of the Legislation.

2.7 POLITICAL CONTRIBUTION DISCLOSURE

The contractor is advised of its responsibility to file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission (ELEC), pursuant to N.J.S.A. 19:44A-20.27 (P.L. 2005, c. 271, §3 as amended) if in a calendar year the contractor receives one (1) or more contracts valued at $50,000.00 or more. It is the contractor's responsibility to determine if filing is necessary. Failure to file can result in the imposition of penalties by ELEC. Additional information about this requirement is available from ELEC by calling 1(888)313-3532 or on the internet at http://www.elec.state.nj.us/.

2.8 STANDARDS PROHIBITING CONFLICTS OF INTEREST

The following prohibitions on contractor activities shall apply to all contracts or purchase agreements made with the State of New Jersey, pursuant to Executive Order No. 189 (1988).

No vendor shall pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any State officer or employee or special State officer or employee, as defined by N.J.S.A. 52:13D-13b. and e., in the Department of the Treasury or any other agency with which such vendor transacts or offers or proposes to transact business, or to any member of the immediate family, as defined by N.J.S.A. 52:13D-13i., of any such officer or employee, or partnership, firm or corporation with which they are employed or associated, or in which such officer or employee has an interest within the meaning of N.J.S.A. 52: 13D-13g;

The solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any State officer or employee or special State officer or employee from any State vendor shall be reported in writing forthwith by the vendor to the New Jersey Office of the Attorney General and the Executive Commission on Ethical Standards;

No vendor may, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement, express or implied, or sell any interest in such vendor to, any State officer or employee or special State officer or employee having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to any State agency or any instrumentality thereof, or with any person, firm or entity with which he/she is employed or associated or in which he/she has an interest within the meaning of N.J.S.A. 52:13D-13g. Any relationships subject to this provision shall be reported in writing forthwith to the Executive Commission on Ethical Standards, which may grant a waiver of this restriction upon application of the State officer or employee or special State officer or employee upon a finding that the present or proposed relationship does not present the potential, actuality or appearance of a conflict of interest;

No vendor shall influence, or attempt to influence or cause to be influenced, any State officer or employee or special State officer or employee in his/her official capacity in any manner which might tend to impair the objectivity or independence of judgment of said officer or employee;

No vendor shall cause or influence, or attempt to cause or influence, any State officer or employee or special State officer or employee to use, or attempt to use, his/her official position to secure unwarranted privileges or advantages for the vendor or any other person; and

The provisions cited above in paragraphs 2.8a through 2.8e shall not be construed to prohibit a State officer or employee or Special State officer or employee from receiving gifts from or contracting with vendors under the same terms and conditions as are offered or made available to members of the general public subject to any guidelines the Executive Commission on Ethical Standards may promulgate under paragraph 3c of Executive Order No. 189.

2.9 NOTICE TO ALL CONTRACTORS SET-OFF FOR STATE TAX NOTICE

Pursuant to N.J.S.A. 54:49-19, effective January 1, 1996, and notwithstanding any provision of the law to the contrary, whenever any taxpayer, partnership or S corporation under contract to provide goods or services or construction projects to the State of New Jersey or its agencies or instrumentalities, including the legislative and judicial branches of State government, is entitled to payment for those goods or services at the same time a taxpayer, partner or shareholder of that entity is indebted for any State tax, the Director of the Division of Taxation shall seek to set off that taxpayer's or shareholder's share of the payment due the taxpayer, partnership, or S corporation. The amount set off shall not allow for the deduction of any expenses or other deductions which might be attributable to the taxpayer, partner or shareholder subject to set-off under this act.
The Director of the Division of Taxation shall give notice to the set-off to the taxpayer and provide an opportunity for a hearing within 30 days of such notice under the procedures for protests established under R.S. 54:49-18. No requests for conference, protest, or subsequent appeal to the Tax Court from any protest under this section shall stay the collection of the indebtedness. Interest that may be payable by the State, pursuant to P.L. 1987, c.184 (c.52:32-32 et seq.), to the taxpayer shall be stayed.

2.10 COMPLIANCE - LAWS

The contractor must comply with all local, State and Federal laws, rules and regulations applicable to this contract and to the goods delivered and/or services performed hereunder.

2.11 COMPLIANCE - STATE LAWS

It is agreed and understood that any contracts and/or orders placed as a result of [this proposal] shall be governed and construed and the rights and obligations of the parties hereto shall be determined in accordance with the laws of the State of New Jersey.

2.12 WARRANTY OF NO SOLICITATION ON COMMISSION OR CONTINGENT FEE BASIS

The contractor warrants that no person or selling agency has been employed or retained to solicit or secure the contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business. If a breach or violation of this section occurs, the State shall have the right to terminate the contract without liability or in its discretion to deduct from the contract price or consideration the full amount of such commission, percentage, brokerage or contingent fee.

3. STATE LAW REQUIRING MANDATORY COMPLIANCE BY CONTRACTORS UNDER CIRCUMSTANCES SET FORTH IN LAW OR BASED ON THE TYPE OF CONTRACT

3.1 COMPLIANCE - CODES

The contractor must comply with NJUCC and the latest NEC70, B.O.C.A. Basic Building code, OSHA and all applicable codes for this requirement. The contractor shall be responsible for securing and paying all necessary permits, where applicable.

3.2 PUBLIC WORKS CONTRACTOR REGISTRATION ACT

The New Jersey Public Works Contractor Registration Act requires all contractors, subcontractors and lower tier subcontractor(s) who engage in any contract for public work as defined in N.J.S.A.

34:11-56.26 be first registered with the New Jersey Department of Labor and Workforce Development pursuant to N.J.S.A. 34:11-56.51. Any questions regarding the registration process should be directed to the Division of Wage and Hour Compliance at (609) 292-9464.

3.3 PUBLIC WORKS CONTRACT - ADDITIONAL AFFIRMATIVE ACTION REQUIREMENTS

N.J.S.A. 10:2-1 requires that during the performance of this contract, the contractor must agree as follows:

A. In the hiring of persons for the performance of work under this contract or any subcontract hereunder, or for the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under this contract, no contractor, nor any person acting on behalf of such contractor or subcontractor, shall, by reason of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex, discriminate against any person who is qualified and available to perform the work to which the employment relates;

B. No contractor, subcontractor, nor any person on his/her behalf shall, in any manner, discriminate against or intimidate any employee engaged in the performance of work under this contract or any subcontract hereunder, or engaged in the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under such contract, on account of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex;

C. There may be deducted from the amount payable to the contractor by the contracting public agency, under this contract, a penalty of $50.00 for each person for each calendar day during which such person is discriminated against or intimidated in violation of the provisions of the contract; and

D. This contract may be canceled or terminated by the contracting public agency, and all money due or to become due hereunder may be forfeited, for any violation of this section of the contract occurring after notice to the contractor from the contracting public agency of any prior violation of this section of the contract.

N.J.S.A. 10:5-33 and N.J.A.C. 17:27-3.5 require that during the performance of this contract, the contractor must agree as follows:

A. The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such action 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 contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause;

B. The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex;

C. The contractor or subcontractor where applicable, will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment, N.J.A.C. 17:27-3.7 requires all contractors and subcontractors, if any, to further agree as follows:

1. The contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2;

2. The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices;

3. The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions; and

4. In conforming with the targeted employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

3.4 BUILDING SERVICE

Pursuant to N.J.S.A. 34:11-56.58 et seq., in any contract for building services, as defined in N.J.S.A. 34:11-56.59, the employees of the contractor or subcontractors shall be paid prevailing wage for building services rates, as defined in N.J.S.A. 34:11.56.59. The prevailing wage shall be adjusted annually during the term of the contract.

3.5 THE WORKER AND COMMUNITY RIGHT TO KNOW ACT

The provisions of N.J.S.A. 34:5A-1 et seq. which require the labeling of all containers of hazardous substances are applicable to this contract. Therefore, all goods offered for purchase to the State must be labeled by the contractor in compliance with the provisions of the statute.

3.6 SERVICE PERFORMANCE WITHIN U.S.

Under N.J.S.A. 52:34-13.2, all contracts primarily for services awarded by the Director shall be performed within the United States, except when the Director certifies in writing a finding that a required service cannot be provided by a contractor or subcontractor within the United States and the certification is approved by the State Treasurer.

A shift to performance of services outside the United States during the term of the contract shall be deemed a breach of contract. If, during the term of the contract, the contractor or subcontractor, proceeds to shift the performance of any of the services outside the United States, the contractor shall be deemed to be in breach of its contract, which contract shall be subject to termination for cause pursuant to Section 5.7(b) (1) of the Standard Terms and Conditions, unless previously approved by the Director and the Treasurer.

3.7 BUY AMERICAN

Pursuant to N.J.S.A. 52:32-1, if manufactured items or farm products will be provided under this contract to be used in a public work, they shall be manufactured or produced in the United States and the contractor shall be required to so certify.

4. INDEMNIFICATION AND INSURANCE

4.1 INDEMNIFICATION

The contractor's liability to the State and its employees in third party suits shall be as follows:

A. Indemnification for Third Party Claims - The contractor shall assume all risk of and responsibility for, and agrees to indemnify, defend, and save harmless the State of New Jersey and its employees from and against any and all claims, demands, suits, actions, recoveries, judgments and costs and expenses in connection therewith which shall arise from or result directly or indirectly from the work and/or materials supplied under this contract, including liability of any nature or kind for or on account of the use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in the performance of this contract;

B. The contractor's indemnification and liability under subsection (a) is not limited by, but is in addition to the insurance obligations contained in Section 4.2 of these Terms and Conditions; and

C. In the event of a patent and copyright claim or suit, the contractor, at its option, may: (1) procure for the State of New Jersey the legal right to continue the use of the product; (2) replace or modify the product to provide a non-infringing product that is the functional equivalent; or (3) refund the purchase price less a reasonable allowance for use that is agreed to by both parties.

4.2 INSURANCE

The contractor shall secure and maintain in force for the term of the contract insurance as provided herein. All required insurance shall be provided by insurance companies with an A-VIII or better rating by A.M. Best & Company. All policies must be endorsed to provide 30 days' written notice of cancellation or material change to the State of New Jersey at the address shown below. If the contractor's insurer cannot provide 30 days written notice, then it will become the obligation of the contractor to provide the same. The contractor shall provide the State with current certificates of insurance for all coverages and renewals thereof. Renewal certificates shall be provided within 30 days of the expiration of the insurance. The contractor shall not begin to provide services or goods to the State until evidence of the required insurance is provided. The certificates of insurance shall indicate the contract number or purchase order number and title of the contract in the Description of Operations box and shall list the State of New Jersey, Department of the Treasury, Division of Purchase & Property, Contract Compliance & Audit Unit, P.O. Box 236, Trenton, New Jersey 08625 in the Certificate Holder box. The certificates and any notice of cancelation shall be emailed to the State at:

ccau.certificate@treas.nj.gov

The insurance to be provided by the contractor shall be as follows:

A. Occurrence Form Commercial General Liability Insurance or its equivalent: The minimum limit of liability shall be $1,000,000 per occurrence as a combined single limit for bodily injury and property damage. The above required Commercial General Liability Insurance policy or its equivalent shall name the State, its officers, and employees as "Additional Insureds" and include the blanket additional insured endorsement or its equivalent. The coverage to be provided under these policies shall be at least as broad as that provided by the standard basic Commercial General Liability Insurance occurrence coverage forms or its equivalent

currently in use in the State of New Jersey, which shall not be circumscribed by any endorsement limiting the breadth of coverage;

B. Automobile Liability Insurance which shall be written to cover any automobile used by the insured. Limits of liability for bodily injury and property damage shall not be less than $1,000,000 per occurrence as a combined single limit. The State must be named as an "Additional Insured" and a blanket additional insured endorsement or its equivalent must be provided when the services being procured involve vehicle use on the State's behalf or on State controlled property;

C. Worker's Compensation Insurance applicable to the laws of the State of New Jersey and Employers Liability Insurance with limits not less than:

1. $1,000,000 BODILY INJURY, EACH OCCURRENCE;
2. $1,000,000 DISEASE EACH EMPLOYEE; and
3. $1,000,000 DISEASE AGGREGATE LIMIT.

A. This $1,000,000 amount may have been raised by the RFP when deemed necessary by the Director; and

B. In the case of a contract entered into pursuant to N.J.S.A. 52:32-17 et seq., (small business set asides) the minimum amount of insurance coverage in subsections a., b., and c. above may have been lowered in the RFP for certain commodities when deemed in the best interests of the State by the Director.

5. TERMS GOVERNING ALL CONTRACTS

5.1 CONTRACTOR IS INDEPENDENT CONTRACTOR

The contractor's status shall be that of any independent contractor and not as an employee of the State.

5.2 CONTRACT AMOUNT

The estimated amount of the contract(s), when stated on the RFP form, shall not be construed as either the maximum or minimum amount which the State shall be obliged to order as the result of the RFP or any contract entered into as a result of the RFP.

5.3 CONTRACT TERM AND EXTENSION OPTION

If, in the opinion of the Director, it is in the best interest of the State to extend a contract, the contractor shall be so notified of the Director's Intent at least 30 days prior to the expiration date of the existing contract. The contractor shall have 15 calendar days to respond to the Director's request to extend the term and period of performance of the contract. If the contractor agrees to the extension, all terms and conditions including pricing of the original contract shall apply unless more favorable terms for the State have been negotiated.

5.4 STATE'S OPTION TO REDUCE SCOPE OF WORK

The State has the option, in its sole discretion, to reduce the scope of work for any deliverable, task or subtask called for under this contract. In such an event, the Director shall provide to the contractor advance written notice of the change in scope of work and what the Director believes should be the corresponding adjusted contract price. Within five (5) business days of receipt of such written notice, if either is applicable:

A. If the contractor does not agree with the Director's proposed adjusted contract price, the contractor shall submit to the Director any additional information that the contractor believes impacts the adjusted contract price with a request that the Director reconsider the proposed adjusted contract price. The parties shall negotiate the adjusted contract price. If the parties are unable to agree on an adjusted contract price, the Director shall make a prompt decision

taking all such information into account, and shall notify the contractor of the final adjusted contract price; and

B. If the contractor has undertaken any work effort toward a deliverable, task or subtask that is being changed or eliminated such that it would not be compensated under the adjusted contract, the contractor shall be compensated for such work effort according to the applicable portions of its price schedule and the contractor shall submit to the Director an itemization of the work effort already completed by deliverable, task or subtask within the scope of work, and any additional information the Director may request. The Director shall make a prompt decision taking all such information into account, and shall notify the contractor of the compensation to be paid for such work effort.

5.5 CHANGE IN LAW

Whenever a change in applicable law or regulation affects the scope of work, the Director shall provide written notice to the contractor of the change and the Director's determination as to the corresponding adjusted change in the scope of work and corresponding adjusted contract price. Within five (5) business days of receipt of such written notice, if either is applicable:

A. If the contractor does not agree with the adjusted contract price, the contractor shall submit to the Director any additional information that the contractor believes impacts the adjusted contract price with a request that the Director reconsider the adjusted contract price. The Director shall make a prompt decision taking all such information into account, and shall notify the contractor of the final adjusted contract price; and

B. If the contractor has undertaken any work effort toward a deliverable, task or subtask that is being changed or eliminated such that it would not be compensated under the adjusted contract, the contractor shall be compensated for such work effort according to the applicable portions of its price schedule and the contractor shall submit to the Director an itemization of the work effort already completed by deliverable, task or subtask within the scope of work, and any additional information the Director may request. The Director shall make a prompt decision taking all such information into account, and shall notify the contractor of the compensation to be paid for such work effort.

5.6 SUSPENSION OF WORK

The State may, for valid reason, issue a stop order directing the contractor to suspend work under the contract for a specific time. The contractor shall be paid for goods ordered, goods delivered, or services requested and performed until the effective date of the stop order. The contractor shall resume work upon the date specified in the stop order, or upon such other date as the State Contract Manager may thereafter direct in writing. The period of suspension shall be deemed added to the contractor's approved schedule of performance. The Director shall make an equitable adjustment, if any is required, to the contract price. The contractor shall provide whatever information that Director may require related to the equitable adjustment.

5.7 TERMINATION OF CONTRACT

A. For Convenience:
Notwithstanding any provision or language in this contract to the contrary, the Director may terminate this contract at any time, in whole or in part, for the convenience of the State, upon no less than 30 days written notice to the contractor;

B. For Cause:
1. Where a contractor fails to perform or comply with a contract or a portion thereof, and/or fails to comply with the complaints procedure in N.J.A.C. 17:12-4.2 et seq., the Director may terminate the contract, in whole or in part, upon ten (10) days' notice to the contractor with an opportunity to respond; and

2. Where in the reasonable opinion of the Director, a contractor continues to perform a contract poorly as demonstrated by e.g., formal complaints, late delivery, poor performance of service, short-shipping, so that the Director is required to use the complaints procedure in N.J.A.C. 17:12-4.2 et seq., and there has been a failure on the part of the contractor to make progress towards ameliorating the issue(s) or problem(s) set forth in the complaint, the Director may terminate the contract, in whole or in part, upon ten (10) days' notice to the contractor with an opportunity to respond.

C. In cases of emergency the Director may shorten the time periods of notification and may dispense with an opportunity to respond; and

D. In the event of termination under this section, the contractor shall be compensated for work performed in accordance with the contract, up to the date of termination. Such compensation may be subject to adjustments.

5.8 SUBCONTRACTING OR ASSIGNMENT

A. Subcontracting: The contractor may not subcontract other than as identified in the contractor's proposal without the prior written consent of the Director. Such consent, if granted in part, shall not relieve the contractor of any of his/her responsibilities under the contract, nor shall it create privity of contract between the State and any subcontractor. If the contractor uses a subcontractor to fulfill any of its obligations, the contractor shall be responsible for the subcontractor's: (a) performance; (b) compliance with all of the terms and conditions of the contract; and (c) compliance with the requirements of all applicable laws; and

B. Assignment: The contractor may not assign its responsibilities under the contract, in whole or in part, without the prior written consent of the Director.

5.9 NO CONTRACTUAL RELATIONSHIP BETWEEN SUBCONTRACTORS AND STATE

Nothing contained in any of the contract documents, including the RFP and vendor's bid or proposal shall be construed as creating any contractual relationship between any subcontractor and the State.

5.10 MERGERS, ACQUISITIONS

If, during the term of this contract, the contractor shall merge with or be acquired by another firm, the contractor shall give notice to the Director as soon as practicable and in no event longer than 30 days after said merger or acquisition. The contractor shall provide such documents as may be requested by the Director, which may include but need not be limited to the following: corporate resolutions prepared by the awarded contractor and new entity ratifying acceptance of the original contract, terms, conditions and prices; updated information including ownership disclosure and Federal Employer Identification Number. The documents must be submitted within 30 days of the request. Failure to do so may result in termination of the contract for cause.

If, at any time during the term of the contract, the contractor's partnership, limited liability company, limited liability partnership, professional corporation, or corporation shall dissolve, the Director must be so notified. All responsible parties of the dissolved business entity must submit to the Director in writing, the names of the parties proposed to perform the contract, and the names of the parties to whom payment should be made. No payment shall be made until all parties to the dissolved business entity submit the required documents to the Director.

5.11 PERFORMANCE GUARANTEE OF CONTRACTOR

The contractor hereby certifies that:

a. The equipment offered is standard new equipment, and is the manufacturer's latest model in production, with parts regularly used for the type of equipment offered; that such parts are all in production and not likely to be discontinued; and that no attachment or part has been substituted or applied contrary to manufacturer's recommendations and standard practice;

b. All equipment supplied to the State and operated by electrical current is UL listed where applicable;

c. All new machines are to be guaranteed as fully operational for the period stated in the contract from time of written acceptance by the State. The contractor shall render prompt service without charge, regardless of geographic location;

d. Sufficient quantities of parts necessary for proper service to equipment shall be maintained at distribution points and service headquarters;

e. Trained mechanics are regularly employed to make necessary repairs to equipment in the territory from which the service request might emanate within a 48-hour period or within the time accepted as industry practice;

f. During the warranty period the contractor shall replace immediately any material which is rejected for failure to meet the requirements of the contract; and

g. All services rendered to the State shall be performed in strict and full accordance with the specifications stated in the contract. The contract shall not be considered complete until final approval by the State's using agency is rendered.

5.12 DELIVERY REQUIREMENTS

A. Deliveries shall be made at such time and in such quantities as ordered in strict accordance with conditions contained in the contract;

B. The contractor shall be responsible for the delivery of material in first class condition to the State's using agency or the purchaser under this contract and in accordance with good commercial practice;

C. Items delivered must be strictly in accordance with the contract; and

D. In the event delivery of goods or services is not made within the number of days stipulated or under the schedule defined in the contract, the using agency shall be authorized to obtain the material or service from any available source, the difference in price, if any, to be paid by the contractor.

5.13 APPLICABLE LAW AND JURISDICTION

This contract and any and all litigation arising therefrom or related thereto shall be governed by the applicable laws, regulations and rules of evidence of the State of New Jersey without reference to conflict of laws principles and shall be filed in the appropriate Division of the New Jersey Superior Court.

5.14 CONTRACT AMENDMENT

Except as provided herein, the contract may only be amended by written agreement of the State and the contractor.

5.15 MAINTENANCE OF RECORDS

The contractor shall maintain records for products and/or services delivered against the contract for a period of five (5) years from the date of final payment unless a longer period is required by law. Such records shall be made available to the State, including the Comptroller, for audit and review.

5.16 ASSIGNMENT OF ANTITRUST CLAIM(S)

The contractor recognizes that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the ultimate purchaser. Therefore, and as consideration for executing this contract, the contractor, acting herein by and through its duly authorized agent,

hereby conveys, sells, assigns, and transfers to the State of New Jersey, for itself and on behalf of its political subdivisions and public agencies, all right, title and interest to all claims and causes of action it may now or hereafter acquire under the antitrust laws of the United States or the State of New Jersey, relating to the particular goods and services purchased or acquired by the State of New Jersey or any of its political subdivisions or public agencies pursuant to this contract.
In connection with this assignment, the following are the express obligations of the contractor:

A. It shall take no action that will in any way diminish the value of the rights conveyed or assigned hereunder;

B. It shall advise the Attorney General of New Jersey:

   1. In advance of its intention to commence any action on its own behalf regarding any such claim or cause(s) of action; and

   2. Immediately upon becoming aware of the fact that an action has been commenced on its behalf by some other person(s) of the pendency of such action.

C. It shall notify the defendants in any antitrust suit of the within assignment at the earliest practicable opportunity after the contractor has initiated an action on its own behalf or becomes aware that such an action has been filed on its behalf by another person. A copy of such notice shall be sent to the Attorney General of New Jersey; and

D. It is understood and agreed that in the event any payment under any such claim or cause of action is made to the contractor, it shall promptly pay over to the State of New Jersey the allotted share thereof, if any, assigned to the State hereunder.

6. TERMS RELATING TO PRICE AND PAYMENT

6.1 PRICE FLUCTUATION DURING CONTRACT

Unless otherwise agreed to in writing by the State, all prices quoted shall be firm through issuance of contract or purchase order and shall not be subject to increase during the period of the contract. In the event of a manufacturer's or contractor's price decrease during the contract period, the State shall receive the full benefit of such price reduction on any undelivered purchase order and on any subsequent order placed during the contract period. The Director must be notified, in writing, of any price reduction within five (5) days of the effective date.
Failure to report price reductions may result in cancellation of contract for cause, pursuant to provision 5.7(b)1.

6.2 TAX CHARGES

The State of New Jersey is exempt from State sales or use taxes and Federal excise taxes. Therefore, price quotations must not include such taxes. The State's Federal Excise Tax Exemption number is 22-75-0050K.

6.3 PAYMENT TO VENDORS

a. The using agency(ies) is (are) authorized to order and the contractor is authorized to ship only those items covered by the contract resulting from the RFP. If a review of orders placed by the using agency(ies) reveals that goods and/or services other than that covered by the contract have been ordered and delivered, such delivery shall be a violation of the terms of the contract and may be considered by the Director as a basis to terminate the contract and/or not award the contractor a subsequent contract. The Director may take such steps as are necessary to have the items returned by the agency, regardless of the time between the date of delivery and discovery of the violation. In such event, the contractor shall reimburse the State the full purchase price;

b. The contractor must submit invoices to the using agency with supporting documentation evidencing that work or goods for which payment is sought has been satisfactorily

completed or delivered. For commodity contracts, the invoice, together with the original Bill of Lading, express receipt and other related papers must be sent to the State Contract Manager or using agency on the date of each delivery. For contracts featuring services, invoices must reference the tasks or subtasks detailed in the Scope of Work section of the RFP and must be in strict accordance with the firm, fixed prices submitted for each task or subtask on the RFP pricing sheets. When applicable, invoices should reference the appropriate RFP price sheet line number from the contractor's bid proposal. All invoices must be approved by the State Contract Manager or using agency before payment will be authorized;

c. In all time and materials contracts, the State Contract Manager or designee shall monitor and approve the hours of work and the work accomplished by contractor and shall document both the work and the approval. Payment shall not be made without such documentation. A form of timekeeping record that should be adapted as appropriate for the Scope of Work being performed can be found at www.nj.gov/treasury/purchase/forms/Vendor_Timesheet.xls; and

d. The contractor shall provide, on a monthly and cumulative basis, a breakdown in accordance with the budget submitted, of all monies paid to any small business, minority or woman-owned subcontractor(s). This breakdown shall be sent to the Chief of Operations, Division of Revenue, P.O. Box 628, Trenton, NJ 08646.

6.4 OPTIONAL PAYMENT METHOD: P-CARD

The State offers contractors the opportunity to be paid through the MasterCard procurement card (p-card). A contractor's acceptance and a State agency's use of the p-card are optional. P-card transactions do not require the submission of a contractor invoice; purchasing transactions using the p-card will usually result in payment to a contractor in three (3) days. A contractor should take note that there will be a transaction-processing fee for each p-card transaction. To participate, a contractor must be capable of accepting the MasterCard. Additional information can be obtained from banks or merchant service companies.

6.5 NEW JERSEY PROMPT PAYMENT ACT

The New Jersey Prompt Payment Act, N.J.S.A. 52:32-32 et seq., requires state agencies to pay for goods and services within 60 days of the agency's receipt of a properly executed State Payment Voucher or within 60 days of receipt and acceptance of goods and services, whichever is later. Properly executed performance security, when required, must be received by the State prior to processing any payments for goods and services accepted by state agencies. Interest will be paid on delinquent accounts at a rate established by the State Treasurer. Interest shall not be paid until it exceeds $5.00 per properly executed invoice.

Cash discounts and other payment terms included as part of the original agreement are not affected by the Prompt Payment Act.

6.6 AVAILABILITY OF FUNDS

The State's obligation to make payment under this contract is contingent upon the availability of appropriated funds and receipt of revenues from which payment for contract purposes can be made. No legal liability on the part of the State for payment of any money shall arise unless and until funds are appropriated each fiscal year to the using agency by the State Legislature and made available through receipt of revenue.

7. TERMS RELATING TO ALL CONTRACTS FUNDED, IN WHOLE OR IN PART, BY FEDERAL FUNDS

The provisions set forth in this Section 7 of the Standard Terms and Conditions apply to all contracts funded, in whole or in part, by Federal funds as required by 2 CFR 200.317.

7.1 PROCUREMENT OF RECOVERED MATERIALS

To the extent that the scope of work or specifications in the contract requires the contractor to provide any of the following items, this Section 7.1 of the Standard Terms and Conditions modifies the terms of the scope of work or specification.

Pursuant to 2 CFR 200.322, the contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. § 6962. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $ 10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $ 10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

A. Designated items are those set forth in 40 CFR 247 subpart B, as may be amended from time to time, including:
    1. Paper and paper products listed in 40 C.F.R. 247.10;
    2. Certain vehicular products as listed in 40 CFR 247.11;
    3. Certain construction products listed in 40 C.F.R. 247.12;
    4. Certain transportation products listed in 40 C.F.R. 247.13;
    5. Certain park and recreation products, 40 C.F.R. 247.14;
    6. Certain landscaping products listed in 40 C.F.R. 247.15;
    7. Certain non-paper office products listed in 40 C.F.R. 247.16; and
    8. Other miscellaneous products listed in 40 C.F.R. 247.17.

B. As defined in 40 CFR 247.3, “recovered material” means:
    1. waste materials and byproducts which have been recovered or diverted from solid waste, but such term does not include those materials and byproducts generated from, and commonly reused within, an original manufacturing process; and
    2. for purposes of purchasing paper and paper products, means waste material and byproducts that have been recovered or diverted from solid waste, but such term does not include those materials and byproducts generated from, and commonly reused within, an original manufacturing process. In the case of paper and paper products, the term recovered materials includes:
        a. Postconsumer materials such as --
            i. Paper, paperboard, and fibrous wastes from retail stores, office buildings, homes, and so forth, after they have passed through their end-usage as a consumer item, including: used corrugated boxes; old newspapers; old magazines; mixed waste paper; tabulating cards; and used cordage; and
            ii. All paper, paperboard, and fibrous wastes that enter and are collected from municipal solid waste, and
        b. Manufacturing, forest residues, and other wastes such as --
            i. Dry paper and paperboard waste generated after completion of the papermaking process (that is, those manufacturing operations up to and including the cutting and trimming of the paper machine reel in smaller rolls of rough sheets) including: envelope cuttings, bindery trimmings, and other paper and paperboard waste, resulting from printing, cutting, forming, and other converting operations; bag, box, and carton manufacturing wastes; and butt rolls, mill wrappers, and rejected unused stock; and
            ii. Finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, merchants, wholesalers, dealers, printers, converters, or others;

iii. Fibrous byproducts of harvesting, manufacturing, extractive, or wood-cutting processes, flax, straw, linters, bagasse, slash, and other forest residues;
iv. Wastes generated by the conversion of goods made from fibrous material (that is, waste rope from cordage manufacture, textile mill waste, and cuttings); and
v. Fibers recovered from waste water which otherwise would enter the waste stream.

C. For contracts in an amount greater than $ 100,000, at the beginning of each contract year, contractor shall provide the State estimates of the total percentage of recovered material utilized in the performance of its contract for each of the categories listed is subsection (A). For all contracts subject to this Section 7.1 of the Standard Terms and Conditions, at the conclusion of each contract year, contractor shall certify to the State the minimum recovered material content actually utilized in the prior contract year.

7.2 EQUAL EMPLOYMENT OPPORTUNITY

Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action 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 contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's

commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his/her books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to

which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

7.3 DAVIS-BACON ACT, 40 U.S.C. 3141-3148, AS AMENDED

When required by Federal program legislation, all prime construction contracts in excess of $ 2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

7.4 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT, 40 U.S.C. 3701-3708

Where applicable, all contracts awarded by the non-Federal entity in excess of $ 100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

7.5 RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

7.6 CLEAN AIR ACT, 42 U.S.C. 7401-7671Q, AND THE FEDERAL WATER POLLUTION CONTROL ACT, 33 U.S.C. 1251-1387, AS AMENDED

Contracts and subgrants of amounts in excess of $ 150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

7.7 DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689)

A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

7.8 BYRD ANTI-LOBBYING AMENDMENT, 31 U.S.C. 1352

Contractors that apply or bid for an award exceeding $ 100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

EXHIBIT A

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE
N.J.S.A. 10:5-31 et seq. (P.L. 1975, c. 127)
N.J.A.C. 17:27 et seq.

GOODS, GENERAL SERVICE AND PROFESSIONAL SERVICES CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity 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 contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of the contractor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the targeted employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

Letter of Federal Affirmative Action Plan Approval;

Certificate of Employee Information Report; or

Employee Information Report Form AA302 (electronically provided by the Division and distributed to the public agency through the Division's website at http://www.state.nj.us/treasury/contract_compliance).

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Purchase an Property, CCAU, EEO Monitoring Program as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Purchase an Property, CCAU, EEO Monitoring Program for conducting a compliance investigation pursuant to **N.J.A.C. 17:27-1 et seq.**

EXHIBIT B

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE
N.J.S.A. 10:5-31 et seq. (P.L. 1975, c. 127)
N.J.S.A. 10:5-39 et. seq. (P.L. 1983, c. 197)
N.J.A.C. 17:27-1.1 et seq.

CONSTRUCTION CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, up grading, 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 contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

N.J.S.A. 10:5-39 et seq. requires contractors, subcontractors, and permitted assignees performing construction, alteration, or repair of any building or public work in excess of $250,000 to guarantee equal employment opportunity to veterans.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer, pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

When hiring or scheduling workers in each construction trade, the contractor or subcontractor agrees to make good faith efforts to employ minority and women workers in each construction trade consistent with the targeted employment goal prescribed by N.J.A.C. 17:27-7.2; provided, however, that the Dept. of LWD, Construction EEO Monitoring Program may, in its discretion, exempt a contractor or subcontractor from compliance with the good faith procedures prescribed by the following provisions, A, B and C, as long as the Dept. of LWD, Construction EEO Monitoring Program is satisfied that the contractor or subcontractor is employing workers provided by a union which provides evidence, in accordance with standards prescribed by the Dept. of LWD, Construction EEO Monitoring Program, that its percentage of active "card carrying" members who are minority and women workers is equal to or greater than the targeted employment goal established in accordance with N.J.A.C. 17:27-7.2. The contractor or subcontractor agrees that a good faith effort shall include compliance with the following procedures:

(A) If the contractor or subcontractor has a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor shall, within three business days of the contract award, seek assurances from the union that it will cooperate with the contractor or subcontractor as it fulfills its affirmative action obligations under this contract and in accordance with the rules promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et. seq., as supplemented and amended from time to time and the Americans with Disabilities Act. If the contractor or subcontractor is unable to obtain said assurances from the construction trade union at least five business days prior to the commencement of construction work, the contractor or subcontractor agrees to afford equal employment opportunities minority and women workers directly, consistent with this chapter. If the contractor's or subcontractor's prior experience with a construction trade union, regardless of whether the union has provided said assurances, indicates a significant possibility that the trade union will not refer sufficient minority and women workers consistent with affording equal employment opportunities as specified in this chapter, the contractor or subcontractor agrees to be prepared to provide such opportunities to minority and women workers directly, consistent with this chapter, by complying with the hiring or scheduling procedures prescribed under (B) below; and the contractor or subcontractor further agrees to take said action immediately if it determines that the union is not referring minority and women workers consistent with the equal employment opportunity goals set forth in this chapter.

(B) If good faith efforts to meet targeted employment goals have not or cannot be met for each construction trade by adhering to the procedures of (A) above, or if the contractor does not have a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor agrees to take the following actions:

(1) To notify the public agency compliance officer, the Dept. of LWD, Construction EEO Monitoring Program, and minority and women referral organizations listed by the Division pursuant to N.J.A.C. 17:27-5.3, of its workforce needs, and request referral of minority and women workers;

(2) To notify any minority and women workers who have been listed with it as awaiting available vacancies;

(3) Prior to commencement of work, to request that the local construction trade union refer minority and women workers to fill job openings, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade;

(4) To leave standing requests for additional referral to minority and women workers with the local construction trade union, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade, the State Training and Employment Service and other approved referral sources in the area;

(5) If it is necessary to lay off some of the workers in a given trade on the construction site, layoffs shall be conducted in compliance with the equal employment opportunity and non-discrimination standards set forth in this regulation, as well as with applicable Federal and State court decisions;

(6) To adhere to the following procedure when minority and women workers apply or are referred to the contractor or subcontractor:

(i) The contactor or subcontractor shall interview the referred minority or women worker.

(ii) If said individuals have never previously received any document or certification signifying a level of qualification lower than that required in order to perform the work of the construction trade, the contractor or subcontractor shall in good faith

determine the qualifications of such individuals. The contractor or subcontractor shall hire or schedule those individuals who satisfy appropriate qualification standards in conformity with the equal employment opportunity and non-discrimination principles set forth in this chapter. However, a contractor or subcontractor shall determine that the individual at least possesses the requisite skills, and experience recognized by a union, apprentice program or a referral agency, provided the referral agency is acceptable to the Dept. of LWD, Construction EEO Monitoring Program. If necessary, the contractor or subcontractor shall hire or schedule minority and women workers who qualify as trainees pursuant to these rules. All of the requirements, however, are limited by the provisions of (C) below.

(iii) The name of any interested women or minority individual shall be maintained on a waiting list, and shall be considered for employment as described in (i) above, whenever vacancies occur. At the request of the Dept. of LWD, Construction EEO Monitoring Program, the contractor or subcontractor shall provide evidence of its good faith efforts to employ women and minorities from the list to fill vacancies.

(iv) If, for any reason, said contractor or subcontractor determines that a minority individual or a woman is not qualified or if the individual qualifies as an advanced trainee or apprentice, the contractor or subcontractor shall inform the individual in writing of the reasons for the determination, maintain a copy of the determination in its files, and send a copy to the public agency compliance officer and to the Dept. of LWD, Construction EEO Monitoring Program.

(7) To keep a complete and accurate record of all requests made for the referral of workers in any trade covered by the contract, on forms made available by the Dept. of LWD, Construction EEO Monitoring Program and submitted promptly to the Dept. of LWD, Construction EEO Monitoring Program upon request.

(C) The contractor or subcontractor agrees that nothing contained in (B) above shall preclude the contractor or subcontractor from complying with the union hiring hall or apprenticeship policies in any applicable collective bargaining agreement or union hiring hall arrangement, and, where required by custom or agreement, it shall send journeymen and trainees to the union for referral, or to the apprenticeship program for admission, pursuant to such agreement or arrangement. However, where the practices of a union or apprenticeship program will result in the exclusion of minorities and women or the failure to refer minorities and women consistent with the targeted county employment goal, the contractor or subcontractor shall consider for employment persons referred pursuant to (B) above without regard to such agreement or arrangement; provided further, however, that the contractor or subcontractor shall not be required to employ women and minority advanced trainees and trainees in numbers which result in the employment of advanced trainees and trainees as a percentage of the total workforce for the construction trade, which percentage significantly exceeds the apprentice to journey worker ratio specified in the applicable collective bargaining agreement, or in the absence of a collective bargaining agreement, exceeds the ratio established by practice in the area for said construction trade. Also, the contractor or subcontractor agrees that, in implementing the procedures of (B) above, it shall, where applicable, employ minority and women workers residing within the geographical jurisdiction of the union.

After notification of award, but prior to signing a construction contract, the contractor shall submit to the public agency compliance officer and the Dept. of LWD, Construction EEO Monitoring Program an initial project workforce report (Form AA-201) electronically provided to the public agency by the Dept. of LWD, Construction EEO Monitoring Program, through its website, for distribution to and completion by the contractor, in accordance with N.J.A.C. 17:27-7.

The contractor also agrees to submit a copy of the Monthly Project Workforce Report once a month thereafter for the duration of this contract to the Dept. of LWD, Construction EEO Monitoring Program and to the public agency compliance officer.

The contractor agrees to cooperate with the public agency in the payment of budgeted funds, as is necessary, for on the job and/or off the job programs for outreach and training of minorities and women.

(D) The contractor and its subcontractors shall furnish such reports or other documents to the Dept. of LWD, Construction EEO Monitoring Program as may be requested by the Dept. of LWD, Construction EEO Monitoring Program from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Dept. of LWD, Construction EEO Monitoring Program for conducting a compliance investigation pursuant to N.J.A.C. 17:27-1.1 et seq.

EXECUTIVE ORDER NO. 151 REQUIREMENTS

It is the policy of the Division of Purchase and Property that its contracts should create a workforce that reflects the diversity of the State of New Jersey. Therefore, contractors engaged by the Division of Purchase and Property to perform under a construction contract shall put forth a good faith effort to engage in recruitment and employment practices that further the goal of fostering equal opportunities to minorities and women.

The contractor must demonstrate to the Division of Purchase and Property's satisfaction that a good faith effort was made to ensure that minorities and women have been afforded equal opportunity to gain employment under the Division of Purchase and Property's contract with the contractor. Payment may be withheld from a contractor's contract for failure to comply with these provisions.

Evidence of a "good faith effort" includes, but is not limited to:

1. The Contractor shall recruit prospective employees through the State Job bank website, managed by the Department of Labor and Workforce Development, available online at http://NJ.gov/http://NJ.gov/JobCentralNJ;
2. The Contractor shall keep specific records of its efforts, including records of all individuals interviewed and hired, including the specific numbers of minorities and women;
3. The Contractor shall actively solicit and shall provide the Division of Purchase and Property with proof of solicitations for employment, including but not limited to advertisements in general circulation media, professional service publications and electronic media; and
4. The Contractor shall provide evidence of efforts described at 2 above to the Division of Purchase and Property no less frequently than once every 12 months.
5. The Contractor shall comply with the requirements set forth at N.J.A.C. 17:27.

This language is in addition to and does not replace good faith efforts requirements for construction contracts required by N.J.A.C. 17:27-3.6, 3.7 and 3.8, also known as Exhibit B.

NASPO ValuePoint
INTENT TO PARTICPATE
Cooperative Contract(s) for

Data Communications Products & Services (2019-2024)

I. PURPOSE

The purpose of this Agreement is to provide interested NASPO states with the opportunity to participate in multi-state cooperative contract(s) for the **Data Communications Products & Services.**

II. SCOPE OF THE CONTRACT(S)

The State of Utah is authorized by agreement of the participants to act as the procurement officer in developing multi-state cooperative contract(s) for **Data Communications Products & Services.**

The resulting contracts will be permissive contracts.

Administrative Fee

There will be a 0.25% NASPO ValuePoint administrative fee associated with these contracts. It is anticipated that the individual states will be able to add an administrative fee when the state executes its Participating Addendum.

III. TERM OF THE CONTRACT

The initial term of the contract will be established for five (5) years from the date of award with options to extend the contract for (2) two additional years.

IV. SOLICITATION AND CONTRACT DEVELOPMENT/ADDITIONAL INFORMATION

The solicitation and contract development shall be accomplished in compliance with the NASPO ValuePoint Process Guide and the NASPO Memorandum of Agreement for the NASPO cooperative purchasing program, incorporated herein by reference.

Solicitation Publication Period

Bidders/Offerors will be given at least 40 days after publication to submit proposals.

Solicitation Type and Evaluation Criteria

This RFP will be issued and evaluated in concert with the procurement laws and rules of the State of Utah by a sourcing team comprised of members from several states.

Award(s)

The solicitation will permit multiple awards.

Additional Requested Information

State Specific Terms and Conditions: If the participating state wishes to include any State specific terms and conditions with the release of this RFP, please attach those with this Intent to Participate.

Annual Estimated Volume: If your State has an existing contract for this commodity or service, please indicate your annual volume of spend (including any potential political subdivision usage if available).

Annual State Spend	$26,195,865.00
Annual Political Subdivision Spend	Unknown
Total Spend	$91,642,561.61

State of Utah

Christopher Hughes
Director Name

801-538-3254 christopherhughes@utah.gov
Director Phone **Director Email**

Director has approved ITP to be submitted? Yes ☒ No ☐
(Click appropriate box)

State Specific T&Cs to be included in RFP? Yes ☒ No ☐
(Click appropriate box)

Solomon Kingston, State Contract Analyst
State Point of Contact Name and Title

801-538-3228 skingston@utah.gov
Phone **Email**

Please email completed "Intent to Participate" document by **Tuesday, July 10, 2018** to:
Shannon Berry
Cooperative Development Coordinator
NASPO ValuePoint
sberry@naspovaluepoint.org

ATTACHMENT A: STATE OF UTAH STANDARD INFORMATION TECHNOLOGY TERMS AND CONDITIONS
STATE OF UTAH COOPERATIVE INFORMATION TECHNOLOGY CONTRACT

This is a State Cooperative Contract for information technology products and services meaning all computerized and auxiliary automated information handling, including: (a) systems design and analysis; (b) acquisition, storage, and conversion of data; (c) computer programming; (d) information storage and retrieval; (e) voice, radio, video, and data communications; (f) requisite systems controls; (g) simulation; and (h) all related interactions between people and machines.

1. DEFINITIONS:

a. "Access to Secure Public Facilities, Data, and Technology" means Contractor will (A) enter upon secure premises controlled, held, leased, or occupied by the State of Utah or an Eligible User; (B) maintain, develop, or have access to any deployed hardware, software, firmware, or any other technology, that is in use by the State of Utah or an Eligible User; or (C) have access to or receive any Public Data or Confidential Information during the course of performing this Contract.

b. "Authorized Persons" means the Contractor's employees, officers, partners, Subcontractors or other agents of Contractor who need to access Public Data to enable the Contractor to perform its responsibilities under this Contract.

c. "Confidential Information" means information that is deemed as confidential under applicable record laws. The State of Utah and the Eligible Users reserves the right to identify, during and after this Contract, additional reasonable types of categories of information that must be kept confidential under federal and state laws by Contractor.

d. "Contract" means the Contract Signature Page(s), including all referenced attachments and documents incorporated by reference. This Contract may include any purchase orders that result from the parties entering into this Contract.

e. "Contract Signature Page(s)" means the cover page that Division and Contractor sign.

f. "Contractor" means the individual or entity delivering the Goods, Custom Deliverables, or performing the Services identified in this Contract. The term "Contractor" shall include Contractor's agents, officers, employees, partners, and/or any other person or entity for which Contractor may be liable under federal, state, or local laws.

g. "Custom Deliverable" means the Work Product that Contractor is required to deliver to Eligible Users under this Contract.

h. "Data Breach" means the unauthorized access by a non-authorized person(s) which results in unauthorized acquisition of Public Data and compromises the security, confidentiality, or integrity of Public Data. It is within an Eligible User's sole discretion to determine whether the unauthorized access is a Security Incident or a Data Breach.

i. "Division" means the State of Utah Division of Purchasing.

j. "DTS" means the Department of Technology Services.

k. "Eligible User(s)" means the State of Utah's government departments, institutions, agencies, political subdivisions (i.e., colleges, school districts, counties, cities, etc.), and, as applicable, nonprofit organizations, agencies of the federal government, or any other entity authorized by the laws of the State of Utah to participate in State Cooperative Contracts will be allowed to use this Contract.

l. "Federal Criminal Background Check" means an in depth background check conducted and processed by the FBI that covers all states. Federal Criminal Background Check reports will show if applicant has had any criminal cases filed against them that violated federal criminal law.

m. "Good" means any deliverable not classified as a Custom Deliverable or Service that Contractor is required to deliver to the Eligible Users under this Contract.

n. "Non-Public Data" means data, other than personal data, that is not subject to distribution to the public as public information. It is deemed to be sensitive and confidential by the State of Utah and the federal government because it contains information that is exempt by state, federal and local statutes, ordinances, or administrative rules from access by the general public as public information.

o. "Personal Data" means data that includes information relating to a person that identifies the person by a person's first name or first initial and last name and has any of the following personally identifiable information (PII): government-issued identification numbers (e.g., Social Security, driver's license, passport); financial account information; including account number, credit or debit card numbers; or protected health information (PHI) relating to a person.

p. "Proposal" means Contractor's response documents, including attachments, to the Division's Solicitation.

q. "Protected Health Information" (PHI) means individually identifiable health information transmitted by electronic media, maintained in electronic media, or transmitted or maintained in any other form or medium. PHI excludes education records covered by the Family Educational Rights and Privacy Act (FERPA), as amended, 20 U.S.C. 1232g, records described at 20 U.S.C. 1232g(a)(4)(B)(iv) and employment records held by a covered entity in its role as employer.

r. "Security Incident" means the potentially unauthorized access by non-authorized persons to Public Data that Contractor believes could reasonably result in the use, disclosure or theft of Public Data within the possession or control of the Contractor. A Security Incident may or may not turn into a Data Breach. It is within an Eligible User's sole discretion to determine whether the unauthorized access is a Security Incident or a Data Breach.

s. "Services" means the furnishing of labor, time, or effort by Contractor as set forth in this Contract, including but not limited to installation, configuration, implementation, technical support, warranty maintenance, and other support services.

t. "Solicitation" means the documents used by the Division to solicit Contractor's Proposal for the Goods, Custom Deliverables, or Services identified in this Contract.

u. "Public Data" means all Confidential Information, Non-Public Data, Personal Data, and Protected Health Information that is created or in any way originating with the State of Utah or an Eligible User whether such data or output is stored on the State of Utah's or an Eligible User's hardware, Contractor's hardware, or exists in any system owned, maintained or otherwise controlled by the State of Utah, an Eligible User, or by Contractor. Public Data includes any federal data, that the State of Utah or an Eligible User controls or maintains, that is protected under federal laws, statutes, and regulations.

v. "State of Utah" means the State of Utah, in its entirety, including its institutions, agencies, departments, divisions, authorities, instrumentalities, boards, commissions, elected or appointed officers, employees, agents, and authorized volunteers.

w. "Subcontractors" means subcontractors or subconsultants, at any tier, that are under the direct or indirect control or responsibility of Contractor, and includes all independent contractors, agents, employees, or anyone else for whom the Contractor may be liable, at any tier, including a person or entity that is, or will be, providing or performing an essential aspect of this Contract, including Contractor's manufacturers, distributors, and suppliers.

x. "Work Product" means every invention, modification, discovery, design, development, customization, configuration, improvement, process, software program, work of authorship, documentation, formula, datum, technique, know how, secret, or intellectual property right whatsoever or any interest therein (whether patentable or not patentable or registerable under copyright or similar statutes or subject to analogous protection) that is specifically made, conceived, discovered, or reduced to practice by Contractor or Contractor's Subcontractors (either alone or with others) pursuant to this Contract. Work Product shall be considered a work made for hire under federal, state, and local laws; and all interest and title shall be transferred to and owned by the ordering Eligible User. Notwithstanding anything in the immediately preceding sentence to the contrary, Work Product does not include any Eligible User intellectual property, Contractor's intellectual property (that it owned or licensed prior to this Contract) or Third Party intellectual property.

2. **CONTRACT JURISDICTION, CHOICE OF LAW, AND VENUE:** This Contract shall be governed by the laws, rules, and regulations of the State of Utah. Any action or proceeding arising from this Contract shall be brought in a court of competent jurisdiction in the State of Utah. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.

3. **LAWS AND REGULATIONS:** At all times during this Contract, Contractor and all the Goods delivered under this Contract will comply with all applicable federal and state constitutions, laws, rules, codes, orders, and regulations, including applicable licensure and certification requirements.

4. **NO WAIVER OF SOVEREIGN IMMUNITY:** In no event shall this Contract be considered a waiver by the Division, an Eligible User, or the State of Utah of any form of defense or immunity, whether sovereign immunity, governmental immunity, or any other immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court.

5. **RECORDS ADMINISTRATION:** Contractor shall maintain or supervise the maintenance of all records necessary to properly account for Contractor's performance and the payments made by Eligible Users to Contractor under this Contract. These records shall be retained by Contractor for at least six (6) years after final payment, or until all audits initiated within the six (6) years have been completed, whichever is later. Contractor agrees to allow, at no additional cost, State of Utah auditors, federal auditors, Eligible Users or any firm identified by the Division, access to all such records. Contractor must refund to the Division any overcharges brought to Contractor's attention by the Division or the Division's auditor and Contractor is not permitted to offset identified overcharges by alleged undercharges to Eligible Users.

6. **CERTIFY REGISTRATION AND USE OF EMPLOYMENT "STATUS VERIFICATION SYSTEM":** This Status Verification System, also referred to as "E-verify", requirement only applies to contracts issued through a Request for Proposal process and to sole sources that are included within a Request for Proposal.

(1) Contractor certifies as to its own entity, under penalty of perjury, that Contractor has registered and is participating in the Status Verification System to verify the work eligibility status of Contractor's new employees that are employed in the State of Utah in accordance with applicable immigration laws including Section 63G-12-302, Utah Code, as amended.

(2) Contractor shall require that the following provision be placed in each subcontract at every tier: "The subcontractor shall certify to the main (prime or general) contractor by affidavit that the subcontractor has verified through the Status Verification System the employment status of each new employee of the respective subcontractor, all in accordance with applicable immigration laws including Section 63G-12-302, Utah Code, as amended, and to comply with all applicable employee status verification laws. Such affidavit must be provided prior to the notice to proceed for the subcontractor to perform the work."

(3) Contractor's failure to comply with this section will be considered a material breach of this Contract.

(4) Contractor shall protect, indemnify, and hold harmless the Division, the Eligible Users, and the State of Utah, and anyone that the State of Utah may be liable for, against any claim, damages, or liability arising out of or resulting from violations of the above Status Verification System Section whether violated by employees, agents, or contractors of the following: (a) Contractor; (b) Subcontractor at any tier; and/or (c) any entity or person for whom the Contractor or Subcontractor may be liable.

7. **CONFLICT OF INTEREST:** Contractor represents that none of its officers or employees are officers or employees of the State of

Utah, unless disclosure has been made to the Division.

8. **CONFLICT OF INTEREST WITH STATE EMPLOYEES:** Contractor agrees to comply and cooperate in good faith will all conflict of interest and ethic laws including Section 63G-6a-2404, Utah Procurement Code, as amended.

9. **INDEPENDENT CONTRACTOR:** Contractor's legal status is that of an independent contractor, and in no manner shall Contractor be deemed an employee or agent of the Division, the Eligible Users, or the State of Utah, and therefore is not entitled to any of the benefits associated with such employment. Contractor, as an independent contractor, shall have no authorization, express or implied, to bind the Division, the Eligible Users, or the State of Utah to any agreements, settlements, liabilities, or understandings whatsoever, and agrees not to perform any acts as an agent for the Division, the Eligible Users, or the State of Utah. Contractor shall remain responsible for all applicable federal, state, and local taxes, and all FICA contributions.

10. **CONTRACTOR ACCESS TO SECURE Public FACILITIES, PUBLIC DATA, AND TECHNOLOGY:** An employee of Contractor or a Subcontractor may be required to complete a Federal Criminal Background Check, if said employee of Contractor or a Subcontractor will have Access to Secure Public Facilities, Public Data, and Technology. Contractor shall provide the Eligible User with sufficient personal information (at Contractor's own expense) so that a Federal Criminal Background Check may be completed by the Eligible User, at the Eligible User's expense. The Eligible User will also provide Contractor with a Disclosure Form and Confidentiality Agreement which must be filled out by Contractor and returned to the Eligible User. Additionally, each employee of Contractor or a Subcontractor, who will have Access to Secure Public Facilities, Public Data, and Technology, will be scheduled by the Eligible User to be fingerprinted, at a minimum of one week prior to having such access. At the time of fingerprinting, said employee of Contractor or a Subcontractor will disclose, in full, any past record of felony or misdemeanor convictions. The Eligible User is authorized to conduct a Federal Criminal Background Check based upon the fingerprints and personal information provided. The Eligible User may use this same information to complete a Name Check in the Utah Criminal Justice Information System (UCJIS) every two years and reserves the right to revoke Access to Secure State Facilities, Data, and Technology granted in the event of any negative results. Contractor agrees to notify the Eligible User if an arrest or conviction of any employee of Contractor or a Subcontractor that has Access to Secure Public Facilities, Public Data and Technology occurs during this Contract. Contractor, in executing any duty or exercising any right under this Contract, shall not cause or permit any of its employees or employees of a Subcontractor (if any) who have been convicted of a felony or misdemeanor to have Access to Secure Public Facilities, Public Data, and Technology. A felony and misdemeanor are defined by the laws of the State of Utah, regardless of where the conviction occurred.

11. **DRUG-FREE WORKPLACE:** Contractor agrees to abide by the Eligible User's drug-free workplace policies while on the Eligible User's or the State of Utah's premises.

12. **CODE OF CONDUCT:** If Contractor is working at facilities controlled or owned by the State of Utah, Contractor agrees to follow and enforce the applicable code of conduct which will be provided upon request by Contractor to the Eligible User. Contractor will assure that each employee or each employee of Subcontractor(s) under Contractor's supervision receives a copy of such code of conduct.

13. **INDEMNITY CLAUSE:** Contractor shall be fully liable for the actions of its agents, employees, officers, partners, and Subcontractors, and shall fully indemnify, defend, and save harmless the Division, the Eligible Users, and the State of Utah from all claims, losses, suits, actions, damages, and costs of every name and description arising out of Contractor's performance of this Contract caused by any intentional act or negligence of Contractor, its agents, employees, officers, partners, or Subcontractors, without limitation; provided, however, that the Contractor shall not indemnify for that portion of any claim, loss, or damage arising hereunder due to the sole fault of the Division, the Eligible User, or the State of Utah. The parties agree that if there are any limitations of the Contractor's liability, including a limitation of liability clause for anyone for whom the Contractor is responsible, such limitations of liability will not apply to injuries to persons, including death, or to damages to property.

14. **EMPLOYMENT PRACTICES:** Contractor agrees to abide by the following employment laws: (i)Title VI and VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; (ii) Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; (iii) 45 CFR 90 which prohibits discrimination on the basis of age; (iv) Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities; and (v) Utah's Executive Order, dated December 13, 2006, which prohibits unlawful harassment in the work place. Contractor further agrees to abide by any other laws, regulations, or orders that prohibit the discrimination of any kind of any of Contractor's employees.

15. **SEVERABILITY:** A declaration or order by any court that any provision of this Contract is illegal and void shall not affect the legality and enforceability of any other provision of this Contract, unless the provisions are mutually dependent.

16. **AMENDMENTS:** This Contract may only be amended by the mutual written agreement of the parties, which amendment will be attached to this Contract. Automatic renewals will not apply to this Contract.

17. **DEBARMENT:** Contractor certifies that it is not presently nor has ever been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Contract, by any governmental department or agency, whether international, national, state, or local. Contractor must notify the Division within thirty (30) days if debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in any contract by any governmental entity during this Contract.

18. **TERMINATION:** This Contract may be terminated, with cause by either party, in advance of the specified expiration date, upon written notice given by the other party. The party in violation will be given ten (10) days after written notification to correct and cease the violations, after which this Contract may be terminated for cause immediately and subject to the remedies below. This Contract may also be terminated without cause (for convenience), in advance of the specified expiration date, by the Division, upon

thirty (30) days written termination notice being given to the Contractor. The Division and the Contractor may terminate this Contract, in whole or in part, at any time, by mutual agreement in writing.

If Services apply to this Contract, then Contractor shall be compensated for the Services properly performed under this Contract up to the effective date of the notice of termination. Contractor agrees that in the event of such termination for cause or without cause, Contractor's sole remedy and monetary recovery from the Division, the Eligible Users, or the State of Utah is limited to full payment for all work properly performed as authorized under this Contract up to the date of termination as well as any reasonable monies owed as a result of Contractor having to terminate other contracts necessarily and appropriately entered into by Contractor pursuant to this Contract.

19. **SUSPENSION OF WORK:** Should circumstances arise which would cause the Division to suspend Contractor's responsibilities under this Contract, but not terminate this Contract, this will be done by formal written notice pursuant to the terms of this Contract. Contractor's responsibilities may be reinstated upon advance formal written notice from the Division.

20. **NONAPPROPRIATION OF FUNDS, REDUCTION OF FUNDS, OR CHANGES IN LAW:** Upon thirty (30) days written notice delivered to the Contractor, this Contract may be terminated in whole or in part at the sole discretion of the Division or an Eligible User, if it is reasonably determined that: (i) a change in Federal or State legislation or applicable laws materially affects the ability of either party to perform under the terms of this Contract; or (ii) that a change in available funds affects an Eligible User's ability to pay under this Contract. A change of available funds as used in this paragraph, includes, but is not limited to, a change in Federal or State funding, whether as a result of a legislative act or by order of the President or the Governor.

    If a written notice is delivered under this section, the Eligible User will reimburse Contractor for the Goods or Services properly ordered until the effective date of said notice. The Eligible User will not be liable for any performance, commitments, penalties, or liquidated damages that accrue after the effective date of said written notice.

21. **SALES TAX EXEMPTION:** The Goods, Custom Deliverables, or Services being purchased by the Eligible Users under this Contract are being paid from the Eligible User's funds and used in the exercise of the Eligible User's essential function as an Eligible User. The Eligible User will provide Contractor with a copy of its sales tax exemption number upon request. It is the Contractor's responsibility to request the sales tax exemption number from the Eligible User.

22. **TITLE AND OWNERSHIP WARRANTY:** Contractor warrants, represents and conveys full ownership, clear title free of all liens and encumbrances to any Good or Custom Deliverable delivered to the Eligible Users under this Contract. Contractor fully indemnifies the Eligible Users for any loss, damages or actions arising from a breach of this warranty without limitation.

23. **HARDWARE WARRANTY:** Contractor agrees to warrant and assume responsibility for all hardware portions of any Good or Custom Deliverable, that it licenses, contracts, or sells under this Contract, for a period of one (1) year. Contractor acknowledges that all warranties granted to the Division and Eligible Users by the Uniform Commercial Code of the State of Utah apply to this Contract. Product liability disclaimers and/or warranty disclaimers from Contractor are not applicable to this Contract. In general, the Contractor warrants that the hardware: (a) will perform as specified in the Proposal; (b) will live up to all specific claims listed in the Proposal; (c) will be suitable for the ordinary purposes for which the hardware is used; (d) will be suitable for any special purposes that the Division has relied on Contractor's skill or judgment to consider when it advised the Division about the hardware in the Proposal; (e) the hardware has been properly designed and manufactured; and (f) is free of significant defects or unusual problems about which Eligible User has not been warned.

24. **SOFTWARE WARRANTY:** Contractor warrants that for a period of ninety (90) days from the date of Acceptance that the software portions of the Goods and Custom Deliverables, that Contractor licenses, contracts, or sells to the Eligible Users under this Contract, will: (a) perform in accordance with the specific claims provided in the Proposal; (b) be suitable for the ordinary purposes for which such Goods and Custom Deliverables are used; (c) be suitable for any special purposes that the Eligible User has relied on Contractor's skill or judgment to consider when it advised the Eligible User about the Goods or Custom Deliverables in its Proposal; (d) have been properly designed and manufactured; and (e) be free of significant defects or unusual problems. Contractor agrees to provide the Eligible Users with bug fixes, including informing the Eligible Users of any known software bugs or software defects that may affect the Eligible User's use of the software during the Contract.

25. **WARRANTY REMEDIES:** Upon breach of the hardware or software warranty, Contractor will repair or replace (at no charge to the Eligible Users) the Goods or Custom Deliverables whose nonconformance is discovered and made known to Contractor. If the repaired and/or replaced products prove to be inadequate, or fail to meet the performance of its essential purpose, Contractor will refund the full amount of any payments that have been made for the failing products. The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity.

26. **UPDATES AND UPGRADES:** Contractor grants to the Eligible Users a non-exclusive, non-transferable license to use upgrades and updates provided by Contractor during the term of this Contract. Such upgrades and updates are subject to the terms of this Contract. The Eligible Users shall download, distribute, and install all updates as released by Contractor during this Contract, and Contractor strongly suggests that the Eligible Users also download, distribute, and install all upgrades as released by Contractor during this Contract.

27. **BUG FIXING AND REMOTE DIAGNOSTICS:** Contractor shall use commercially reasonable efforts to provide work-around solutions or patches to reported software problems. With an Eligible User's prior written authorization, Contractor may perform remote diagnostics to work on reported problems, subject to Contractor's obligation of this Contract. In the event that an Eligible User declines remote diagnostics, Contractor and the Eligible User may agree to on-site technical support, subject to the terms of this Contract.

28. **TECHNICAL SUPPORT AND MAINTENANCE:** If technical support and maintenance is a part of the Goods or Custom Deliverables that Contractor provides under this Contract, Contractor will use commercially reasonable efforts to respond, in a

reasonable time, when technical support or maintenance requests regarding the Goods or Custom Deliverables are made to Contractor.

29. SECURE PROTECTION AND HANDLING OF PUBLIC DATA: If Contractor is given Public Data as part of this Contract, the protection of Public Data shall be an integral part of the business activities of Contractor to ensure that there is no inappropriate or unauthorized use of Public Data. To the extent that Contractor is given Public Data, Contractor shall safeguard the confidentiality, integrity and availability of the Public Data and comply with the following conditions outlined below. Eligible Users reserve the right to verify Contractor's adherence to the following conditions to ensure they are met during the life of the contract:

1. **Network Security**: Contractor agrees at all times to maintain network security that - at a minimum - includes: network firewall provisioning, intrusion detection, and regular third party penetration testing. Contractor also agrees to maintain network security that conforms to one of the following:

(1) Those standards the State of Utah applies to its own network, found outlined in *DTS Policy 5000-0002 Enterprise Information Security Policy* (copy available upon request);

(2) Current standards set forth and maintained by the National Institute of Standards and Technology, includes those at: http://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-53r4.pdf; or

(3) Any generally recognized comparable standard that Contractor then applies to its own network and approved by DTS in writing.

2. **Public Data Security:** Contractor agrees to protect and maintain the security of Public Data with protection that is at least as good as or better than that maintained by the State of Utah which will be provided by an Eligible User upon Contractor's request. These security measures included but are not limited to maintaining secure environments that are patched and up to date with all appropriate security updates as designated (ex. Microsoft Notification). Eligible User reserves the right to determine if Contractor's level of protection adequately meets the Eligible User's security requirements.

3. **Public Data Transmission**: Contractor agrees that any and all transmission or exchange of system application data with the Eligible Users and State of Utah and/or any other parties expressly designated by the State of Utah, shall take place via secure means (ex. HTTPS or FTPS).

4. **Public Data Storage**: Contractor agrees that all Public Data will be stored and maintained in data centers in the United States. Contractor agrees that no Public Data at any time will be processed on or transferred to any portable or laptop computing device or any portable storage medium, except for devices that are used and kept only at Contractor's United States data centers, unless such medium is part of the Contractor's designated backup and recovery process. Contractor shall permit its employees and Subcontractors to access non-Public Data remotely only as required to provide technical support. Contractor may provide technical user support on a 24/7 basis using a Follow the Sun model, unless otherwise prohibited by this contract.

5. **Public Data Encryption**: Contractor agrees to store all data provided to Contractor, including State, as part of its designated backup and recovery process in encrypted form, using no less than 128 bit key and include all data as part of a designated backup and recovery process.

6. **Password Protection**: Contractor agrees that any portable or laptop computer that has access to the Eligible Users or State of Utah networks, or stores any Public Data is equipped with strong and secure password protection.

7. **Public Data Re-Use:** Contractor agrees that any and all data exchanged shall be used expressly and solely for the purpose enumerated in this Contract. Contractor further agrees that no Public Data of any kind shall be transmitted, exchanged, or otherwise passed to other Contractors or interested parties except on a case-by-case basis as specifically agreed to in writing by the Eligible Users.

8. **Public Data Destruction**: The Contractor agrees that upon expiration or termination of this Contract it shall erase, destroy, and render unreadable all Public Data from all non-state computer systems and backups, and certify in writing that these actions have been completed within thirty (30) days of the expiration or termination of this Contract or within seven (7) days of the request of the Eligible User, whichever shall come first, unless the Eligible User provides Contractor with a written directive. It is understood by the parties that the Eligible User's written directive may request that certain data be preserved in accordance with applicable law.

9. **Services Shall Be Performed Within United States**: Contractor agrees that all of the Services related to Public Data that it provides to the Eligible Users will be performed by Contractor and Subcontractor(s) within the borders and jurisdiction of the United States.

30. SECURITY INCIDENT OR DATA BREACH NOTIFICATION: Contractor shall immediately inform an Eligible User of any Security Incident or Data Breach.

1. **Incident Response**: Contractor may need to communicate with outside parties regarding a Security Incident, which may include contacting law enforcement and seeking external expertise as mutually agreed upon, defined by law or contained in this Contract. Discussing Security Incidents with the Eligible User should be handled on an urgent as-needed basis, as part of Contractor's communication and mitigation processes, defined by law or contained in this Contract.

2. **Security Incident Reporting Requirements**: Contractor shall report a Security Incident to the Eligible User immediately if Contractor reasonably believes there has been a Security Incident.

3. **Breach Reporting Requirements**: If Contractor has actual knowledge of a confirmed Data Breach that affects the security of any Public Data that is subject to applicable data breach notification law, Contractor shall: (a) promptly notify the Eligible User

within 24 hours or sooner, unless shorter time is required by applicable law; (b) take commercially reasonable measures to address the Data Breach in a timely manner; and (c) be responsible for its Data Breach responsibilities, as provided in the next Section.

31. **DATA BREACH RESPONSIBILITIES:** This Section only applies when a Data Breach occurs. Contractor agrees to comply with all applicable laws that require the notification of individuals in the event of a Data Breach or other events requiring notification in accordance with DTS Policy 5000-0002 Enterprise Information Security Policy (copy available upon request). In the event of a Data Breach or other event requiring notification under applicable law (Utah Code § 13-44-101 thru 301 et al), Contractor shall: (a) cooperate with the Eligible User by sharing information relevant to the Data Breach; (b) promptly implement necessary remedial measures, if necessary; (c) document responsive actions taken related to the Data Breach, including any post-incident review of events and actions taken to make changes in business practices in relation to the Data Breach; and (d) in accordance with applicable laws indemnify, hold harmless, and defend DTS and the State of Utah against any claims, damages, or other harm related to such Data Breach. If the Data Breach requires public notification, all communication shall be coordinated with the Eligible User. Contractor shall be responsible for all notification and remedial costs and damages.

32. **STATE INFORMATION TECHNOLOGY POLICIES:** If Contractor is providing an Executive Branch Agency of the State of Utah with Goods or Custom Deliverables it is important that contractors follow the same policies and procedures that DTS follows for their own internally developed goods and deliverables to minimize security risk, ensure applicable State and Federal laws are followed, address issues with accessibility and mobile device access, and prevent outages and data breaches within the State of Utah's environment. Contractor agrees to comply with the following DTS Policies which are available upon request:

    1. **DTS Policy 4000-0001, Enterprise Application and Database Deployment Policy**: The Enterprise Application and Database Deployment Policy requires any Contractor developing software for the State to develop and establish proper controls that will ensure a clear separation of duties between developing and deploying applications and databases to minimize security risk; to meet due diligence requirements pursuant to applicable state and federal regulations; to enforce contractual obligations; and to protect the State's electronic information and information technology assets.
    2. **DTS policy 4000-0002, Enterprise Password Standards Policy**: Any Contractor developing software for the State must ensure it is built to follow the password requirements outlined in the Enterprise Password Standards Policy.
    3. **DTS Policy 4000-0003, Software Development Life Cycle Policy**: The Software Development Life Cycle Policy requires any Contractor developing software for the State to work with DTS in implementing a Software Development Lifecycle (SDLC) that addresses key issues of security, accessibility, mobile device access, and standards compliance.
    4. **DTS Policy 4000-0004, Change Management Policy**: Per the Change Management Policy, any Goods or Custom Deliverables furnished or Services performed by Contractor which have the potential to cause any form of outage or to modify DTS's or the State of Utah's infrastructure must be reviewed by the DTS Change Management Committee. Following this notification, any outages or Data Breaches which are a direct result of Contractor's failure to comply with DTS instructions and policies following notification will result in Contractor's liability for any and all damages resulting from or associated with the outage or Data Breach.

33. **PUBLIC INFORMATION:** Contractor agrees that this Contract, any related purchase orders, related invoices, related pricing lists, and the Proposal will be public documents, and may be available for distribution in accordance with the State of Utah's Government Records Access and Management Act (GRAMA). Contractor gives the Division, the Eligible Users, and the State of Utah express permission to make copies of this Contract, any related purchase orders, related invoices, related pricing lists, and Proposal in accordance with GRAMA. The permission to make copies as noted will take precedence over any statements of confidentiality, proprietary information, copyright information, or similar notation. The Division, the Eligible Users, or the State of Utah will not inform Contractor of any request for a copy of this Contract, including any related purchase orders, related invoices, related pricing lists, or the Proposal.

34. **DELIVERY:** Unless otherwise specified in this Contract, all deliveries will be F.O.B. destination with all transportation and handling charges paid by Contractor. Contractor is responsible for including any freight charges due by the Eligible User to Contractor when providing quotes to the Eligible User unless otherwise specified in this Contract. Invoices listing freight charges that were not identified in the quote prior to shipment, unless otherwise specified in this Contract, will be returned to the Contractor to remove such costs. Responsibility and liability for loss or damage will remain with Contractor until final inspection and acceptance when responsibility will pass to the Eligible Users except as to latent defects, fraud, and Contractor's warranty obligations.

35. **ELECTRONIC DELIVERY:** Contractor may electronically deliver any Good or Custom Deliverable to Eligible Users or provide any Good and Custom Deliverable for download from the Internet, if approved in writing by the Eligible Users. Contractor should take all reasonable and necessary steps to ensure that the confidentiality of those electronic deliveries is preserved in the electronic delivery process, and are reminded that failure to do so may constitute a breach of obligations owed to the Eligible Users under this Contract. Contractor warrants that all electronic deliveries will be free of known, within reasonable industry standards, malware, bugs, Trojan horses, etc. Any electronic delivery that includes Public Data that Contractor processes or stores must be delivered within the specifications of this Contract.

36. **ACCEPTANCE PERIOD:** A Good, Custom Deliverable, or Service furnished under this Contract shall function in accordance with the specifications identified in this Contract and Solicitation. If the Goods and Custom Deliverables delivered do not conform to the specifications identified in this Contract and Solicitation ("Defects"), the Eligible Users shall within thirty (30) calendar days of the delivery date ("Acceptance Period") to notify Contractor in writing of the Defects. Contractor agrees that upon receiving such notice, it shall use reasonable efforts to correct the Defects within fifteen (15) calendar days ("Cure Period"). The Eligible User's acceptance of a Good, Custom Deliverable, or Services occurs at the end of the Acceptance Period or Cure Period.

    If after the Cure Period, a Good, Custom Deliverable, or Service still has Defects, then the Eligible User may, at its option: (a) declare Contractor to be in breach and terminate this Contract; (b) demand replacement conforming Goods, Custom Deliverables, or Services from Contractor at no additional cost to the Eligible User; or (c) continue the Cure Period for an additional time period

agreed upon by the Eligible User and Contractor in writing. Contractor shall pay all costs related to the preparation and shipping of the products returned pursuant to this section. No products shall be accepted and no charges shall be paid until acceptance is met. The warranty period will begin upon the end of the Acceptance Period.

37. ORDERING AND INVOICING: All orders will be shipped promptly in accordance with the delivery schedule. Contractor will promptly submit invoices (within 30 days of shipment or delivery of services) to the appropriate Eligible User. The contract number shall be listed on all invoices, freight tickets, and correspondence relating to an order under this Contract. The prices paid by the Eligible User will be those prices listed in this Contract, unless Contractor offers a discount at the time of the invoice. It is Contractor's obligation to provide correct and accurate invoicing. The Eligible User has the right to adjust or return any invoice reflecting incorrect pricing.

38. PROMPT PAYMENT DISCOUNT: Contractor may quote a prompt payment discount based upon early payment. Contractor shall list payment discount terms on invoices. The prompt payment discount will apply to payments made with purchasing cards and checks. The date from which discount time is calculated will be the date a correct invoice is received.

39. PAYMENT:

1. Payments will be made within thirty (30) days from a correct invoice is received, whichever is later. After sixty (60) days from the date a correct invoice is received by the appropriate State official, the Contractor may assess interest on overdue, undisputed account charges up to a maximum of the interest rate paid by the IRS on taxpayer refund claims, plus two percent, computed similarly as the requirements of Section 15-6-3, Utah Prompt Payment Act of Utah Code, as amended. The IRS interest rate is adjusted quarterly, and is applied on a per annum basis, on the invoice amount that is overdue.

2. Unless otherwise stated in this Contract, all payments to Contractor will be remitted by mail, by electronic funds transfer, or by the Eligible User's purchasing card (major credit card). The Division will not allow Contractor to charge electronic payment fees of any kind.

3. The acceptance by Contractor of final payment without a written protest filed with the Eligible User within ten (10) working days of receipt of final payment shall release the Eligible User, the Division, and the State of Utah from all claims and all liability to Contractor for fees and costs pursuant to this Contract.

4. Contractor agrees that if during, or subsequent to the Contract an audit determines that payments were incorrectly reported or paid by the Eligible Users to Contractor, then Contractor shall, upon written request, immediately refund to the Eligible Users any such overpayments.

40. INDEMNIFICATION – INTELLECTUAL PROPERTY: Contractor warrants that any Good, Custom Deliverable, or Service furnished by Contractor under this Contract, including its use by the Eligible Users in unaltered form, will not, to Contractor's knowledge, infringe any third party copyrights, patents, trade secrets, and/or other proprietary rights that exist on the effective date of this Contract and/or that arise or are enforceable under the law of the United States of America.

Contractor will release, indemnify, and hold the Division, the Eligible Users, and the State of Utah harmless from liability or damages of any kind or nature, including Contractor's use of any copyrighted or un-copyrighted composition, secret process, patented or un-patented invention, article, or appliance furnished or used in Contractor's performance of this Contract. Additionally, if such a claim or liability is based upon an allegation that a Good, Custom Deliverable, or Service furnished by Contractor infringes on any right protected by any patent, copyright, trademark, trade secret, and/or proprietary right of any third party, Contractor agrees to indemnify and hold harmless the Division, the Eligible Users, and the State of Utah for any judgments, settlements, reasonable costs, and reasonable attorneys' fees resulting from such a claim or liability. Contractor shall defend all actions brought upon such matters to be indemnified hereunder and pay all costs and expenses incidental thereto; however, the Eligible Users shall have the right, at its option, to participate in the defense of any such action without relieving Contractor of any obligation hereunder. The parties agree that if there are any limitations of liability, including a limitation of liability clause in this Contract, such limitations of liability will not apply to this Section.

41. OWNERSHIP IN INTELLECTUAL PROPERTY: The parties each recognize that each has no right, title, or interest, proprietary or otherwise, in or to the name or any logo, or intellectual property owned or licensed by the other. Each agree that, without prior written consent of the other or as described in this Contract, it shall not use the name, any logo, or intellectual property owned or licensed by the other.

42. OWNERSHIP IN CUSTOM DELIVERABLES: In the event that Contractor provides Custom Deliverables to the Eligible Users, pursuant to this Contract, Contractor grants the ownership in Custom Deliverables, which have been developed and delivered by Contractor exclusively for Eligible Users and are specifically within the framework of fulfilling Contractor's contractual obligations under this contract. Custom Deliverables shall be deemed work made for hire, such that all intellectual property rights, title and interest in the Custom Deliverables shall pass to the Eligible Users, to the extent that the Custom Deliverables are not recognized as work made for hire, Contractor hereby assigns to the Eligible Users any and all copyrights in and to the Custom Deliverables, subject to the following:

1. Contractor has received payment for the Custom Deliverables,

2. Each party will retain all rights to patents, utility models, mask works, copyrights, trademarks, trade secrets, and any other form of protection afforded by law to inventions, models, designs, technical information, and applications ("Intellectual Property Rights") that it owned or controlled prior to the effective date of this contract or that it develops or acquires from activities independent of the services performed under this contract ("Background IP"), and

3. Contractor will retain all right, title, and interest in and to all Intellectual Property Rights in or related to the services, or tangible components thereof, including but not limited to (a) all know-how, intellectual property, methodologies, processes, technologies, algorithms, software, or development tools used in performing the Services (collectively, the "Utilities"), and (b) such ideas,

concepts, know-how, processes and reusable reports, designs, charts, plans, specifications, documentation, forms, templates, or output which are supplied or otherwise used by or on behalf of Contractor in the course of performing the Services or creating the Custom Deliverables, other than portions that specifically incorporate proprietary or Confidential Information or Custom Deliverables of Eligible Users (collectively, the "Residual IP"), even if embedded in the Custom Deliverables.

4. Custom Deliverables, not including Contractor's Intellectual Property Rights, Background IP, and Residual IP, may not be marketed or distributed without written approval by the Eligible Users.

Contractor agrees to grant to the Eligible Users a perpetual, irrevocable, royalty-free license to use Contractor's Background IP, Utilities, and Residual IP, as defined above, solely for the Eligible Users and the State of Utah to use the Custom Deliverables. The Eligible Users reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use, for the Eligible User's internal purposes, such Custom Deliverables. For the Goods delivered that consist of Contractor's scripts and code and are not considered Custom Deliverables or Work Product, for any reason whatsoever, Contractor grants the Eligible User a non-exclusive, non-transferable, irrevocable, perpetual right to use, copy, and create derivative works from such, without the right to sublicense, for the Eligible User's internal business operation under this Contract. The Eligible User and the Division may not participate in the transfer or sale of, create derivative works from, or in any way exploit Contractor's Intellectual Property Rights, in whole or in part.

43. OWNERSHIP, PROTECTION AND USE OF RECORDS: Except for confidential medical records held by direct care providers, the Eligible Users shall own exclusive title to all information gathered, reports developed, and conclusions reached in performance of this Contract. Contractor may not use, except in meeting its obligations under this Contract, information gathered, reports developed, or conclusions reached in performance of this Contract without the express written consent of the Eligible User. Contractor agrees to maintain the confidentiality of records it holds for the Eligible Users as required by applicable federal, state, or local laws. Eligible Users shall own and retain unlimited rights to use, disclose, or duplicate all information and data (copyrighted or otherwise) developed, derived, documented, stored, or furnished by Contractor under this Contract. Contractor, and any Subcontractors under its control, expressly agrees not to use an Eligible User's confidential data without prior written permission from Eligible User.

44. PROTECTION, AND USE OF CONFIDENTIAL FEDERAL, STATE, OR LOCAL GOVERNMENT INTERNAL BUSINESS PROCESSES AND PROCEDURES: In the event that the Eligible User provides Contractor with confidential federal or state business processes, policies, procedures, or practices, pursuant to this Contract, Contractor agrees to hold such information in confidence, in accordance with applicable laws and industry standards of confidentiality , and not to copy, reproduce, sell, assign, license, market, transfer, or otherwise dispose of, give, or disclose such information to third parties or use such information for any purpose whatsoever other than the performance of this Contract. The improper use or disclosure by any party of protected internal federal or state business processes, policies, procedures, or practices is prohibited. Confidential federal or state business processes, policies, procedures, or practices shall not be divulged by Contractor or its Subcontractors, except for the performance of this Contract, unless prior written consent has been obtained in advance from the Eligible User.

45. PROTECTION, AND RETURN OF DOCUMENTS AND DATA UPON CONTRACT TERMINATION OR COMPLETION: All documents and data pertaining to work required by this Contract will be the property of the Eligible Users, and must be delivered to the Eligible Users within thirty (30) working days after termination or expiration of this Contract, regardless of the reason for contract termination, and without restriction or limitation to their future use. The costs for returning documents and data to the Eligible Users are included in this Contract.

46. CONFIDENTIALITY: Confidential Information may be disclosed to the Contractor under the terms of this Contract. If Confidential Information is disclosed to Contractor then Contractor agrees to adhere to the following:

Contractor will: (a) limit disclosure of any Confidential Information to Authorized Persons who have a need to know such Confidential Information in connection with the current or contemplated business relationship between the parties to which this Contract relates, and only for that purpose; (b) advise its Authorized Persons of the proprietary nature of the Confidential Information and of the obligations set forth in this Contract and require such Authorized Persons to keep the Confidential Information confidential; (c) shall keep all Confidential Information strictly confidential by using a reasonable degree of care, but not less than the degree of care used by it in safeguarding its own confidential information; and (d) not disclose any Confidential Information received by it to any third parties, except as otherwise agreed to in writing by the Eligible Users. Contractor will promptly notify the Eligible Users of any misuse or misappropriation of Confidential Information that comes to Contractor's attention.

Contractor shall be responsible for any breach of this duty of confidentiality contract by any of their officers, agents, subcontractors at any tier, and any of their respective representatives, including any required remedies and/or notifications under applicable law (Utah Code Section 13-44-101 thru 301 et al). Contractor shall indemnify, hold harmless, and defend the Division, the Eligible Users, and State of Utah from claims related to a breach of these confidentiality requirements by Contractor or anyone for whom the Contractor is liable. This duty of confidentiality shall be ongoing and survive the term of this Contract.

47. ASSIGNMENT/SUBCONTRACT: Contractor will not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Contract, in whole or in part, without the prior written approval of the Division.

48. DEFAULT AND REMEDIES: Any of the following events will constitute cause for the Division to declare Contractor in default of this Contract: (a) nonperformance of contractual requirements or (b) a material breach of any term or condition of this Contract. The Division will issue a written notice of default providing a fourteen (14) day period in which Contractor will have an opportunity to cure. Time allowed for cure will not diminish or eliminate Contractor's liability for damages. If the default remains, after Contractor has been provided the opportunity to cure, the Division may do one or more of the following: (a) exercise any remedy provided by law; (b) terminate this Contract and any related contracts or portions thereof; (c) impose liquidated damages, if liquidated damages are listed in the contract; (d) suspend Contractor from receiving future solicitations; or (e) request a full refund of the Goods,

Custom Deliverables, or Services furnished by Contractor that are defective or Services that were inadequately performed under this Contract.

49. TERMINATION UPON DEFAULT: In the event this Contract is terminated as a result of a default by Contractor, the Division may procure or otherwise obtain, upon such terms and conditions as the Division deems appropriate, Goods, Custom Deliverables, or Services similar to those terminated, and Contractor shall be liable to the Division for any and all cover costs and damages arising therefrom, including attorneys' fees, excess costs and fees, and cost of cover together with incidental or consequential damages, incurred by the Division in obtaining similar Goods, Custom Deliverables, or Services.

50. **FORCE MAJEURE:** Neither party to this Contract will be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. The Division and the Eligible Users may immediately terminate this Contract after determining such delay will reasonably prevent successful performance of this Contract.

51. PROCUREMENT ETHICS: Contractor understands that a person who is interested in any way in the sale of any supplies, services, products, construction, or insurance to the State of Utah is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan, or reward, or any promise thereof to any person acting as a procurement officer on behalf of the State of Utah, or who in any official capacity participates in the procurement of such supplies, services, products, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization.

52. CONTRACTOR'S INSURANCE RESPONSIBILITY. The Contractor shall maintain the following insurance coverage:

a. Workers' compensation insurance during the term of this Contract for all its employees and any Subcontractor employees related to this Contract. Workers' compensation insurance shall cover full liability under the workers' compensation laws of the jurisdiction in which the work is performed at the statutory limits required by said jurisdiction.
b. Commercial general liability [CGL] insurance from an insurance company authorized to do business in the State of Utah. The limits of the CGL insurance policy will be no less than one million dollars ($1,000,000.00) per person per occurrence and three million dollars ($3,000,000.00) aggregate.
c. Commercial automobile liability [CAL] insurance from an insurance company authorized to do business in the State of Utah. The CAL insurance policy must cover bodily injury and property damage liability and be applicable to all vehicles used in your performance of Services under this Agreement whether owned, non-owned, leased, or hired. The minimum liability limit must be $1 million per occurrence, combined single limit. The CAL insurance policy is required if Contractor will use a vehicle in the performance of this Contract.
d. Other insurance policies required in the Solicitation.

Certificate of Insurance, showing up-to-date coverage, shall be on file with the State before the Contract may commence.

The State reserves the right to require higher or lower insurance limits where warranted. Failure to provide proof of insurance as required will be deemed a material breach of this Contract. Contractor's failure to maintain this insurance requirement for the term of this Contract will be grounds for immediate termination of this Contract.

53. **RESERVED**

54. CONFLICT OF TERMS: Contractor terms and conditions that apply must be in writing and attached to this Contract. No other terms and conditions will apply to this Contract including terms listed or referenced on a Contractor's website, terms listed in a Contractor quotation/sales order, purchase orders, etc. In the event of any conflict in the contract terms and conditions, the order of precedence shall be: (a) this Attachment A; (b) Contract Signature Page(s); (c) State of Utah's Additional Terms and Conditions, if any; and (d) Contractor Terms and Conditions, if any. Attachment A will be given precedence over any provisions including, limitation of liability, indemnification, standard of care, insurance, or warranty, and will not be nullified by or exception created by more specific terms elsewhere in this Contract.

55. ENTIRE AGREEMENT: This Contract shall constitute the entire agreement between the parties, and supersedes any and all other prior and contemporaneous agreements and understandings between the parties, whether oral or written.

56. SURVIVORSHIP: This paragraph defines the specific contractual provisions that will remain in effect after expiration of, the completion of, or termination of this Contract, for whatever reason: (a) Contract Jurisdiction, Choice of Law, and Venue; (b) Secure Protection and Handling of Public Data; (c) Data Breach Responsibilities; (d) Ownership in Custom Deliverables; (e) Ownership, Protection, and Use of Records, including Residuals of such records; and (f) Ownership, Protection, and Use of Confidential Federal, State, or Local Government Internal Business Processes, including Residuals of such confidential business processes; (g) Ownership, Protection, and Return of Documents and Data Upon Contract Termination or Completion; (h) Confidentiality; (i) Conflict of Terms; and (j) any other terms that by their nature would survive the expiration of, completion, or termination of this contract.

57. WAIVER: The waiver by either party of any provision, term, covenant, or condition of this Contract shall not be deemed to be a waiver of any other provision, term, covenant, or condition of this Contract nor any subsequent breach of the same or any other provision, term, covenant, or condition of this Contract.

58. CONTRACT INFORMATION: During the duration of this Contract, the Division of Purchasing is required to make available contact information of Contractor to the State of Utah Department of Workforce Services. The State of Utah Department of Workforce Services may contact Contractor during the duration of this Contract to inquire about Contractor's job vacancies.

59. COMPLIANCE WITH ACCESSIBILITY STANDARDS: Contractor shall comply with and adhere to Accessibility Standards of Section 508 Amendment to the Rehabilitation Act of 1973. Contractors must also adhere to Utah Administrative rule R895-14-1-3-

3, which states that vendors developing new websites or applications are required to meet accessibility guidelines subject to rule R895 and correct any items that do not meet these guidelines at no cost to the agency; and Rule R895-14-1-4-2, which states that vendors proposing IT products and services shall provide Voluntary Product Accessibility Template® (VPAT™) documents. Contractor acknowledges that all Goods and Custom Deliverables that it licenses, contracts, or sells to DTS under this contract are accessible to people with disabilities.

60. RIGHT TO AUDIT: Contractor agrees to, upon written request, permit Division, or a third party designated by the Division, to perform an assessment, audit, examination, or review of all of Contractor's sites and environments - including physical, technical, and virtual sites and environments - in order to confirm Contractor's compliance with this Contract; associated Scopes of Work; and applicable laws, regulations, and industry standards. Contractor shall fully cooperate with such assessment by providing access to knowledgeable personnel; physical premises; records; technical and physical infrastructures; and any other person, place, or object which may assist the Division or its designee in completing such assessment. In addition, upon request, Contractor shall provide the Division with the results of any audit performed by or on behalf of Contractor that would assist the Division or its designee in confirming Contractor's compliance with this Contract; associated Scopes of Work; and applicable laws, regulations, and industry standards.

61. LARGE VOLUME DISCOUNT PRICING: Eligible Users may seek to obtain additional volume discount pricing for large orders provided Contractor is willing to offer additional discounts for large volume orders. No amendment to this Contract is necessary for Contractor to offer discount pricing to an Eligible User for large volume purchases.

62. ELIGIBLE USER PARTICIPATION: Participation under this Contract by Eligible Users is voluntarily determined by each Eligible User. Contractor agrees to supply each Eligible User with Goods based upon the same terms, conditions and prices of this Contract.

63. INDIVIDUAL CUSTOMERS: Each Eligible User that purchases Goods from this Contract will be treated as if they were individual customers. Each Eligible User will be responsible to follow the terms and conditions of this Contract. Contractor agrees that each Eligible User will be responsible for their own charges, fees, and liabilities. Contractor shall apply the charges to each Eligible User individually. The Division is not responsible for any unpaid invoice.

64. QUANTITY ESTIMATES: The Division does not guarantee any purchase amount under this Contract. Estimated quantities are for Solicitation purposes only and are not to be construed as a guarantee.

65. ORDERING: Orders will be placed by the using Eligible User directly with Contractor. All orders will be shipped promptly in accordance with the terms of this Contract.

66. REPORTS AND FEES:

1. **Administrative Fee:** Contractor agrees to provide a quarterly administrative fee to the State in the form of a Check or EFT payment. The fee will be payable to the "State of Utah Division of Purchasing" and will be sent to State of Utah, Division of Purchasing, 3150 State Office Building, Capitol Hill, PO Box 141061, Salt Lake City, UT 84114. The Administrative Fee will be the amount listed in the Solicitation and will apply to all purchases (net of any returns, credits, or adjustments) made under this Contract.

2. **Quarterly Reports:** Contractor agrees to provide a quarterly utilization report, reflecting net sales to the State during the associated fee period. The report will show the quantities and dollar volume of purchases by each agency and political subdivision. The quarterly report will be provided in secure electronic format and/or submitted electronically to the Utah reports email address: salesreports@utah.gov.

3. **Report Schedule:** Quarterly utilization reports shall be made in accordance with the following schedule:

Period End	Reports Due
March 31	April 30
June 30	July 31
September 30	October 31
December 31	January 31

4. **Fee Payment:** After the Division receives the quarterly utilization report it will send Contractor an invoice for the total quarterly administrative fee owed to the Division. Contractor shall pay the quarterly administrative fee within thirty (30) days from receipt of invoice.

5. **Timely Reports and Fees:** If the quarterly administrative fee is not paid by thirty (30) days of receipt of invoice or quarterly utilization reports are not received by the report due date, then Contractor will be in material breach of this Contract.

If Services are applicable to this Contract, the following terms and conditions apply to this Contract:

67. TIME IS OF THE ESSENCE: The Services shall be completed by any applicable deadline stated in this Contract. For all Services, time is of the essence.

68. PERFORMANCE EVALUATION: The Division may conduct a performance evaluation of Contractor's Services, including Contractor's Subcontractors, if any. Results of any evaluation may be made available to the Contractor upon Contractor's request.

69. ADDITIONAL INSURANCE REQUIREMENTS:

1. Professional liability insurance in the amount as described in the Solicitation for this Contract, if applicable.

2. Any other insurance policies described or referenced in the Solicitation for this Contract.

3. Any type of insurance or any increase of limits of liability not described in this Contract which the Contractor requires for its own protection or on account of any federal, state, or local statute, rule, or regulation shall be its own responsibility, and shall be provided at Contractor's own expense.

4. The carrying of insurance required by this Contract shall not be interpreted as relieving the Contractor of any other responsibility or liability under this Contract or any applicable law, statute, rule, regulation, or order. Contractor must provide proof of the above listed policies within thirty (30) days of being awarded this Contract.

70. STANDARD OF CARE: The Services of Contractor and its Subcontractors shall be performed in accordance with the standard of care exercised by licensed members of their respective professions having substantial experience providing similar services which similarities include the type, magnitude, and complexity of the Services that are the subject of this Contract.

71. STATE REVIEWS, LIMITATIONS: The Division reserves the right to perform plan checks, plan reviews, other reviews, and/or comment upon the Services of Contractor.

72. TRAVEL COSTS: The following will apply unless otherwise agreed to in the contract: All travel costs associated with the delivery of Services under this Contract will be paid according to the rules and per diem rates found in the Utah Administrative Code R25-7. Invoices containing travel costs outside of these rates will be returned to the Contractor for correction.

(Revision Date: April 16, 2018)

Washington-specific terms and conditions

NASPO ValuePoint Solicitation SK18001 – Data Communications Products & Services

The state of Washington intends to participate in the Master Agreement resulting from NASPO ValuePoint Solicitation SK18001 for Data Communications Products & Services. Washington's complete terms and conditions will be detailed in any Participating Addendum to a Master Agreement resulting from Solicitation SK18001.

Washington-Specific Terms and Conditions

1. **Washington's Electronic Business Solution (WEBS).**

   Contractor represents and warrants that it is registered in Washington's Electronic Business Solution (WEBS), Washington's contract registration system and that, all of its information therein is current and accurate and that throughout the term of this Contract, Contractor shall maintain an accurate profile in WEBS.

2. **Statewide Payee Desk.**

   Contractor represents and warrants that it is registered with the Statewide Payee Desk, which registration is a condition to payment.

3. **Contract Sales Reporting.** Contractor shall report total contract sales quarterly to Enterprise Services, as set forth below.

   A. REPORTING. Contractor shall report quarterly Contract sales in Enterprise Services' Contract Sales Reporting System. Enterprise Services will provide Contractor with a login password and a vendor number.

   B. DATA. Each sales report must identify every authorized Purchasing Entity by name as it is known to Enterprise Services and its total combined sales amount invoiced during the reporting period (i.e., sales of an entire agency or political subdivision, not its individual subsections). The "Miscellaneous" option may be used only with prior approval by Enterprise Services. Upon request, Contractor shall provide contact information for all authorized Purchasing Entities specified herein during the term of this Participating Addendum. Refer sales reporting questions to the Primary Contact set forth below. If there are no contract sales during the reporting period, Contractor must report zero sales.

   C. DUE DATES FOR CONTRACT SALES REPORTING. Quarterly Contract Sales Reports must be submitted electronically by the following deadlines for all sales invoiced during the applicable calendar quarter:

4. **Vendor Management Fee**.

Contractor shall pay to Enterprise Services a vendor management fee ("VMF") of 1.50 percent on the purchase price for all sales (the purchase price is the total invoice price less applicable sales tax).

D. The sum owed by Contractor to Enterprise Services as a result of the VMF is calculated as follows:

E. Amount owed to Enterprise Services = Total Contract sales invoiced (not including sales tax) x .0150.

F. The VMF must be rolled into Contractor's current pricing. The VMF must not be shown as a separate line item on any invoice unless specifically requested and approved by Enterprise Services.

G. Enterprise Services will invoice Contractor quarterly based on Contract sales reported by Contractor. Contractors are not to remit payment until they receive an invoice from Enterprise Services. Contractor's VMF payment to Enterprise Services must reference this Contract number, work request number (if applicable), the year and quarter for which the VMF is being remitted, and the Contractor's name as set forth in this Contract, if not already included on the face of the check.

H. Failure to accurately report total net sales, to submit a timely usage report, or remit timely payment of the VMF, may be cause for Contract termination or the exercise of other remedies provided by law. Without limiting any other available remedies, the Parties agree that Contractor's failure to remit to Enterprise Services timely payment of the VMF shall obligate Contractor to pay to Enterprise Services, to offset the administrative and transaction costs incurred by the State to identify, process, and collect such sums. The sum of $200.00 or twenty-five percent (25%) of the outstanding amount, whichever is greater, or the maximum allowed by law, if less.

I. Enterprise Services reserves the right, upon thirty (30) days advance written notice, to increase, reduce, or eliminate the VMF for subsequent purchases, and reserves the right to renegotiate Contract pricing with Contractor when any subsequent adjustment of the VMF might justify a change in pricing.

5. Contractor Representations and Warranties

Contractor makes each of the following representations and warranties as of the effective date of this Participating Addendum and at the time any order is placed pursuant to the Contract. If, at the time of any such order, Contractor cannot make such representations and warranties, Contractor shall not process any orders and shall, within three (3) business days notify Enterprise Services, in writing, of such breach.

A. WAGE VIOLATIONS. Contractor represents and warrants that, during the term of this Contract and the three (3) year period immediately preceding the award of the Contract, it is not determined, by a final and binding citation and notice of assessment issued by the Washington Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction, to be in willful violation of any provision of Washington state wage laws set forth in RCW chapters 49.46, 49.48, or 49.52.

B. PAY EQUALITY. Contractor represents and warrants that, as required by Washington state law (Laws of 2017, Chap. 1, § 147), during the term of the Contract for the time period of July 1, 2017 through June 30, 2019, it agrees to equality among its workers by ensuring similarly employed individuals are compensated as equals. For purposes of this provision, employees

are similarly employed if the individuals work for the same employer, the performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed. Contractor may allow differentials in compensation for its workers based in good faith on any of the following: a seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide job-related factor or factors; or a bona fide regional difference in compensation levels. A bona fide job-related factor or factors may include, but not be limited to, education, training, or experience, that is: consistent with business necessity; not based on or derived from a gender-based differential; and accounts for the entire differential. A bona fide regional difference in compensation level must be consistent with business necessity; not based on or derived from a gender-based differential; and account for the entire differential. Notwithstanding any provision to the contrary, upon breach of warranty and Contractor's failure to provide satisfactory evidence of compliance within thirty (30) days, Enterprise Services may suspend or terminate this Participating Addendum and Contract and any Purchaser hereunder similarly may suspend or terminate its use of the Contract and/or any agreement entered into pursuant to this Participating Addendum.

C. SUSPENSION & DEBARMENT. Contractor represents and warrants that neither it nor its principals or affiliates presently are debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any governmental contract by any governmental department or agency within the United States.

6. **Compliance with Law; Taxes, Licenses, & Registration:** Contractor shall comply with all applicable law. Contractor shall register to conduct business in the State of Washington and promptly acquire and maintain all necessary licenses and registrations and pay all applicable taxes and fees. In addition, for all sales to purchasers in the State of Washington, Contractor shall calculate, collect, and remit, as appropriate, the applicable state and local sales tax on all invoices.

7. **Subcontractors**

   All Contractor's Distributors authorized in the State of Washington, as shown on the dedicated Contractor NASPO ValuePoint website, are approved to provide sales and service support to participants in the NASPO ValuePoint Master Agreement. The Contractor's Distributor's participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement.

8. **Public Information**

   This Contract and all related documents are subject to public disclosure as required by Washington's Public Records Act, RCW chapter 42.56.

9. **OCIO Policy & Security Compliance**

   Contractor shall comply with Washington Office of the Chief Information Officer (OCIO) statewide information technology policies 141.10 – Securing Information Technology Assets Standards and 188 - Accessibility, as applicable, for Purchasing Entity and for Contractor's Product(s) implemented by Purchasing Entity. Such policies are located on the OCIO website at: https://ocio.wa.gov//policies.

   Prior to final execution of a Washington State Agency's Order with a Contractor, the Contractor's Product(s), as implemented by the Washington State Agency, will be subject to a security design

review performed by Washington Consolidated Technology Services to ensure compliance with OCIO Policy 141.10 - Securing Information Technology Assets Standards.

NASPO ValuePoint
INTENT TO PARTICPATE
Cooperative Contract(s) for

Data Communications Products & Services (2019-2024)

I. PURPOSE

The purpose of this Agreement is to provide interested NASPO states with the opportunity to participate in multi-state cooperative contract(s) for the **Data Communications Products & Services.**

II. SCOPE OF THE CONTRACT(S)

The State of Utah is authorized by agreement of the participants to act as the procurement officer in developing multi-state cooperative contract(s) for **Data Communications Products & Services.**

The resulting contracts will be permissive contracts.

Administrative Fee

There will be a 0.25% NASPO ValuePoint administrative fee associated with these contracts. It is anticipated that the individual states will be able to add an administrative fee when the state executes its Participating Addendum.

III. TERM OF THE CONTRACT

The initial term of the contract will be established for five (5) years from the date of award with options to extend the contract for (2) two additional years.

IV. SOLICITATION AND CONTRACT DEVELOPMENT/ADDITIONAL INFORMATION

The solicitation and contract development shall be accomplished in compliance with the NASPO ValuePoint Process Guide and the NASPO Memorandum of Agreement for the NASPO cooperative purchasing program, incorporated herein by reference.

Solicitation Publication Period

Bidders/Offerors will be given at least 40 days after publication to submit proposals.

Solicitation Type and Evaluation Criteria

This RFP will be issued and evaluated in concert with the procurement laws and rules of the State of Utah by a sourcing team comprised of members from several states.

Award(s)

The solicitation will permit multiple awards.

Additional Requested Information

State Specific Terms and Conditions: If the participating state wishes to include any State specific terms and conditions with the release of this RFP, please attach those with this Intent to Participate.

Annual Estimated Volume: If your State has an existing contract for this commodity or service, please indicate your annual volume of spend (including any potential political subdivision usage if available).

Annual State Spend	16,000,0000.00
Annual Political Subdivision Spend	16,000,000.00
Total Spend	32,000,000.00

State of Minnesota

Ms. Betsy Hayes, Chief Procurement Officer
Director Name

651.201.2400 Betsy.Hayes@state.mn.us
Director Phone **Director Email**

Director has approved ITP to be submitted? Yes ☒ No ☐
(Click appropriate box)

State Specific T&Cs to be included in RFP? Yes ☐ No ☒
(Click appropriate box)

Mike Brick, Acquisitions Management Specialist
State Point of Contact Name and Title

651.201.2445 mike.brick@state.mn.us
Phone **Email**

Please email completed "Intent to Participate" document by **Tuesday, July 10, 2018** to:
Shannon Berry
Cooperative Development Coordinator
NASPO ValuePoint
sberry@naspovaluepoint.org

NASPO ValuePoint
INTENT TO PARTICPATE
Cooperative Contract(s) for

Data Communications Products & Services (2019-2024)

I. PURPOSE

The purpose of this Agreement is to provide interested NASPO states with the opportunity to participate in multi-state cooperative contract(s) for the **Data Communications Products & Services.**

It is the intent of the State of Maryland (the "State") to participate in this joint procurement for Data Communications Products & Services through NASPO in order to obtain the most optimal cost savings and/or reductions in administrative expense for the overall benefit of the State and any of its public bodies, meaning any legislative, executive or judicial body, agency, office, department, authority, post, commission, committee, institution, board or other political subdivision created by law to exercise some sovereign power or to perform some governmental duty ("Public Body"). "Public body" shall include (i) any independent agency of the State.

Additionally, and consistent with the Code of Maryland (the Code), the State's intent is also to help ensure that all qualified State vendors have access to public business and that no Offeror be arbitrarily or capriciously excluded, and that competition be sought for Maryland businesses to the maximum feasible degree.

To ensure maximum transparency and public access for all State procurement activities and business opportunities, and consistent with Code, the State and any authorized state agency or other Maryland Public Body, hereinafter defined as Authorized Users, shall be required to submit any order directly with a contractor through the State's central electronic procurement website, eMaryland Marketplace ("eMM") or any then-current State eProcurement program, and the details for this will be delineated in the ordering instructions at such time that the State may deem it in its best interest to execute a future Participating Addendum (PA).

II. SCOPE OF THE CONTRACT(S)

The State of Utah is authorized by agreement of the participants to act as the procurement officer in developing multi-state cooperative contract(s) for **Data Communications Products & Services.**

The resulting contracts will be permissive contracts.

Administrative Fee

There will be a 0.25% NASPO ValuePoint administrative fee associated with these contracts. It is anticipated that the individual states will be able to add an administrative fee when the state executes its Participating Addendum.

III. TERM OF THE CONTRACT

The initial term of the contract will be established for five (5) years from the date of award with options to extend the contract for (2) two additional years.

IV. SOLICITATION AND CONTRACT DEVELOPMENT/ADDITIONAL INFORMATION

The solicitation and contract development shall be accomplished in compliance with the NASPO ValuePoint Process Guide and the NASPO Memorandum of Agreement for the NASPO cooperative purchasing program, incorporated herein by reference.

Solicitation Publication Period

Bidders/Offerors will be given at least 40 days after publication to submit proposals.

Solicitation Type and Evaluation Criteria

This RFP will be issued and evaluated in concert with the procurement laws and rules of the State of Utah by a sourcing team comprised of members from several states.

Award(s)

The solicitation will permit multiple awards.

Additional Requested Information

State Specific Terms and Conditions: Maryland specific terms and conditions are attached with this Intent to Participate, for release with this RFP.

Annual Estimated Volume: If your State has an existing contract for this commodity or service, please indicate your annual volume of spend (including any potential political subdivision usage if available).

Annual State Spend	$20MM (estimated)
Annual Political Subdivision Spend	No data available
Total Spend	$20MM (Estimated)

State of Maryland

Robert E. Gleason
Director Name

(410) 260-3910 — **Director Phone**

sachin.bhatt3@maryland.gov — **Director Email**

Director has approved ITP to be submitted? Yes ☒ No ☐
(Click appropriate box)

State Specific T&Cs to be included in RFP? Yes ☒ No ☐

(Click appropriate box)

Sachin Bhatt

State Point of Contact Name and Title

410.697.9680 sachin.bhatt3@maryland.gov

Phone **Email**

Please email completed "Intent to Participate" document by **Tuesday, July 10, 2018** to:

Shannon Berry
Cooperative Development Coordinator
NASPO ValuePoint
sberry@naspovaluepoint.org

The Code of Maryland Regulations identify the Mandatory Terms and Conditions in 21.07.01. Please see the following pages for such terms and conditions.

Title 21
STATE PROCUREMENT REGULATIONS

Subtitle 07 CONTRACT TERMS AND CONDITIONS

Chapter 01 Mandatory Contract Provisions — All Contracts (except as provided under COMAR 21.05.07, 21.07.02, and 21.07.03)

Authority:
Election Law Article, §§14-101—14-108;
State Finance and Procurement Article, §§12-101, 13-211, 13-217—13-219, 13-221—13-223, 13-317, 16-202, 17-401,17-402, and 19-114; and
State Government Article, §§15-502 and 15-503; Annotated Code of Maryland

.01 Parties to the Contract.
Mandatory provision for all contracts.

.02 Scope of Contract.
Mandatory provision for all contracts. This provision shall reflect the unilateral right of the State to order in writing changes in the work within the scope of the contract.

.03 Compensation and Method of Payment.
Mandatory provision for all contracts. The contractor's taxpayer identification number consisting of the Social Security number for individuals and sole proprietors and the federal employer identification number for all other types of organizations shall be indicated in this clause.

.04 Contract Modifications.
Mandatory provision for all contracts.

.05 Non-Hiring of Officials and Employees.
Mandatory provision for all contracts: "No official or employee of the State of Maryland, as defined under State Government Article, §15-102, Annotated Code of Maryland, whose duties as such official or employee include matters relating to or affecting the subject matter of this contract, shall during the pendancy and term of this contract and while serving as an official or employee of the State become or be an employee of the contractor or any entity that is a subcontractor on this contract."

.06 Disputes.
Mandatory provision for all contracts. One of the following clauses is preferred:

A. Alternate Disputes Clause (short form). "This contract shall be subject to the provisions of State Finance and Procurement Article, Title 15, Subtitle 2, Annotated Code of Maryland, and COMAR 21.10 (Administrative and Civil Remedies). Pending resolution of a claim, the Contractor shall proceed diligently with the performance of the contract in accordance with the procurement officer's decision."

B. Alternate Disputes Clause (long form).

"(1) This contract is subject to the provisions of State Finance and Procurement Article, Title 15, Subtitle 2, Annotated Code of Maryland and COMAR 21.10 (Administrative and Civil Remedies).

(2) Except as otherwise may be provided by law, all disputes arising under or as a result of a breach of this contract that are not disposed of by mutual agreement shall be resolved in accordance with this clause.

(3) As used herein, "claim" means a written demand or assertion by one of the parties seeking, as a legal right, the payment of money, adjustment or interpretation of contract terms, or other relief, arising under or relating to this contract. A voucher, invoice, or request for payment that is not in dispute when submitted is not a claim under this clause. However, if the submission subsequently is not acted upon in a reasonable time, or is disputed as to liability or amount, it may be converted to a claim for the purpose of this clause.

(4) A claim shall be made in writing and submitted to the procurement officer for decision in consultation with the Office of the Attorney General.

(5) When a claim cannot be resolved by mutual agreement, the contractor shall submit a written request for final decision to the procurement officer. The written request shall set forth all the facts surrounding the controversy.

(6) The contractor, at the discretion of the procurement officer, may be afforded an opportunity to be heard and to offer evidence in support of his claim.

(7) The procurement officer shall render a written decision on all claims within 180 days of receipt of the contractor's written claim, unless the procurement officer determines that a longer period is necessary to resolve the claim. If a decision is not issued within 180 days, the procurement officer shall notify the contractor of the time within which a decision shall be rendered and the reasons for such time extension. The decision shall be furnished to the contractor, by certified mail, return receipt requested, or by any other method that provides evidence of receipt. The procurement officer's decision shall be deemed the final action of the State.

(8) The procurement officer's decision shall be final and conclusive unless the contractor mails or otherwise files a written appeal with the Maryland State Board of Contract Appeals within 30 days of receipt of the decision.

(9) Pending resolution of a claim, the contractor shall proceed diligently with the performance of the contract in accordance with the procurement officer's decision."

.07 Maryland Law Prevails.
Mandatory provision for all contracts unless otherwise authorized by the Board of Public Works.

.08 Nondiscrimination in Employment.
Mandatory provision for all contracts. The following clause is preferred:

"The Contractor agrees:(a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, sexual orientation, gender identification, marital status, national origin, ancestry genetic information or any otherwise unlawful use of characteristics, or disability of a qualified individual with a disability unrelated in nature and extent so as to reasonably preclude the performance of the employment, or the individual's refusal to submit to a genetic test or make available the results of a genetic test; (b) to include a provision similar to that contained in subsection(a), above, in any underlying subcontract except a subcontract for standard commercial supplies or raw materials; and (c) to post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause."

.09 Contingent Fee Prohibition.
Mandatory provision for all contracts:

"The contractor, architect, or engineer (as applicable) warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or agent working for the contractor, architect, or engineer, to solicit or secure this agreement, and that it has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee or agent, any fee or any other consideration contingent on the making of this agreement."

.10 Multi-Year Contracts Contingent Upon Appropriations.
Mandatory provision for all contracts and contract modifications to be effective in more than one fiscal year:

"If the General Assembly fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of this Contract succeeding the first fiscal period, this Contract shall be cancelled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either the State's rights or the Contractor's rights under any termination clause in this Contract. The effect of termination of the Contract hereunder will be to discharge both the Contractor and the State from future performance of the Contract, but not from their rights and obligations existing at the time of termination. The Contractor shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the Contract. The State shall notify the Contractor as soon as it has knowledge that funds may not be available for the continuation of this Contract for each succeeding fiscal period beyond the first."

.11 Termination for Default.
Mandatory provision for all contracts. One of the following clauses is preferred:

A. Alternate Clause — Termination for Default (short form).

"If the Contractor fails to fulfill its obligation under this contract properly and on time, or otherwise violates any provision of the contract, the State may terminate the contract by written notice to the Contractor. The notice shall specify the acts or

omissions relied upon as cause for termination. All finished or unfinished work provided by the Contractor shall, at the State's option, become the State's property. The State shall pay the Contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the State can affirmatively collect damages. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.11B."

B. Alternate Clause — Termination for Default (long form).

"(1) The State may, subject to the provisions of paragraph (3) of this regulation, by written notice of default to the Contractor, terminate the whole or any part of this contract in any one of the following circumstances:(a) If the Contractor fails to perform within the time specified herein or any extension thereof; or (b) If the Contractor fails to perform any of the other provisions of this contract, or so fails to make progress as to endanger performance of this contract in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of 10 days (or such longer period as the procurement officer may authorize in writing) after receipt of notice from the procurement officer specifying such failure.

"(2) In the event the State terminates this contract in whole or in part as provided in paragraph(1) of this clause, the State may procure substitute performance upon terms and in whatever manner the procurement officer may deem appropriate, and the Contractor shall be liable to the State for any excess costs for substitute performance; provided, that the Contractor shall continue the performance of this contract to the extent not terminated under the provisions of this clause.

"(3) Except with respect to defaults of subcontractors, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the State in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the failure to perform shall be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the default of a subcontractor, and if the default arises out of causes beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for any excess costs for failure to perform unless substitute performance for the subcontractor was obtainable from another source in sufficient time to permit the Contractor to meet the performance schedule.

"(4) If, after notice of termination of this contract under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, or that the default was excusable under the provisions of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the State, be the same as if the notice of termination had been issued pursuant to such clause. If, after notice of termination of this contract under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, and if this contract does not contain a clause providing for termination for convenience of the State, the contract shall be equitably adjusted to compensate for such termination and the contract modified accordingly; failure to agree to any such adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes."

"(5) If this contract is terminated as provided in paragraph(1) of this clause, the State, in addition to any other rights provided in this clause, may require the Contractor to transfer title and deliver to the State, in the manner, at the times, and to the extent, if any, directed by the procurement officer,(a) the fabricated or unfabricated parts, work in progress, completed work, supplies, and other material produced as a part of, or acquired in connection with the performance of, the work terminated by the Notice of Termination, and (b) the completed or partially completed plans, drawings, information, and other property which, if the contract had been completed, would have been required to be furnished to the State; and the Contractor shall, upon direction of the procurement officer, protect and preserve property in the possession of the Contractor in which the State has an interest. Payment for completed supplies delivered to and accepted by the State shall be at the contract price. Payment for manufacturing materials delivered to and accepted by the State and for the protection and preservation of property shall be in an amount agreed upon by the Contractor and procurement officer; failure to agree to such amount shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes." The State may withhold from amounts otherwise due the Contractor hereunder such sum as the procurement officer determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.

"(6) The rights and remedies of the State provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

"(7) As used in paragraph (3) of this clause, the terms, "subcontractor" and "subcontractors" mean subcontractor(s) at any tier."

.12 Termination for Convenience.

A. Except as provided in §B of this regulation, mandatory provision for all contracts. One of the following clauses is preferred:

(1) Alternate Clause — Termination for Convenience (short form).

"The performance of work under this contract may be terminated by the State in accordance with this clause in whole, or from time to time in part, whenever the State shall determine that such termination is in the best interest of the State. The State will pay all reasonable costs associated with this contract that the Contractor has incurred up to the date of termination and all reasonable costs associated with termination of the Contract. However, the Contractor shall not be reimbursed for any anticipatory profits that have not been earned up to the date of termination. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.12A(2)."

(2) Alternate Clause — Termination for Convenience (long form).

"(1) The performance of work under this contract may be terminated by the State in accordance with this clause in whole, or from time to time in part, whenever the State shall determine that such termination is in the best interest of the State. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of work is terminated and the time when such termination becomes effective.

"(2) After receipt of a Notice of Termination, and except as otherwise directed by the procurement officer, the Contractor shall:

(a) stop work as specified in the Notice of Termination;

(b) place no further orders or subcontracts for materials, services or facilities, except as may be necessary for completion of the portion of the work under the contract as is not terminated;

(c) terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination;

(d) assign to the State, in the manner, at times, and to the extent directed by the procurement officer, all of the right, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the State shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;

(e) settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the procurement officer, to the extent he may require, which approval or ratification shall be final for all the purposes of this clause;

(f) transfer title and deliver to the State, in the manner, at the times, and to the extent, if any, directed by the procurement officer,(i) the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in connection with the performance of, the work terminated by the Notice of Termination, and (ii) the completed or partially completed plans, drawings, information, and other property which, if the contract had been completed, would have been required to be furnished to the State;

(g) use its best efforts to sell, in the manner, at the times, to the extent, and at the price or prices directed or authorized by the procurement officer, any property of the types referred to in (f) above; provided, however, that the Contractor(i) may not be required to extend credit to any purchaser, and (ii) may acquire any such property under the conditions prescribed by and at a price or prices approved by the procurement officer; and provided further that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the State to the Contractor under this contract or shall otherwise be credited to the price or cost of the work covered by this contract or paid in such other manner as the procurement officer may direct;

(h) complete performance of such part of the work as shall not have been terminated by the Notice of Termination; and

(i) take any action that may be necessary, or as the procurement officer may direct, for the protection and preservation of the property related to this contract which is in the possession of the Contractor and in which the State has or may acquire an interest.

The Contractor shall submit to the procurement officer a list, certified as to quantity and quality, of any or all items of termination inventory not previously disposed of, exclusive of items the disposition of which has been directed or authorized by the procurement officer, and may request the State to remove them or enter into a storage agreement covering them. Not later than fifteen (15) days thereafter, the State shall accept title to these items and remove them or enter into a storage agreement covering the same; provided, that the list submitted shall be subject to verification by the procurement officer upon removal of the items, or if the items are stored, within forty-five (45) days from the date of submission of the list, and any necessary adjustment to correct the list as submitted shall be made before final settlement.

"(3) After receipt of a Notice of Termination, the Contractor shall submit to the procurement officer his termination claim, in the form and with certification prescribed by the procurement officer. This claim shall be submitted promptly but in no event later than one(1) year from the effective date of termination, unless one or more extensions in writing are granted by the procurement officer, upon request of the Contractor made in writing within the one-year period or authorized extension thereof. However, if the procurement officer determines that the facts justify such action, he may receive and act upon any such termination claim at any time after the one-year period or any extension thereof. Upon failure of the Contractor to submit his termination claim within the time allowed, the procurement officer may determine the claim at any time after the one-year period or any extension thereof. Upon failure of the Contractor to submit his termination claim within the time allowed, the procurement officer may determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination and shall thereupon pay to the Contractor the amount so determined.

"(4) Subject to the provisions of paragraph (3), the Contractor and the procurement officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of work pursuant to this clause, which amount or amounts may include a reasonable allowance for profit on work done; provided, that such agreed amount or amounts, exclusive of settlement costs, shall not exceed the total contract price as reduced by the amount of payments otherwise made and as further reduced by the contract price of work not terminated. The contract shall be amended accordingly, and the Contractor shall be paid the agreed amount. Nothing in paragraph (5) of this clause, prescribing the amount to be paid to the Contractor in the event of failure of the Contractor and the procurement officer to agree upon the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this clause, shall be deemed to limit, restrict, or otherwise determine or affect the amount or amounts that may be agreed upon to be paid to the Contractor pursuant to this paragraph.

"(5) In the event of the failure of the Contractor and the procurement officer to agree as provided in paragraph (4) upon the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this clause, the procurement officer shall pay to the Contractor the amounts determined by the procurement officer as follows, but without duplication of any amounts agreed upon in accordance with paragraph (4):

(a) for completed supplies or services accepted by the State (or sold or acquired as provided in paragraph (2)(g) above) and for which payment has not theretofore been made, a sum equivalent to the aggregate price for the supplies or services computed in accordance with the price or prices specified in the contract, appropriately adjusted for any saving of freight or other charges;

(b) the total of:

(i) the costs incurred in the performance of the work terminated, including initial costs and preparatory expense allocable thereto, but exclusive of any costs attributable to supplies or services paid or to be paid for under paragraph (5)(a) hereof;

(ii) the cost of settling and paying claims arising out of the termination of work under subcontracts or orders, as provided in paragraph (2)(e) above, which are properly chargeable to the terminated portion of the contract (exclusive of amounts paid or payable on account of supplies or materials delivered or services furnished by subcontractors or vendors before the effective date of the Notice of Termination, which amounts shall be included in the costs payable under(i) above); and

(iii) a sum, as profit on(i) above, determined by the procurement officer to be fair and reasonable; provided, however, that if it appears that the contractor would have sustained a loss on the entire contract had it been completed, no profit shall be

included or allowed under this subdivision (iii) and an appropriate adjustment shall be made reducing the amount of the settlement to reflect the indicated rate of loss; and

(c) the reasonable cost of settlement accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the contract and for the termination and settlement of subcontracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of property allocable to this contract.

The total sum to be paid to the Contractor under(a) and (b) of this paragraph shall not exceed the total contract price as reduced by the amount of payments otherwise made and as further reduced by the contract price of work not terminated. Except for normal spoilage, and except to the extent that the State shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Contractor as provided in (5)(a) and (b)(i) above, the fair value, as determined by the procurement officer, of property that is destroyed, lost, stolen, or damaged so as to become undeliverable to the State or to a buyer pursuant to paragraph (2)(g).

"(6) Costs claimed, agreed to, or determined pursuant to (3), (4), (5) and (11) hereof shall be in accordance with COMAR 21.09 (Contract Cost Principles and Procedures) as in effect on the date of this contract.

"(7) The Contractor shall have the right of appeal, under the clause of this contract entitled "Disputes," from any determination made by the procurement officer under paragraph (3), (5), or (9) hereof, except that if the Contractor has failed to submit his claim within the time provided in paragraph (3) or (9) hereof, and has failed to request extension of the time, he shall have no right of appeal. In any case where the procurement officer has made a determination of the amount due under paragraph (3), (5), or (9) hereof, the State shall pay to the Contractor the following:(a) if there is no right of appeal hereunder or if no timely appeal has been taken, the amount so determined by the procurement officer, or (b) if an appeal has been taken, the amount finally determined on such appeal.

"(8) In arriving at the amount due the Contractor under this clause there shall be deducted(a) all unliquidated advance or other payments on account theretofore made to the Contractor, applicable to the terminated portion of this contract, (b) any claim which the State may have against the Contractor in connection with this contract, and (c) the agreed price for, or the proceeds of sale of, any materials, supplies, or other things acquired by the Contractor or sold, pursuant to the provisions of this clause, and not otherwise recovered by or credited to the State.

"(9) If the termination hereunder be partial, the Contractor may file with the procurement officer a claim for an equitable adjustment of the price or prices specified in the contract relating to the continued portion of the contract (the portion not terminated by the Notice of Termination), and such equitable adjustment as may be agreed upon shall be made in such price or prices. Any claim by the Contractor for an equitable adjustment under this clause shall be asserted within ninety (90) days from the effective date of the termination notice, unless an extension is granted in writing by the procurement officer.

"(10) The State may from time to time, under such terms and conditions as it may prescribe, make partial payments and payments on account against costs incurred by the Contractor in connection with the terminated portion of this contract whenever in the opinion of the procurement officer the aggregate of such payments shall be within the amount to which the Contractor shall be entitled hereunder. If the total of such payments is in excess of the amount finally agreed or determined to be due under this clause, such excess shall be payable by the Contractor to the State upon demand, together with interest computed at the prime rate established by the State Treasurer for the period from the date such excess payment is received by the Contractor to the date on which such excess is repaid to the State; provided, however, that no interest shall be charged with respect to any such excess payment attributable to a reduction in the Contractor's claim by reason of retention or other disposition of termination inventory until ten days after the date of such retention or disposition, or a later date as determined by the procurement officer by reason of the circumstances.

"(11) Unless otherwise provided for in this contract, or by applicable statute, the Contractor shall—from the effective date of termination until the expiration of three years after final settlement under this contract—preserve and make available to the State at all reasonable times at the office of the Contractor but without direct charge to the State, all his books, records, documents and other evidence bearing on the costs and expenses of the Contractor under this contract and relating to the work terminated hereunder, or, to the extent approved by the procurement officer, reproductions thereof."

B. Leases of Real Property.

(1) Inclusion of a termination for convenience clause in a real property lease is discretionary with the Board of Public Works, upon recommendation of the Secretary of General Services.

(2) In recommending the exclusion of a termination for convenience clause in a real property lease, the Secretary shall consider such factors as:

(a) The practicality of including the termination for convenience clause in a lease of real property located in another state or overseas when the demand for property of a particular type or in some particular geographic location is extremely intense, or when the contents of a lease are established by a foreign government and are effectively non-negotiable, or both;

(b) The perception of some landlords that the termination for convenience clause permits the State to unilaterally convert a fixed term lease to a day-to-day lease; or

(c) The prospects that some lending institutions may reject loan requests from landlords owning property that the State might wish to lease but that must be first upgraded at the owner's expense to meet State User Agency Requirements.

.13 Delays and Extensions of Time.

Mandatory provision for all contracts. It shall be in substantially the same form as follows:

"Delays and Extensions of Time"

"The Contractor agrees to prosecute the work continuously and diligently and no charges or claims for damages shall be made by it for any delays or hindrances from any cause whatsoever during the progress of any portion of the work specified in this Contract.

"Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, acts of the public enemy, acts of the State in either its sovereign or contractual capacity, acts of another Contractor in the performance of a contract with the State, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either the Contractor or the subcontractors or suppliers."

.14 Liquidated Damages.

Mandatory provision for all contracts with certified MBE participation goals and any other contracts deemed appropriate by the procurement officer in consultation with the Office of the Attorney General.

.15 Variations in Estimated Quantities.

Mandatory provision for all contracts that contain estimated quantity items.

.16 Suspension of Work.

Mandatory provision for all contracts. It shall be in substantially the same form as follows:

"The procurement officer unilaterally may order the Contractor in writing to suspend, delay, or interrupt all or any part of the work for such period of time as he may determine to be appropriate for the convenience of the State."

.17 Pre-existing Regulations.

Mandatory provision for all contracts. It shall be in substantially the same form as follows:

"In accordance with the provisions of §11-206 of the State Finance and Procurement Article, Annotated Code of Maryland, the regulations set forth in Title 21 of the Code of Maryland Regulations (COMAR Title 21) in effect on the date of execution of this Contract are applicable to this Contract."

.18 Payment of State Obligations.

Mandatory provision for all contracts. The following clause is preferred:

"Unless a payment is unauthorized, deferred, delayed, or set-off under COMAR 21.02.07, Payments to the Contractor pursuant to this Contract shall be made no later than 30 days after the State's receipt of a proper invoice from the Contractor.

The Contractor may be eligible to receive late payment interest at the rate of 9% per annum if:

(1) The Contractor submits an invoice for the late payment interest within thirty days after the date of the State's payment of the amount on which the interest accrued; and

(2) A contract claim has not been filed under State Finance and Procurement Article, Title 15, Subtitle 2, Annotated Code of Maryland.

The State is not liable for interest:

(1) Accruing more than one year after the 31st day after the agency receives the proper invoice; or

(2) On any amount representing unpaid interest. Charges for late payment of invoices are authorized only as prescribed by Title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, or by the Public Service Commission of Maryland with respect to regulated public utilities, as applicable."

.19 Financial Disclosure.

Mandatory provision for all contracts:

"The Contractor shall comply with the provisions of §13-221 of the State Finance and Procurement Article of the Annotated Code of Maryland, which requires that every business that enters into contracts, leases, or other agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate $100,000 or more, shall, within 30 days of the time when the aggregate value of these contracts, leases or other agreements reaches $100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business."

.20 Political Contribution Disclosure.

Mandatory provision for all contracts:

"The Contractor shall comply with Election Law Article, Title 14, Annotated Code of Maryland, which requires that every person that enters into a procurement contract with the State, a county, or a municipal corporation, or other political subdivision of the State, during a calendar year in which the person receives a contract with a governmental entity in the amount of $200,000 or more, shall file with the State Board of Elections statements disclosing:(a) any contributions made during the reporting period to a candidate for elective office in any primary or general election; and (b) the name of each candidate to whom one or more contribution in a cumulative amount of $500 or more were made during the reporting period. The statement shall be filed with the State Board of Elections:(a) before execution of a contract by the State, a county, a municipal corporation, or other political subdivision of the State, and shall cover the 24 months prior to when a contract was awarded; and (b) if the contribution is made after the execution of a contract, then twice a year, throughout the contract term, on or before:(i) May 31, to cover the six (6) month period ending April 30; and (ii) November 30, to cover the six (6) month period ending October 31. Additional information is available on the State Board of Election website: http://www.elections.state.md.us/campaign_finance/index.html."

.21 Retention of Records.

Mandatory provision for all contracts. The following clause is preferred:

"The Contractor shall retain and maintain all records and documents relating to this Contract for three years after final payment by the State hereunder or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, including the procurement officer or designee, at all reasonable times."

.22 Compliance with Laws.

Mandatory provision for all contracts. The following clause is preferred:

"The Contractor hereby represents and warrants that:

"A. It is qualified to do business in the State of Maryland and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;

"B. It is not in arrears with respect to the payment of any monies due and owing the State of Maryland, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract;

"C. It shall comply with all federal, State, and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and

"D. It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract."

.23 Cost and Price Certification.

Mandatory provision for all contracts and contract modifications (excluding real property leases and architectural services or engineering services contracts (see Regulation .24)) if the contract or modification exceeds $100,000 or a smaller amount determined by the procurement officer under State Finance and Procurement Article, §13-220. The language shall be in substantially the same form as follows:

"Cost and Price Certification"

"A. The Contractor by submitting cost or price information certifies that, to the best of its knowledge, the information submitted is accurate, complete, and current as of a mutually determined specified date prior to the conclusion of any price discussions or negotiations for:

"(1) A negotiated contract, if the total contract price is expected to exceed $100,000, or a smaller amount set by the procurement officer; or

"(2) A change order or contract modification, expected to exceed $100,000, or a smaller amount set by the procurement officer.

"B. The price under this Contract and any change order or modification hereunder, including profit or fee, shall be adjusted to exclude any significant price increases occurring because the Contractor furnished cost or price information which, as of the date agreed upon between the parties, was inaccurate, incomplete, or not current."

.24 Truth-In-Negotiation Certification.

Mandatory provision for architectural services or engineering services contracts exceeding $100,000. It shall be in substantially the same form as follows:

"Truth-In-Negotiation Certification"

"The Contractor by submitting cost or price information, including wage rates or other factual unit costs, certifies to the best of its knowledge, information and belief, that:

"A. The wage rates and other factual unit costs supporting the firm's compensation, as set forth in the proposal, are accurate, complete and current as of the contract date;

"B. If any of the items of compensation were increased due to the furnishing of inaccurate, incomplete or noncurrent wage rates or other units of costs, the State is entitled to an adjustment in all appropriate items of compensation, including profit or fee, to exclude any significant sum by which the price was increased because of the defective data. The State's right to adjustment includes the right to a price adjustment for defects in costs or pricing data submitted by a prospective or actual subcontractor; and

"C. If additions are made to the original price of the contract, such additions may be adjusted to exclude any significant sums where it is determined the price has been increased due to inaccurate, incomplete or noncurrent wage rates and other factual costs."

.25 Contract Affidavit.

Mandatory contract addendum. The contract addendum shall be in substantially the same form as follows and submitted upon initial award and each renewal thereafter:

A. AUTHORITY

I HEREBY AFFIRM THAT:

I, (print name) _____ possess the legal authority to make this Affidavit.

B. CERTIFICATION OF REGISTRATION OR QUALIFICATION WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION

I FURTHER AFFIRM THAT:

The business named above is a (check applicable items):

(1) Corporation — ___ domestic or ___ foreign;

(2) Limited Liability Company — ___ domestic or ___ foreign;

(3) Partnership — ___ domestic or ___ foreign;

(4) Statutory Trust — ___ domestic or ___ foreign;

(5) ___ Sole Proprietorship

and is registered or qualified as required under Maryland Law.

I further affirm that the above business is in good standing both in Maryland and (IF APPLICABLE) in the jurisdiction where it is presently organized, and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation. The name and address of its resident agent (IF APPLICABLE) filed with the State Department of Assessments and Taxation is:

Name and Department ID

Number: _____ Address: _____

and that if it does business under a trade name, it has filed a certificate with the State Department of Assessments and Taxation that correctly identifies that true name and address of the principal or owner as:

Name and Department ID Number: _____

Address: _____.

C. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, the provisions of State Finance and Procurement Article, §13-221, Annotated Code of Maryland, which require that every business that enters into contracts, leases, or other agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate $100,000 or more shall, within 30 days of the time when the aggregate value of the contracts, leases, or other agreements reaches $100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

D. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, Election Law Article, Title 14, Annotated Code of Maryland, which requires that every person that enters into a procurement contract with the State, a county, a municipal corporation, or other political subdivision of the State, during a calendar year in which the person receives a contract with a governmental entity in the amount of $200,000 or more shall file with the State Board of Elections statements disclosing:(a) any contributions made during the reporting period to a candidate for elective office in any primary or general election; and (b) the name of each candidate to whom one or more contributions in a cumulative amount of $500 or more were made during the reporting period. The statement shall be filed with the State Board of Elections:(a) before execution of a contract by the State, a county, a municipal corporation, or other political subdivision of the State, and shall cover the 24 months prior to when a contract was awarded; and (b) if the contribution is made after the execution of a contract, then twice a year, throughout the contract term, on:(i) May 31, to cover the six (6) month period ending April 30; and (ii) November 30, to cover the six (6) month period ending October 31.

E. DRUG AND ALCOHOL FREE WORKPLACE

(Applicable to all contracts unless the contract is for a law enforcement agency and the agency head or the agency head's designee has determined that application of COMAR 21.11.08 and this certification would be inappropriate in connection with the law enforcement agency's undercover operations.)

I CERTIFY THAT:

(1) Terms defined in COMAR 21.11.08 shall have the same meanings when used in this certification.

(2) By submission of its bid or offer, the business, if other than an individual, certifies and agrees that, with respect to its employees to be employed under a contract resulting from this solicitation, the business shall:

(a) Maintain a workplace free of drug and alcohol abuse during the term of the contract;

(b) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of drugs, and the abuse of drugs or alcohol is prohibited in the business' workplace and specifying the actions that will be taken against employees for violation of these prohibitions;

(c) Prohibit its employees from working under the influence of drugs or alcohol;

(d) Not hire or assign to work on the contract anyone who the business knows, or in the exercise of due diligence should know, currently abuses drugs or alcohol and is not actively engaged in a bona fide drug or alcohol abuse assistance or rehabilitation program;

(e) Promptly inform the appropriate law enforcement agency of every drug-related crime that occurs in its workplace if the business has observed the violation or otherwise has reliable information that a violation has occurred;

(f) Establish drug and alcohol abuse awareness programs to inform its employees about:

(i) The dangers of drug and alcohol abuse in the workplace;

(ii) The business's policy of maintaining a drug and alcohol free workplace;

(iii) Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and

(iv) The penalties that may be imposed upon employees who abuse drugs and alcohol in the workplace;

(g) Provide all employees engaged in the performance of the contract with a copy of the statement required by §E(2)(b), of this regulation;

(h) Notify its employees in the statement required by §E(2)(b), of this regulation, that as a condition of continued employment on the contract, the employee shall:

(i) Abide by the terms of the statement; and

(ii) Notify the employer of any criminal drug or alcohol abuse conviction for an offense occurring in the workplace not later than 5 days after a conviction;

(i) Notify the procurement officer within 10 days after receiving notice under §E(2)(h)(ii), of this regulation, or otherwise receiving actual notice of a conviction;

(j) Within 30 days after receiving notice under §E(2)(h)(ii), of this regulation, or otherwise receiving actual notice of a conviction, impose either of the following sanctions or remedial measures on any employee who is convicted of a drug or alcohol abuse offense occurring in the workplace:

(i) Take appropriate personnel action against an employee, up to and including termination; or

(ii) Require an employee to satisfactorily participate in a bona fide drug or alcohol abuse assistance or rehabilitation program;

and

(k) Make a good faith effort to maintain a drug and alcohol free workplace through implementation of §E(2)(a)—(j), of this regulation.

(3) If the business is an individual, the individual shall certify and agree as set forth in §E(4), of this regulation, that the individual shall not engage in the unlawful manufacture, distribution, dispensing, possession, or use of drugs or the abuse of drugs or alcohol in the performance of the contract.

(4) I acknowledge and agree that:

(a) The award of the contract is conditional upon compliance with COMAR 21.11.08 and this certification;

(b) The violation of the provisions of COMAR 21.11.08 or this certification shall be cause to suspend payments under, or terminate the contract for default under COMAR 21.07.01.11 or 21.07.03.15, as applicable; and

(c) The violation of the provisions of COMAR 21.11.08 or this certification in connection with the contract may, in the exercise of the discretion of the Board of Public Works, result in suspension and debarment of the business under COMAR 21.08.03.

F. CERTAIN AFFIRMATIONS VALID

I FURTHER AFFIRM THAT:

To the best of my knowledge, information, and belief, each of the affirmations, certifications, or acknowledgements contained in that certain Bid/Proposal Affidavit dated _____ , 20___ , and executed by me for the purpose of obtaining the contract to which this Exhibit is attached remains true and correct in all respects as if made as of the date of this Contract Affidavit and as if fully set forth herein.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date:_____

By:_____(printed name of Authorized Representative and affiant)

_____(signature of Authorized Representative and affiant)

.26 Commercial Nondiscrimination Clause.

A. The following provision is mandatory for all State contracts and subcontracts: "As a condition of entering into this Agreement, Contractor represents and warrants that it will comply with the State's Commercial Nondiscrimination Policy, as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland. As part of such compliance, Contractor may not discriminate on the basis of race, color, religion, ancestry, national origin, sex, age, marital status, sexual orientation, sexual identity, genetic information or an individual's refusal to submit to a genetic test or make available the results of a genetic test or on the basis of disability, or other unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall Contractor retaliate against any person for reporting instances of such discrimination. Contractor shall provide equal opportunity for subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that this clause does not prohibit or limit lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the marketplace. Contractor understands that a material violation of this clause shall be considered a material breach of this Agreement and may result in termination of this Agreement, disqualification of Contractor from participating in State contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

B. The following provision is mandatory for all State contracts: "As a condition of entering into this Agreement, upon the request of the Commission on Civil Rights, and only after the filing of a complaint against Contractor under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, as amended from time to time, Contractor agrees to provide within 60 days after the request a complete list of the names of all subcontractors, vendors, and suppliers that Contractor has used in the past 4 years on any of its contracts that were undertaken within the State of Maryland, including the total dollar amount paid by Contractor on each subcontract or supply contract. Contractor further agrees to cooperate in any investigation conducted by the State pursuant to the State's Commercial Nondiscrimination Policy as set forth under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, and to provide any documents relevant to any investigation that are requested by the State. Contractor understands that violation of this clause is a material breach of this Agreement and may result in contract termination, disqualification by the State from participating in State contracts, and other sanctions."

Administrative History

Effective date: July 1, 1981 (8:13 Md. R. II-5)
Regulation .09A amended effective May 6, 1985 (12:9 Md. R. 816)

Chapter revised effective January 9, 1989 (15:27 Md. R. 3138)
Regulation .03 amended effective August 2, 1993 (20:15 Md. R. 1221)
Regulation .05 amended effective October 2, 2000 (27:19 Md. R. 1730); July 9, 2001 (28:13 Md. R. 1216)
Regulation .08 amended effective December 25, 2000 (27:25 Md. R. 2284); January 2, 2017 (43:26 Md. R. 1449)
Regulation .11A amended effective November 22, 1993 (20:23 Md. R. 1086)
Regulation .12A amended effective November 22, 1993 (20:23 Md. R. 1086)
Regulation .14 amended effective May 13, 2013 (40:9 Md. R. 789)
Regulation .18 amended effective January 2, 2017 (43:26 Md. R. 1449)
Regulation .20 amended effective January 26, 1998 (25:2 Md. R. 79); December 25, 2000 (27:25 Md. R. 2284); January 2, 2017 (43:26 Md. R. 1449)
Regulation .25 amended effective October 1, 1990 (17:19 Md. R. 2322); August 2, 1993 (20:15 Md. R. 1221); August 8, 2011 (38:16 Md. R. 946); May 13, 2013 (40:9 Md. R. 789)
Regulation .25D amended effective January 2, 2017 (43:26 Md. R. 1449)
Regulation .26 adopted as an emergency provision effective August 8, 1997 (24:18 Md. R. 1294); emergency status rescinded effective October 16, 1997 (24:23 Md. R. 1608)
Regulation .26 adopted effective March 12, 2007 (34:5 Md. R. 562)
Regulation .26A amended effective January 2, 2017 (43:26 Md. R. 1449)
Regulation .26B amended effective March 5, 2012 (39:4 Md. R. 338)

Award Justification Statement
Solicitation # SK18001
Contract Name: State of Utah - NASPO ValuePoint
Data Communications Products and Services
Awarded: April 12, 2019

Project Summary
A request for proposals was issued by the State of Utah on behalf of NASPO ValuePoint, participating states, and their eligible end users for the following scope of work:

- Unified Communications
- Networking
- Routers, Switches, Security, and Storage Networking
- Wireless
- Facility Management, Monitoring and Control

Evaluation Process
Proposals were evaluated in accordance with Part 7 of the Utah Procurement Code by an Evaluation Committee comprised of representatives from the State of Utah, Michigan, Washington, Alaska, Florida, Louisiana, and Minnesota. A representative from the Utah Division of Purchasing attended the evaluation committee meetings to ensure that the process outlined in the Procurement Code was followed but was not a voting member on the evaluation committee. Under Utah Code 63G-6a-702(2), the RFP process was used because criteria other than cost were considered important in determining which proposal provides the best value to the State. These other factors (other than cost) were highly significant in determining which vendor's proposal provided the best value to the State. The following paragraphs describe each scoring category and explain and compare the scores assigned to each proposal by the State's evaluation committee.

Twenty-Nine proposals were received on September 11, 2018 through the State of Utah's eProcurement system. The preliminary evaluation stage was conducted by the State of Utah to ensure compliance with the RFP's minimum qualifications.

1. Minimum Qualifications.
The RFP requested that an awarded Contractor provide the following pass/fail criteria as minimum mandatory information:

Mandatory Minimum Requirements	RFP Section	Pass/Fail
Acknowledgement of Amendments	SciQuest	Pass/Fail
RFP Development	4.1.1	Pass/Fail
Evaluation of Proposals	4.1.2	Pass/Fail
Proposed Categories	4.1.3	Pass/Fail
Delivery	4.1.4	Pass/Fail
Credit Rating	4.1.5	Pass/Fail
OEMs Only	4.1.6	Pass/Fail

Upon preliminary review of the mandatory pass/fail RFP criteria, 0 proposals were rejected and determined non-response for failing to conform to the mandatory minimum. 29 proposals were submitted to the evaluation committee for technical scoring.

2. Technical OEM Evaluated Qualifications.

In this stage proposals were evaluated against the following 6 criterion:

Evaluation Criteria	RFP Section	Points Possible
Company Profile and References	4.2.1	50.0
Ability to Supply NASPO ValuePoint Member States	4.2.2	50.0
Ability to Provide Technical Support to End Users	4.2.3	50.0
Qualifications and Technical Ability	4.2.4	25.0
Security	4.2.5	50.0
Environmental	4.2.6	25.0

As outlined in the SK18001 RFP, in order to be eligible to proceed onto Stage 3: Category Qualification Evaluation proposals were required to score a minimum of 162.5 points within the Stage 2 evaluation. A total of 250.0 points were available in this stage of the evaluation. Proposals that did not receive the required minimum score threshold were disqualified and eliminated from further consideration.

As outlined in the SK18001 RFP, during the technical evaluation phase the evaluation committee determined that the proposals that received an average score of 3.25 (equivalent of 65%) or higher per criterion provided sufficient information to the evaluation committee to demonstrate their proposal exceeded the addressed requirements for the category. Individual criterion were scored on a scale of 1 to 5, as outlined in the RFP. Overall, the evaluation committee determined that these proposals would allow Participating Entities an opportunity to make a best value determination based on the proposals provided by the offerors.

The evaluation committee determined that proposals that received an average score of less than 3.25 (equivalent of 65%) did not provide sufficient information to demonstrate to the evaluation committee that their proposals met the outlined requirements.

Following this stage 2 evaluation, 20 proposals received technical scores that met or exceeded the minimum technical point requirements outlined in the RFP and proceeded onto stage 3 category qualification evaluation. Refer to Exhibit 1: Master Summary Evaluation for the distribution of scores given.

9 proposals were rejected for failing to meet the required minimum technical scoring thresholds outlined in the RFP. The rejected proposals did not adequately demonstrate that their offered solutions met the minimum threshold to proceed onto the stage 3 evaluation. The evaluation

committee determined that these proposals did not substantively address the topics/criterion identified in SK18001 RFP. Refer to Exhibit 1: Master Summary Evaluation for the distribution of scores given.

3. Technical Category Evaluation (Per Category).

In this stage proposals were evaluated against the following 5 criterion, per category the proposal sought an award in:

Evaluation Criteria	RFP Section	Points Possible
Ability to meet Requirements of Selected Category	4.3.1	100.0
Consumption Models	4.3.2	25.0
Category Specific Security	4.3.3	50.0
Open Standards and Interoperability	4.3.4	50.0
Value Added Services	4.3.5	25.0
Total Stage 3 Points Per Category		*250.0 points*

The total possible points and the minimum score threshold that proposals were required to receive were as follows:

Award Categories	Total Points Possible	Stage 3: Minimum Threshold
Unified Communications	250.0	175.0
Networking	250.0	175.0
Routers, Switches, Security, and Storage Networking	250.0	175.0
Wireless	250.0	175.0
Facility Management, Monitoring, and Control	250.0	175.0

Proposals that did not receive the required minimum score threshold were disqualified and eliminated from further consideration.

As outlined in the SK18001 RFP, during the technical evaluation phase the evaluation committee determined that the proposals that received an average score of 3.5 (equivalent of 70%) or higher per criterion provided sufficient information to the evaluation committee to demonstrate their proposal exceeded the addressed requirements for the category. Individual criterion were scored on a scale of 1 to 5, as outlined in the RFP. Overall, the evaluation committee determined that these proposals would allow Participating Entities an opportunity to make a best value determination based on the proposals provided by the offerors.

The evaluation committee determined that proposals that received an average score of less than 3.5 (equivalent of 70%) did not provide sufficient information to demonstrate to the evaluation committee that their proposals met the outlined requirements.

Following this stage 3 evaluation, 14 proposals received technical scores that met or exceeded the minimum technical point requirements outlined in the RFP and proceeded onto stage 4 cost evaluation. Refer to Exhibit 1: Master Summary Evaluation for the distribution of scores given.

6 proposals were fully rejected for failing to meet the required minimum technical scoring thresholds outlined in the RFP. 2 proposals were partially rejected for failing to meet the required minimum technical scoring thresholds for some of the award categories applied for. The rejected proposals did not adequately demonstrate that their offered solutions met the minimum threshold to proceed onto the stage 3 evaluation. The evaluation committee determined that these proposals did not substantively address the topics/criterion identified in SK18001 RFP. Refer to Exhibit 1: Master Summary Evaluation for the distribution of scores given.

4. Cost Proposal Evaluation.

The 14 offerors that met the minimum 70% score threshold, had their Cost Proposals evaluated as outlined in the SK18001 RFP. Offerors offering no minimum discount (or 0%) off MSRP for a given category were deemed non-responsive to that category.

Proposals then separated into the following groups:

- Group 1: those Offerors whose proposal qualifies for all Award Categories.
- Group 2: those Offerors whose proposal qualifies one or more Award Categories, but not all Award Categories.

A total of 166.7 cost points were available per Category. The Offeror with the highest proposed Average Minimum Discount % off List within the Category received the 166.7 cost points. All other proposals received a portion of the cost points based on how much lower their proposed Average Minimum Discount % was from the highest. The formula to compute cost points is: (Proposed Average Discount % / Highest Average Minimum Discount %) * Total Cost Points Available. As provided in the Attachment E Cost Proposal the Average Minimum Discount % for a given category was calculated by averaging:

- Hardware and Software (on premise)
- Cloud Services
- Service Packages (i.e., Maintenance, etc.)

As provided in the SK18001 RFP, the Average Minimum Discount % off within Group 1 proposals were compared against the Group 1 proposals. The Average Minimum Discount % off within Group 2 proposals were compared against the Group 2 proposals. Applying this cost formula as outlined in the SK18001 RFP, cost points were assigned as represented in Exhibit 1: Master Summary Evaluation.

As outlined in the SK18001 RFP, awards were made to responsive and responsible offerors whose proposal received the minimum technical point threshold, provided a Cost Proposal as described in the RFP, and achieved a minimum total combined points (technical points + cost points) of:

- 466.69 total points for Unified Communications
- 466.69 total points for Networking
- 466.69 total points for Routers, Switches, Security, and Storage Networking
- 466.69 total points for Wireless
- 466.69 total points for Facility Management, Monitoring, and Control

Vendors seeking an award in categories only received an award in the respective category if their total combined points meet the award threshold for the category (i.e, 466.69 points for Networking). Provided below are the awarded vendors and their accompanying awarded categories:

	Unified Communications	Networking	Routers, Switches, Security, and Storage Networking	Wireless	Facility Management, Monitoring, and Control
AT&T	X				
ATOS	X				
Cisco	X	X	X	X	X
Cradlepoint		X	X	X	
Extreme Networks		X	X	X	
Hewlett Packard Enterprise		X	X	X	
Juniper Networks		X	X		
NEC	X				
Palo Alto Networks			X		

Conclusion

Based on the justifications outlined above, and pursuant to the SK18001 RFP, the 9 offerors identified above provide the best value to the State and other participating entities. Subject to successful negotiations of the terms and conditions, each has been awarded a contract.

Data Communications Products & Services

Solicitation # SK18001

Master Summary Evaluation

Total Proposals:	29
# Awarded:	9
# Rejected:	20

Stage 2 Threshold: 162.5 points | Stage 3 Threshold: 175 points | Award Threshold: 466.69

Vendors	Stage 1: Mandatory Minimums	Stage 2: Oral Evlauted	Stage 3: Category Qualification Evaluation					Stage 4: Cost Proposal Evaluation										Total Combined Scores					Award Status
			1. Unified Communications	2. Networking	3. Routers, Switches, Security, and Storage Networking	4. Wireless	5. Facility Management, Monitoring and Control	1. Unified Communications		2. Networking		Switches, Security, and Storage Networking		4. Wireless		5. Facility Management, Monitoring and Control		1. Unified Communications	2. Networking	3. Routers, Switches, Security, and Storage Networking	4. Wireless	5. Facility Management, Monitoring and Control	
								%	Points	%	Points	%	Points	%	Points	%	Points						
Group 1: Those Offerors whose proposal qualifies for all Award Categories.																							
Cisco	Pass	179.4	191.9	191.9	191.9	190.0	190.0	18.00%	166.70	18.00%	166.70	18.00%	166.70	18.00%	166.70	18.00%	166.70	537.95	537.95	537.95	536.08	536.08	Awarded
Group 2: Those Offerors whose proposal qualifies one or more Award Categories, but not all Award Categories.																							
AT&T	Pass	170.6	182.5	136.3	149.4		158.1	25.00%	138.92									492.04	306.88	320.00	-	328.75	Awarded
ATOS	Pass	209.4	208.8					24.00%	133.36									551.49	-	-	-	-	Awarded
Cradlepoint	Pass	188.8		190.0	191.3	188.8				25.00%	151.55	25.00%	151.55	25.00%	166.70				530.30	531.55	544.20	-	Awarded
Extreme Networks	Pass	186.9		190.6	196.9	195.0				18.67%	113.17	18.67%	113.17	18.67%	124.49				490.67	496.92	506.37	-	Awarded
Hewlett Packard Enterprise	Pass	181.9		188.1	188.1	193.1				25.00%	151.55	25.00%	151.55	25.00%	166.70				521.55	521.55	541.70	-	Awarded
Juniper Networks	Pass	183.1		180.0	186.3					27.50%	166.70	27.50%	166.70						529.83	536.08	-	-	Awarded
NEC	Pass	175.0	190.6					30.00%	166.70									532.33	-	-	-	-	Awarded
Palo Alto Networks	Pass	186.3			198.1							15.00%	90.93						-	475.30	-	-	Awarded
Vendor 3	Pass	193.8	196.9					8.33%	46.29									436.91	-	-	-	-	No Award
Vendor 6	Pass	185.0		183.8	196.9		166.9			7.87%	47.71	9.08%	55.04						416.46	436.92	-		No Award
Vendor 7	Pass	180.0		193.1	189.4					4.00%	24.25	4.00%	24.25						397.37	393.62	-	-	No Award
Vendor 9	Pass	178.8			186.9							7.67%	46.49						-	412.12	-	-	No Award
Vendor 13	Pass	181.3	195.0					10.00%	55.57									431.82	-	-	-	-	No Award
Vendor 2	Pass	182.5	118.8		111.9	110.6																	
Vendor 10	Pass	181.9	160.0																				
Vendor 11	Pass	179.4	165.6																				
Vendor 15	Pass	189.4		156.9	166.3	165.6																	
Vendor 16	Pass	183.1			170.0	170.0																	
Vendor 18	Pass	168.1	173.8				169.4																
Vendor 1	Pass	141.9																					
Vendor 4	Pass	129.4																					
Vendor 5	Pass	145.6																					
Vendor 8	Pass	135.6																					
Vendor 12	Pass	128.8																					
Vendor 14	Pass	138.8																					
Vendor 17	Pass	152.5																					
Vendor 19	Pass	158.8																					
Vendor 20	Pass	150.0																					

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Exhibit 1: Master Summary Evaluation

SK18001 Data Communications Products & Services Scoresheet Summary

	Stage 1: Minimum Mandatory Requirements	Vendor 1	Vendor 2	AT&T	ATOS	Vendor 3	Vendor 4	Cisco	Cradlepoint	Vendor 5	Vendor 6	Extreme Networks	Vendor 7	Hewlett Packard Enterprise	Vendor 8	Juniper Networks	Vendor 9	Vendor 10	Vendor 11	NEC	Palo Alto Networks	Vendor 12	Vendor 13	Vendor 14	Vendor 15	Vendor 16	Vendor 17	Vendor 18	Vendor 19	Vendor 20
1	Acknowledgement of Amendments	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass
2	RFP Development	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass
3	Evaluation of Proposals	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass
4	Proposed Categories	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass
5	Delivery	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass
6	Credit Rating	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass
7	OEMs Only	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass	Pass
Weight	**Stage 2: OEM Evaluated Qualifications**	**Vendor 1**	**Vendor 2**	**AT&T**	**ATOS**	**Vendor 3**	**Vendor 4**	**Cisco**	**Cradlepoint**	**Vendor 5**	**Vendor 6**	**Extreme Networks**	**Vendor 7**	**Hewlett Packard Enterprise**	**Vendor 8**	**Juniper Networks**	**Vendor 9**	**Vendor 10**	**Vendor 11**	**NEC**	**Palo Alto Networks**	**Vendor 12**	**Vendor 13**	**Vendor 14**	**Vendor 15**	**Vendor 16**	**Vendor 17**	**Vendor 18**	**Vendor 19**	**Vendor 20**
	Criteria #1 - Company Profile and References																													
	Evaluator 1	4.0	4.0	4.0	4.0	4.0	3.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	3.0	4.0	4.0	4.0	4.0	4.0	4.0	3.0	4.0	3.0	4.0	4.0	4.0	4.0	4.0	4.0
	Evaluator 2	2.0	4.0	3.0	4.0	4.0	2.0	5.0	3.0	3.0	4.0	3.0	4.0	4.0	3.0	3.0	3.0	3.0	3.0	4.0	3.0	3.0	3.0	2.0	5.0	4.0	3.0	3.0	4.0	3.0
	Evaluator 3	2.0	3.0	2.0	5.0	4.0	2.0	4.0	4.0	3.0	3.0	4.0	5.0	5.0	3.0	4.0	2.0	5.0	5.0	4.0	4.0	2.0	4.0	2.0	5.0	4.0	4.0	4.0	2.0	3.0
	Evaluator 4	2.0	3.0	3.0	3.0	3.0	2.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0	2.0	3.0	3.0	3.0	3.0	3.0	3.0	2.0	3.0	2.0	3.0	3.0	3.0	3.0	3.0	3.0
	Evaluator 5	4.0	4.0	4.0	4.0	4.0	3.0	4.0	4.0	4.0	3.0	3.0	4.0	5.0	2.0	3.0	4.0	4.0	4.0	4.0	4.0	2.0	5.0	4.0	4.0	4.0	4.0	4.0	3.0	3.0
	Evaluator 6	3.0	4.0	4.0	4.0	4.0	3.0	5.0	3.0	4.0	4.0	4.0	5.0	4.0	3.0	4.0	4.0	4.0	4.0	4.0	4.0	3.0	4.0	3.0	4.0	5.0	4.0	4.0	3.0	3.0
	Evaluator 7	2.0	2.0	2.0	4.0	2.0	1.0	3.0	2.0	2.0	2.0	2.0	2.0	5.0	3.0	1.0	2.0	2.0	4.0	4.0	3.0	2.0	1.0	3.0	2.0	4.0	3.0	3.0	3.0	2.0
	Evaluator 8	3.0	4.0	2.0	4.0	3.0	3.0	3.0	4.0	4.0	2.0	4.0	3.0	3.0	3.0	4.0	4.0	3.0	3.0	4.0	4.0	2.0	4.0	3.0	4.0	4.0	2.0	4.0	3.0	3.0
	Total Average Score	2.8	3.5	3.0	4.0	3.5	2.4	3.9	3.4	3.4	3.1	3.4	4.1	3.9	2.9	3.4	3.3	3.8	3.8	3.8	3.5	2.3	3.8	2.6	4.1	3.9	3.4	3.6	3.0	3.0
10.0	**Criteria #1 - Total Points (Total Possible Points = 50.0)**	27.5	35.0	30.0	40.0	35.0	23.8	38.8	33.8	33.8	31.3	33.8	41.3	38.8	25.0	33.8	32.5	37.5	37.5	37.5	35.0	22.5	37.5	26.3	41.3	38.8	33.8	36.3	30.0	30.0
	Criteria #2 - Ability to Supply NASPO ValuePoint																													
	Evaluator 1	3.0	4.0	3.0	4.0	4.0	4.0	4.0	4.0	3.0	4.0	3.0	4.0	4.0	3.0	3.0	4.0	3.0	3.0	3.0	3.0	2.0	3.0	3.0	4.0	3.0	2.0	3.0	3.0	3.0
	Evaluator 2	2.0	4.0	3.0	5.0	4.0	3.0	5.0	4.0	3.0	5.0	4.0	5.0	4.0	3.0	4.0	4.0	4.0	4.0	4.0	4.0	3.0	3.0	3.0	4.0	3.0	3.0	3.0	3.0	2.0
	Evaluator 3	3.0	4.0	4.0	5.0	4.0	5.0	3.0	5.0	3.0	4.0	4.0	5.0	5.0	4.0	5.0	5.0	5.0	5.0	4.0	5.0	3.0	3.0	4.0	5.0	5.0	4.0	4.0	4.0	3.0
	Evaluator 4	3.0	3.0	3.0	4.0	4.0	3.0	4.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0	4.0	3.0	3.0	3.0	3.0	2.0	3.0	2.0	3.0	4.0	3.0	3.0	3.0	3.0
	Evaluator 5	3.0	4.0	4.0	4.0	3.0	3.0	3.0	4.0	3.0	4.0	4.0	4.0	3.0	4.0	4.0	4.0	3.0	3.0	3.0	3.0	4.0	4.0	3.0	4.0	3.0	4.0	3.0	4.0	4.0
	Evaluator 6	3.0	4.0	3.0	5.0	3.0	3.0	4.0	4.0	3.0	3.0	4.0	4.0	3.0	2.0	3.0	5.0	3.0	3.0	3.0	4.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0
	Evaluator 7	3.0	2.0	3.0	5.0	2.0	3.0	5.0	4.0	2.0	4.0	4.0	4.0	4.0	2.0	4.0	4.0	3.0	3.0	4.0	4.0	2.0	3.0	2.0	4.0	4.0	3.0	3.0	3.0	2.0
	Evaluator 8	2.0	4.0	2.0	4.0	3.0	4.0	4.0	4.0	1.0	3.0	3.0	3.0	4.0	3.0	4.0	3.0	3.0	3.0	4.0	2.0	2.0	2.0	2.0	4.0	3.0	2.0	4.0	3.0	2.0
	Total Average Score	2.8	3.6	3.1	4.5	3.4	3.5	4.0	4.0	2.6	3.8	3.6	4.0	3.8	3.0	3.8	4.3	3.4	3.4	3.5	3.8	2.6	3.0	2.8	3.9	3.5	3.0	3.3	3.3	2.8
10.0	**Criteria #2 - Total Points (Total Possible Points = 50.0)**	27.5	36.3	31.3	45.0	33.8	35.0	40.0	40.0	26.3	37.5	36.3	40.0	37.5	30.0	37.5	42.5	33.8	33.8	35.0	37.5	26.3	30.0	27.5	38.8	35.0	30.0	32.5	32.5	27.5
	Criteria #3 - Ability to Provide Technical Suppor																													
	Evaluator 1	3.0	4.0	4.0	4.0	4.0	2.0	3.0	4.0	3.0	4.0	4.0	4.0	4.0	3.0	4.0	4.0	4.0	3.0	4.0	3.0	3.0	4.0	4.0	4.0	3.0	3.0	3.0	3.0	4.0
	Evaluator 2	2.0	4.0	4.0	4.0	5.0	1.0	5.0	3.0	3.0	5.0	5.0	3.0	4.0	3.0	4.0	4.0	4.0	4.0	3.0	4.0	3.0	4.0	3.0	4.0	3.0	3.0	4.0	3.0	3.0
	Evaluator 3	3.0	5.0	4.0	5.0	5.0	1.0	4.0	5.0	3.0	5.0	5.0	5.0	4.0	3.0	4.0	5.0	4.0	4.0	4.0	4.0	3.0	5.0	4.0	4.0	5.0	3.0	4.0	5.0	4.0
	Evaluator 4	3.0	4.0	4.0	4.0	4.0	2.0	3.0	4.0	3.0	4.0	4.0	4.0	4.0	3.0	4.0	4.0	4.0	4.0	3.0	3.0	2.0	4.0	3.0	4.0	3.0	3.0	3.0	3.0	3.0
	Evaluator 5	4.0	4.0	4.0	4.0	4.0	3.0	4.0	4.0	3.0	4.0	4.0	4.0	4.0	3.0	4.0	4.0	4.0	4.0	3.0	3.0	2.0	4.0	3.0	4.0	3.0	3.0	3.0	3.0	4.0
	Evaluator 6	2.0	5.0	3.0	5.0	4.0	2.0	3.0	5.0	3.0	4.0	5.0	4.0	4.0	2.0	3.0	4.0	3.0	4.0	3.0	3.0	2.0	3.0	3.0	3.0	4.0	3.0	3.0	3.0	3.0
	Evaluator 7	2.0	3.0	3.0	5.0	4.0	1.0	3.0	4.0	2.0	4.0	3.0	4.0	4.0	1.0	4.0	2.0	4.0	3.0	2.0	3.0	1.0	4.0	3.0	2.0	3.0	1.0	2.0	4.0	4.0
	Evaluator 8	3.0	4.0	4.0	4.0	4.0	1.0	3.0	4.0	2.0	4.0	4.0	4.0	4.0	2.0	4.0	4.0	3.0	3.0	3.0	3.0	1.0	4.0	3.0	4.0	3.0	2.0	4.0	4.0	4.0
	Total Average Score	2.8	4.1	3.8	4.4	4.3	1.6	3.5	4.0	2.8	4.3	4.4	3.9	4.0	2.5	4.0	3.8	3.9	3.6	3.1	3.3	2.1	3.9	3.3	3.5	3.4	2.6	3.1	3.5	3.9
10.0	**Criteria #3 - Total Points (Total Possible Points = 50.0)**	27.5	41.3	37.5	43.8	42.5	16.3	35.0	40.0	27.5	42.5	43.8	38.8	40.0	25.0	40.0	37.5	38.8	36.3	31.3	32.5	21.3	38.8	32.5	35.0	33.8	26.3	31.3	35.0	36.3
	Criteria #4 - Qualifications and Technical Ability																													
	Evaluator 1	4.0	3.0	4.0	4.0	4.0	3.0	2.0	4.0	3.0	4.0	4.0	2.0	4.0	3.0	4.0	4.0	4.0	4.0	4.0	4.0	3.0	4.0	3.0	4.0	4.0	3.0	3.0	4.0	3.0
	Evaluator 2	3.0	4.0	3.0	4.0	5.0	2.0	3.0	4.0	3.0	4.0	4.0	2.0	4.0	3.0	4.0	3.0	3.0	3.0	3.0	3.0	3.0	4.0	1.0	3.0	3.0	3.0	2.0	4.0	3.0
	Evaluator 3	3.0	3.0	3.0	5.0	5.0	3.0	2.0	5.0	3.0	5.0	5.0	2.0	5.0	2.0	5.0	4.0	4.0	4.0	5.0	4.0	3.0	4.0	2.0	5.0	4.0	3.0	3.0	3.0	3.0
	Evaluator 4	3.0	3.0	3.0	3.0	3.0	2.0	2.0	3.0	3.0	3.0	3.0	3.0	3.0	2.0	3.0	2.0	3.0	3.0	3.0	3.0	3.0	3.0	2.0	3.0	3.0	2.0	3.0	3.0	3.0
	Evaluator 5	4.0	4.0	3.0	3.0	4.0	2.0	3.0	4.0	4.0	4.0	4.0	4.0	4.0	3.0	4.0	3.0	3.0	4.0	3.0	4.0	3.0	4.0	2.0	4.0	3.0	3.0	3.0	3.0	4.0
	Evaluator 6	3.0	3.0	4.0	4.0	3.0	3.0	2.0	5.0	3.0	4.0	4.0	3.0	4.0	2.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0	4.0	3.0	3.0	3.0	3.0	3.0	3.0	2.0
	Evaluator 7	3.0	3.0	4.0	4.0	5.0	2.0	4.0	2.0	2.0	5.0	4.0	2.0	4.0	2.0	4.0	4.0	4.0	4.0	4.0	4.0	2.0	4.0	2.0	3.0	3.0	5.0	3.0	3.0	2.0
	Evaluator 8	3.0	3.0	4.0	4.0	5.0	2.0	5.0	4.0	2.0	5.0	4.0	3.0	4.0	2.0	4.0	3.0	4.0	4.0	4.0	4.0	2.0	4.0	2.0	3.0	3.0	5.0	3.0	3.0	2.0
	Total Average Score	3.3	3.5	3.5	4.0	4.5	2.4	3.0	4.3	3.0	4.3	4.0	2.8	4.0	2.3	4.0	3.3	3.5	3.8	3.8	3.8	2.8	4.0	2.0	3.3	3.3	4.3	2.8	3.4	2.9
5.0	**Criteria #4 - Total Points (Total Possible Points = 25.0)**	15.6	15.6	15.6	18.8	20.6	10.6	10.6	20.6	15.0	20.6	20.0	19.4	10.6	20.0	13.8	19.4	16.3	15.6	15.6	18.1	17.5	14.4	18.1	8.8	17.5	16.3	15.0	13.8	16.9	14.4
	Criteria #5 - Security																													
	Evaluator 1	4.0	4.0	3.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	3.0	3.0	4.0	3.0	3.0	3.0	3.0	3.0	4.0	3.0	4.0	3.0	4.0	4.0	3.0	4.0	3.0	3.0
	Evaluator 2	2.0	4.0	4.0	4.0	4.0	3.0	4.0	3.0	3.0	3.0	3.0	3.0	3.0	4.0	4.0	3.0	3.0	3.0	3.0	5.0	3.0	3.0	2.0	4.0	4.0	3.0	4.0	3.0	3.0
	Evaluator 3	4.0	4.0	4.0	5.0	5.0	4.0	4.0	5.0	3.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	5.0	5.0	3.0	5.0	4.0	5.0	3.0	5.0	5.0	3.0	5.0	4.0	4.0
	Evaluator 4	3.0	3.0	4.0	4.0	4.0	3.0	4.0	4.0	3.0	4.0	4.0	3.0	3.0	3.0	3.0	3.0	4.0	4.0	4.0	4.0	3.0	4.0	3.0	4.0	4.0	3.0	4.0	3.0	3.0
	Evaluator 5	4.0	3.0	4.0	4.0	3.0	2.0	3.0	3.0	3.0	3.0	3.0	4.0	2.0	3.0	2.0	3.0	3.0	3.0	4.0	4.0	3.0	3.0	3.0	4.0	4.0	2.0	4.0	3.0	2.0
	Evaluator 6	3.0	5.0	4.0	4.0	5.0	4.0	3.0	4.0	3.0	3.0	3.0	3.0	4.0	2.0	4.0	3.0	4.0	4.0	3.0	4.0	3.0	5.0	3.0	4.0	4.0	2.0	3.0	2.0	2.0
	Evaluator 7	2.0	3.0	2.0	5.0	5.0	2.0	2.0	3.0	2.0	2.0	4.0	3.0	4.0	2.0	4.0	4.0	4.0	4.0	3.0	5.0	2.0	4.0	2.0	4.0	5.0	3.0	3.0	3.0	2.0
	Evaluator 8	2.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	3.0	4.0	4.0	4.0	4.0	2.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	2.0	4.0	4.0	3.0
	Total Average Score	3.0	3.8	3.6	4.3	4.3	3.3	3.4	3.8	3.0	3.3	3.5	3.4	2.6	3.3	3.1	3.3	3.8	3.8	3.3	4.4	3.3	4.1	2.9	4.0	4.3	2.6	3.9	3.1	3.0
10.0	**Criteria #5 - Total Points (Total Possible Points = 50.0)**	30.0	37.5	36.3	42.5	42.5	32.5	33.8	37.5	30.0	32.5	35.0	33.8	26.3	32.5	31.3	32.5	37.5	37.5	32.5	43.8	32.5	41.3	28.8	40.0	42.5	26.3	38.8	31.3	30.0
	Criteria #6 - Environmental																													
	Evaluator 1	3.0	4.0	4.0	4.0	4.0	3.0	4.0	4.0	3.0	4.0	4.0	4.0	3.0	4.0	2.0	4.0	3.0	3.0	3.0	4.0	4.0	3.0	3.0	4.0	3.0	4.0	4.0	3.0	3.0
	Evaluator 2	2.0	4.0	3.0	4.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0	2.0	3.0	3.0	4.0	3.0	3.0	3.0	3.0	4.0	3.0	3.0	3.0	4.0	3.0	3.0	3.0	3.0	2.0
	Evaluator 3	4.0	4.0	5.0	5.0	5.0	3.0	5.0	4.0	3.0	5.0	5.0	3.0	5.0	2.0	5.0	5.0	5.0	5.0	5.0	5.0	3.0	4.0	4.0	4.0	3.0	5.0	4.0	3.0	3.0
	Evaluator 4	2.0	4.0	4.0	4.0	4.0	2.0	4.0	4.0	3.0	4.0	4.0	4.0	4.0	1.0	4.0	4.0	4.0	4.0	4.0	4.0	3.0	3.0	3.0	4.0	4.0	4.0	3.0	1.0	3.0
	Evaluator 5	3.0	3.0	4.0	4.0	3.0	3.0	4.0	3.0	3.0	4.0	3.0	3.0	3.0	1.0	4.0	3.0	4.0	4.0	4.0	4.0	2.0	3.0	3.0	3.0	4.0	4.0	3.0	3.0	3.0
	Evaluator 6	4.0	4.0	4.0	4.0	5.0	2.0	5.0	4.0	2.0	5.0	4.0	3.0	4.0	2.0	4.0	3.0	4.0	4.0	4.0	4.0	2.0	4.0	2.0	3.0	3.0	5.0	3.0	3.0	2.0
	Evaluator 7	2.0	2.0	4.0	3.0	3.0	1.0	5.0	3.0	1.0	5.0	3.0	3.0	4.0	2.0	5.0	4.0	3.0	3.0	5.0	3.0	1.0	3.0	3.0	2.0	3.0	5.0	2.0	3.0	2.0
	Evaluator 8	2.0	2.0	4.0	3.0	4.0	1.0	4.0	2.0	3.0	4.0	4.0	4.0	4.0	2.0	4.0	3.0	4.0	4.0	4.0	4.0	2.0	2.0	2.0	4.0	3.0	4.0	4.0	2.0	2.0
	Total Average Score	2.8	3.4	4.0	3.9	3.9	2.3	4.3	3.4	2.6	4.3	3.8	3.1	3.9	1.9	4.3	3.5	3.8	3.8	4.1	4.0	2.4	3.1	3.0	3.4	3.4	4.3	3.1	2.6	2.4
5.0	**Criteria #6 - Total Points (Total Possible 25.0)**	13.8	16.9	20.0	19.4	19.4	11.3	21.3	16.9	13.1	21.3	18.8	15.6	19.4	9.4	21.3	17.5	18.8	18.8	20.6	20.0	11.9	15.6	15.0	16.9	16.9	21.3	15.6	13.1	11.9
Weight	**Stage 2: OEM Evaluated Qualifications**	**Vendor 1**	**Vendor 2**	**AT&T**	**ATOS**	**Vendor 3**	**Vendor 4**	**Cisco**	**Cradlepoint**	**Vendor 5**	**Vendor 6**	**Extreme Networks**	**Vendor 7**	**Hewlett Packard Enterprise**	**Vendor 8**	**Juniper Networks**	**Vendor 9**	**Vendor 10**	**Vendor 11**	**NEC**	**Palo Alto Networks**	**Vendor 12**	**Vendor 13**	**Vendor 14**	**Vendor 15**	**Vendor 16**	**Vendor 17**	**Vendor 18**	**Vendor 19**	**Vendor 20**
	Total Technical Points (Total Possible Points = 250.0) Minimum Threshold = 162.5	141.9	182.5	170.6	209.4	193.8	129.4	179.4	188.8	145.6	185.0	186.9	180.0	181.9	135.6	183.1	178.8	181.9	179.4	175.0	186.3	128.8	181.3	138.8	189.4	183.1	152.5	168.1	158.8	150.0

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Exhibit 1: Master Summary Evaluation

SK18001 Data Communications Products & Services Scoresheet Summary

Weight	Stage 3: Category Qualification Evaluation	Vendor 2	AT&T	ATOS	Vendor 3	Cisco	Cradlepoint	Vendor 6	Extreme Networks	Vendor 7	Hewlett Packard Enterprise	Juniper Networks	Vendor 9	Vendor 10	Vendor 11	NEC	Palo Alto Networks	Vendor 13	Vendor 15	Vendor 16	Vendor 18
Category 1: Unified Communications																					
	Criteria #1 - Ability to Meet Requirements for Seclected Category																				
	Evaluator 1	2.0	4.0	4.0	4.0	4.0								4.0	4.0	4.0		4.0			4.0
	Evaluator 2	1.0	4.0	5.0	4.0	4.0								3.0	3.0	3.0		4.0			3.0
	Evaluator 3	2.0	4.0	4.0	4.0	3.0								4.0	4.0	4.0		4.0			4.0
	Evaluator 4	3.0	4.0	4.0	4.0	4.0								4.0	3.0	4.0		4.0			3.0
	Evaluator 5	3.0	4.0	5.0	4.0	5.0								4.0	4.0	5.0		4.0			4.0
	Evaluator 6	2.0	3.0	4.0	4.0	4.0								3.0	3.0	3.0		4.0			3.0
	Evaluator 7	1.0	4.0	5.0	5.0	4.0								4.0	4.0	5.0		5.0			3.0
	Evaluator 8	3.0	4.0	4.0	4.0	4.0								3.0	3.0	4.0		4.0			3.0
	Total Average Score	2.1	3.9	4.4	4.1	4.0								3.6	3.5	4.0		4.1			3.4
20.0	**Criteria #1 - Total Points (Total Possible Points = 100.0)**	42.5	77.5	87.5	82.5	80.0								72.5	70.0	80.0		82.5			67.5
	Criteria #2 - Consumption Models																				
	Evaluator 1	2.0	4.0	4.0	4.0	4.0								4.0	3.0	4.0		3.0			4.0
	Evaluator 2	1.0	4.0	4.0	3.0	4.0								3.0	3.0	3.0		3.0			3.0
	Evaluator 3	2.0	4.0	4.0	4.0	3.0								4.0	3.0	3.0		3.0			3.0
	Evaluator 4	3.0	4.0	4.0	4.0	5.0								3.0	3.0	3.0		3.0			3.0
	Evaluator 5	3.0	4.0	4.0	4.0	4.0								3.0	3.0	4.0		4.0			3.0
	Evaluator 6	3.0	4.0	5.0	4.0	4.0								4.0	4.0	4.0		4.0			4.0
	Evaluator 7	3.0	4.0	5.0	5.0	4.0								3.0	3.0	4.0		3.0			3.0
	Evaluator 8	3.0	3.0	4.0	4.0	4.0								3.0	3.0	3.0		3.0			4.0
	Total Average Score	2.5	3.9	4.3	4.0	4.0								3.4	3.1	3.5		3.3			3.4
5.0	**Criteria #2 - Total Points (Total Possible Points = 25.0)**	12.5	19.4	21.3	20.0	20.0								16.9	15.6	17.5		16.3			16.9
	Criteria #3 - Category Specific Security																				
	Evaluator 1	3.0	4.0	4.0	4.0	4.0								3.0	3.0	4.0		4.0			4.0
	Evaluator 2	2.0	3.0	4.0	4.0	3.0								3.0	3.0	3.0		4.0			3.0
	Evaluator 3	2.0	4.0	4.0	4.0	4.0								3.0	4.0	4.0		4.0			4.0
	Evaluator 4	3.0	4.0	5.0	4.0	5.0								3.0	4.0	4.0		4.0			4.0
	Evaluator 5	3.0	4.0	5.0	3.0	5.0								2.0	4.0	4.0		5.0			4.0
	Evaluator 6	3.0	3.0	5.0	2.0	4.0								2.0	4.0	4.0		3.0			4.0
	Evaluator 7	2.0	2.0	5.0	3.0	4.0								1.0	2.0	4.0		4.0			4.0
	Evaluator 8	3.0	3.0	4.0	4.0	4.0								3.0	3.0	4.0		4.0			4.0
	Total Average Score	2.6	3.4	4.5	3.5	4.1								2.5	3.4	3.9		4.0			3.9
10.0	**Criteria #3 - Total Points (Total Possible Points = 50.0)**	26.3	33.8	45.0	35.0	41.3								25.0	33.8	38.8		40.0			38.8
	Criteria #4 - Open Standards and Interoperability																				
	Evaluator 1	3.0	4.0	4.0	4.0	4.0								4.0	4.0	4.0		3.0			4.0
	Evaluator 2	2.0	3.0	4.0	3.0	3.0								3.0	3.0	3.0		3.0			3.0
	Evaluator 3	2.0	4.0	3.0	4.0	3.0								3.0	4.0	3.0		3.0			3.0
	Evaluator 4	2.0	3.0	4.0	4.0	3.0								3.0	3.0	3.0		4.0			4.0
	Evaluator 5	3.0	4.0	4.0	4.0	4.0								3.0	2.0	4.0		4.0			4.0
	Evaluator 6	3.0	3.0	4.0	4.0	3.0								4.0	3.0	4.0		4.0			3.0
	Evaluator 7	2.0	4.0	2.0	4.0	2.0								2.0	3.0	3.0		4.0			3.0
	Evaluator 8	3.0	4.0	3.0	4.0	4.0								3.0	3.0	3.0		4.0			3.0
	Total Average Score	2.5	3.6	3.5	3.9	3.3								3.1	3.1	3.4		3.6			3.4
10.0	**Criteria #4 - Total Points (Total Possible Points = 50.0)**	25.0	36.3	35.0	38.8	32.5								31.3	31.3	33.8		36.3			33.8
	Criteria #5 - Value Added Services																				
	Evaluator 1	3.0	4.0	4.0	4.0	3.0								3.0	3.0	4.0		4.0			3.0
	Evaluator 2	2.0	3.0	4.0	3.0	3.0								3.0	3.0	4.0		4.0			3.0
	Evaluator 3	2.0	3.0	4.0	5.0	4.0								3.0	3.0	4.0		4.0			3.0
	Evaluator 4	3.0	3.0	4.0	4.0	4.0								3.0	4.0	4.0		4.0			4.0
	Evaluator 5	2.0	3.0	4.0	4.0	5.0								3.0	3.0	5.0		4.0			4.0
	Evaluator 6	3.0	3.0	4.0	4.0	3.0								3.0	3.0	3.0		4.0			4.0
	Evaluator 7	2.0	3.0	5.0	5.0	4.0								2.0	2.0	5.0		5.0			3.0
	Evaluator 8	3.0	3.0	3.0	4.0	3.0								3.0	3.0	4.0		3.0			3.0
	Total Average Score	2.5	3.1	4.0	4.1	3.6								2.9	3.0	4.1		4.0			3.4
5.0	**Criteria #5 - Total Points (Total Possible Points = 25.0)**	12.5	15.6	20.0	20.6	18.1								14.4	15.0	20.6		20.0			16.9
		Vendor 2	**AT&T**	**ATOS**	**Vendor 3**	**Cisco**	**Cradlepoint**	**Vendor 6**	**Extreme Networks**	**Vendor 7**	**Hewlett Packard Enterprise**	**Juniper Networks**	**Vendor 9**	**Vendor 10**	**Vendor 11**	**NEC**	**Palo Alto Networks**	**Vendor 13**	**Vendor 15**	**Vendor 16**	**Vendor 18**
	Total Technical Points (Total Possible Points = 250.0) Minimum Threshold = 175.0	118.8	182.5	208.8	196.9	191.9								160.0	165.6	190.6		195.0			173.8

Category 2: Networking																					
	Criteria #1 - Ability to Meet Requirements for Seclected Category																				
	Evaluator 1		3.0			4.0	4.0	4.0	4.0	4.0	4.0	4.0							3.0		
	Evaluator 2		3.0			4.0	4.0	4.0	4.0	4.0	4.0	4.0							3.0		
	Evaluator 3		3.0			3.0	4.0	4.0	4.0	4.0	4.0	4.0							3.0		
	Evaluator 4		3.0			4.0	4.0	4.0	4.0	4.0	4.0	4.0									

Exhibit 1: Master Summary Evaluation

Weight	Stage 3: Category Qualification Evaluation	Vendor 2	AT&T	ATOS	Vendor 3	Cisco	Cradlepoint	Vendor 6	Extreme Networks	Vendor 7	Hewlett Packard Enterprise	Juniper Networks	Vendor 9	Vendor 10	Vendor 11	NEC	Palo Alto Networks	Vendor 13	Vendor 15	Vendor 16	Vendor 18
	Evaluator 5		4.0			5.0	5.0	4.0	4.0	5.0	4.0	5.0							4.0		
	Evaluator 6		2.0			4.0	4.0	4.0	4.0	4.0	3.0	4.0							3.0		
	Evaluator 7		3.0			4.0	4.0	2.0	5.0	5.0	5.0	4.0							3.0		
	Evaluator 8		3.0			4.0	4.0	4.0	4.0	4.0	4.0	4.0							3.0		
	Total Average Score		3.0			4.0	4.1	3.8	4.1	4.3	4.0	4.1							3.1		
20.0	**Criteria #1 - Total Points (Total Possible Points = 100.0)**		60.0			80.0	82.5	75.0	82.5	85.0	80.0	82.5							62.5		
	Criteria #2 - Consumption Models																				
	Evaluator 1		3.0			4.0	4.0	4.0	4.0	4.0	3.0	3.0							3.0		
	Evaluator 2		3.0			4.0	3.0	4.0	3.0	3.0	3.0	3.0							3.0		
	Evaluator 3		2.0			3.0	3.0	4.0	4.0	3.0	3.0	3.0							2.0		
	Evaluator 4		3.0			5.0	3.0	4.0	4.0	4.0	3.0	3.0							3.0		
	Evaluator 5		4.0			4.0	4.0	4.0	4.0	4.0	4.0	4.0							3.0		
	Evaluator 6		2.0			4.0	4.0	4.0	4.0	4.0	4.0	4.0							4.0		
	Evaluator 7		3.0			4.0	3.0	4.0	5.0	4.0	4.0	3.0							3.0		
	Evaluator 8		4.0			4.0	4.0	4.0	4.0	3.0	4.0	3.0							3.0		
	Total Average Score		3.0			4.0	3.5	4.0	4.0	3.6	3.5	3.3							3.0		
5.0	**Criteria #2 - Total Points (Total Possible Points = 25.0)**		15.0			20.0	17.5	20.0	20.0	18.1	17.5	16.3							15.0		
	Criteria #3 - Category Specific Security																				
	Evaluator 1		3.0			4.0	4.0	4.0	4.0	4.0	4.0	3.0							4.0		
	Evaluator 2		3.0			3.0	3.0	3.0	3.0	3.0	3.0	3.0							3.0		
	Evaluator 3		3.0			4.0	3.0	3.0	3.0	4.0	3.0	2.0							3.0		
	Evaluator 4		3.0			5.0	4.0	4.0	4.0	4.0	4.0	4.0							4.0		
	Evaluator 5		4.0			5.0	4.0	4.0	4.0	4.0	4.0	3.0							4.0		
	Evaluator 6		2.0			4.0	5.0	4.0	3.0	4.0	4.0	2.0							3.0		
	Evaluator 7		3.0			4.0	4.0	3.0	3.0	5.0	3.0	3.0							2.0		
	Evaluator 8		2.0			4.0	4.0	4.0	4.0	4.0	4.0	3.0							4.0		
	Total Average Score		2.9			4.1	3.9	3.6	3.5	4.0	3.6	2.9							3.4		
10.0	**Criteria #3 - Total Points (Total Possible Points = 50.0)**		28.8			41.3	38.8	36.3	35.0	40.0	36.3	28.8							33.8		
	Criteria #4 - Open Standards and Interoperability																				
	Evaluator 1		3.0			4.0	4.0	3.0	4.0	3.0	4.0	4.0							3.0		
	Evaluator 2		2.0			3.0	3.0	4.0	3.0	4.0	3.0	3.0							3.0		
	Evaluator 3		2.0			3.0	3.0	3.0	3.0	3.0	3.0	3.0							3.0		
	Evaluator 4		3.0			3.0	4.0	4.0	3.0	3.0	4.0	4.0							3.0		
	Evaluator 5		2.0			4.0	2.0	4.0	3.0	4.0	4.0	4.0							3.0		
	Evaluator 6		1.0			3.0	3.0	3.0	4.0	3.0	4.0	2.0							3.0		
	Evaluator 7		1.0			2.0	4.0	4.0	4.0	4.0	3.0	3.0							2.0		
	Evaluator 8		2.0			4.0	3.0	3.0	3.0	3.0	4.0	4.0							3.0		
	Total Average Score		2.0			3.3	3.3	3.5	3.4	3.4	3.6	3.4							2.9		
10.0	**Criteria #4 - Total Points (Total Possible Points = 50.0)**		20.0			32.5	32.5	35.0	33.8	33.8	36.3	33.8							28.8		
	Criteria #5 - Value Added Services																				
	Evaluator 1		3.0			3.0	4.0	4.0	4.0	3.0	4.0	4.0							3.0		
	Evaluator 2		3.0			3.0	4.0	4.0	4.0	3.0	4.0	4.0							3.0		
	Evaluator 3		3.0			4.0	4.0	4.0	4.0	3.0	4.0	4.0							3.0		
	Evaluator 4		3.0			4.0	4.0	3.0	4.0	4.0	3.0	4.0							4.0		
	Evaluator 5		3.0			5.0	4.0	4.0	4.0	4.0	3.0	4.0							4.0		
	Evaluator 6		1.0			3.0	3.0	3.0	4.0	3.0	3.0	3.0							4.0		
	Evaluator 7		2.0			4.0	4.0	3.0	4.0	3.0	4.0	4.0							3.0		
	Evaluator 8		2.0			3.0	3.0	3.0	3.0	3.0	4.0	3.0							3.0		
	Total Average Score		2.5			3.6	3.8	3.5	3.9	3.3	3.6	3.8							3.4		
5.0	**Criteria #5 - Total Points (Total Possible Points = 25.0)**		12.5			18.1	18.8	17.5	19.4	16.3	18.1	18.8							16.9		

		Vendor 2	AT&T	ATOS	Vendor 3	Cisco	Cradlepoint	Vendor 6	Extreme Networks	Vendor 7	Hewlett Packard Enterprise	Juniper Networks	Vendor 9	Vendor 10	Vendor 11	NEC	Palo Alto Networks	Vendor 13	Vendor 15	Vendor 16	Vendor 18
	Total Technical Points (Total Possible Points = 250.0) Minimum Threshold = 175.0		136.3			191.9	190.0	183.8	190.6	193.1	188.1	180.0							156.9		

Category 3: Routers, Switches, Security, and Storage Networking																					
	Criteria #1 - Ability to Meet Requirements for Seclected Category																				
	Evaluator 1	2.0	4.0			4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0				4.0		4.0	4.0	
	Evaluator 2	1.0	3.0			4.0	4.0	4.0	4.0	4.0	4.0	4.0	3.0				4.0		3.0	3.0	
	Evaluator 3	2.0	3.0			3.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0				4.0		3.0	4.0	
	Evaluator 4	3.0	3.0			4.0	4.0	5.0	4.0	4.0	4.0	4.0	4.0				4.0		3.0	4.0	
	Evaluator 5	3.0	4.0			5.0	5.0	5.0	5.0	5.0	4.0	5.0	4.0				5.0		4.0	4.0	
	Evaluator 6	2.0	3.0			4.0	4.0	4.0	4.0	4.0	3.0	4.0	4.0				4.0		3.0	4.0	
	Evaluator 7	1.0	2.0			4.0	4.0	3.0	5.0	4.0	5.0	4.0	4.0				4.0		3.0	3.0	
	Evaluator 8	3.0	4.0			4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0				4.0		3.0	4.0	
	Total Average Score	2.1	3.3			4.0	4.1	4.1	4.3	4.1	4.0	4.1	3.9				4.1		3.3	3.8	
20.0	**Criteria #1 - Total Points (Total Possible Points = 100.0)**	42.5	65.0			80.0	82.5	82.5	85.0	82.5	80.0	82.5	77.5				82.5		65.0	75.0	
	Criteria #2 - Consumption Models																				
	Evaluator 1	2.0	3.0			4.0	4.0	4.0	4.0	4.0	3.0	3.0	4.0				3.0		3.0	3.0	
	Evaluator 2	1.0	3.0			4.0	3.0	4.0	3.0	3.0	3.0	3.0	3.0				3.0		3.0	3.0	
	Evaluator 3	2.0	2.0			3.0	3.0	4.0	4.0	3.0	3.0	3.0	4.0				3.0		2.0	3.0	

Exhibit 1: Master Summary Evaluation

Weight	Stage 3: Category Qualification Evaluation	Vendor 2	AT&T	ATOS	Vendor 3	Cisco	Cradlepoint	Vendor 6	Extreme Networks	Vendor 7	Hewlett Packard Enterprise	Juniper Networks	Vendor 9	Vendor 10	Vendor 11	NEC	Palo Alto Networks	Vendor 13	Vendor 15	Vendor 16	Vendor 18
	Evaluator 4	3.0	3.0			5.0	3.0	5.0	4.0	4.0	3.0	3.0	3.0				3.0		3.0	3.0	
	Evaluator 5	3.0	3.0			4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0				4.0		4.0	4.0	
	Evaluator 6	3.0	1.0			4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0				4.0		4.0	4.0	
	Evaluator 7	3.0	2.0			4.0	3.0	4.0	5.0	4.0	4.0	3.0	4.0				5.0		3.0	4.0	
	Evaluator 8	3.0	3.0			4.0	4.0	4.0	4.0	3.0	4.0	3.0	4.0				3.0		3.0	3.0	
	Total Average Score	2.5	2.5			4.0	3.5	4.1	4.0	3.6	3.5	3.3	3.8				3.5		3.1	3.4	
5.0	**Criteria #2 - Total Points (Total Possible Points = 25.0)**	12.5	12.5			20.0	17.5	20.6	20.0	18.1	17.5	16.3	18.8				17.5		15.6	16.9	
	Criteria #3 - Category Specific Security																				
	Evaluator 1	3.0	4.0			4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0				4.0		4.0	4.0	
	Evaluator 2	2.0	3.0			3.0	3.0	4.0	3.0	4.0	3.0	3.0	3.0				4.0		3.0	3.0	
	Evaluator 3	2.0	3.0			4.0	3.0	4.0	4.0	4.0	3.0	2.0	3.0				4.0		3.0	3.0	
	Evaluator 4	3.0	4.0			5.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0				4.0		4.0	3.0	
	Evaluator 5	2.0	4.0			5.0	5.0	4.0	5.0	4.0	4.0	3.0	3.0				5.0		3.0	4.0	
	Evaluator 6	2.0	2.0			4.0	5.0	4.0	4.0	3.0	4.0	4.0	3.0				4.0		3.0	4.0	
	Evaluator 7	2.0	3.0			4.0	4.0	3.0	4.0	5.0	3.0	3.0	4.0				5.0		2.0	2.0	
	Evaluator 8	3.0	3.0			4.0	4.0	4.0	4.0	4.0	4.0	3.0	4.0				5.0		4.0	4.0	
	Total Average Score	2.4	3.3			4.1	4.0	3.9	4.0	4.0	3.6	3.3	3.5				4.3		3.3	3.4	
10.0	**Criteria #3 - Total Points (Total Possible Points = 50.0)**	23.8	32.5			41.3	40.0	38.8	40.0	40.0	36.3	32.5	35.0				42.5		32.5	33.8	
	Criteria #4 - Open Standards and Interoperability																				
	Evaluator 1	3.0	3.0			4.0	4.0	4.0	3.0	3.0	4.0	4.0	4.0				4.0		4.0	4.0	
	Evaluator 2	2.0	3.0			3.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0				3.0		3.0	3.0	
	Evaluator 3	1.0	2.0			3.0	3.0	3.0	3.0	3.0	3.0	3.0	4.0				3.0		3.0	3.0	
	Evaluator 4	2.0	3.0			3.0	4.0	4.0	3.0	3.0	4.0	4.0	4.0				4.0		4.0	4.0	
	Evaluator 5	2.0	3.0			4.0	2.0	4.0	4.0	4.0	4.0	4.0	4.0				5.0		4.0	3.0	
	Evaluator 6	2.0	1.0			3.0	3.0	3.0	3.0	3.0	4.0	4.0	4.0				3.0		4.0	4.0	
	Evaluator 7	2.0	1.0			2.0	4.0	4.0	4.0	4.0	3.0	3.0	4.0				5.0		3.0	2.0	
	Evaluator 8	3.0	2.0			4.0	3.0	4.0	3.0	3.0	4.0	4.0	4.0				4.0		4.0	3.0	
	Total Average Score	2.1	2.3			3.3	3.3	3.6	3.3	3.3	3.6	3.6	3.9				3.9		3.6	3.3	
10.0	**Criteria #4 - Total Points (Total Possible Points = 50.0)**	21.3	22.5			32.5	32.5	36.3	32.5	32.5	36.3	36.3	38.8				38.8		36.3	32.5	
	Criteria #5 - Value Added Services																				
	Evaluator 1	3.0	4.0			3.0	4.0	4.0	4.0	3.0	4.0	4.0	3.0				3.0		3.0	2.0	
	Evaluator 2	1.0	3.0			3.0	4.0	4.0	4.0	3.0	4.0	4.0	3.0				3.0		3.0	2.0	
	Evaluator 3	2.0	4.0			4.0	4.0	4.0	4.0	3.0	4.0	4.0	4.0				3.0		3.0	3.0	
	Evaluator 4	3.0	3.0			4.0	4.0	4.0	4.0	4.0	3.0	4.0	3.0				4.0		4.0	3.0	
	Evaluator 5	3.0	4.0			5.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0				4.0		4.0	3.0	
	Evaluator 6	2.0	2.0			3.0	3.0	3.0	4.0	3.0	3.0	3.0	3.0				3.0		4.0	3.0	
	Evaluator 7	2.0	3.0			4.0	4.0	4.0	4.0	3.0	3.0	4.0	4.0				4.0		3.0	1.0	
	Evaluator 8	3.0	4.0			3.0	3.0	3.0	3.0	3.0	4.0	3.0	3.0				3.0		3.0	2.0	
	Total Average Score	2.4	3.4			3.6	3.8	3.8	3.9	3.3	3.6	3.8	3.4				3.4		3.4	2.4	
5.0	**Criteria #5 - Total Points (Total Possible Points = 25.0)**	11.9	16.9			18.1	18.8	18.8	19.4	16.3	18.1	18.8	16.9				16.9		16.9	11.9	
		Vendor 2	**AT&T**	**ATOS**	**Vendor 3**	**Cisco**	**Cradlepoint**	**Vendor 6**	**Extreme Networks**	**Vendor 7**	**Hewlett Packard Enterprise**	**Juniper Networks**	**Vendor 9**	**Vendor 10**	**Vendor 11**	**NEC**	**Palo Alto Networks**	**Vendor 13**	**Vendor 15**	**Vendor 16**	**Vendor 18**
	Total Technical Points (Total Possible Points = 250.0) Minimum Threshold = 175.0	111.9	149.4			191.9	191.3	196.9	196.9	189.4	188.1	186.3	186.9				198.1		166.3	170.0	

Category 4: Wireless																					
	Criteria #1 - Ability to Meet Requirements for Seclected Category																				
	Evaluator 1	2.0				4.0	4.0		4.0		4.0								4.0	4.0	
	Evaluator 2	1.0				4.0	4.0		4.0		4.0								3.0	3.0	
	Evaluator 3	2.0				3.0	4.0		4.0		4.0								3.0	4.0	
	Evaluator 4	3.0				4.0	4.0		4.0		4.0								3.0	4.0	
	Evaluator 5	3.0				5.0	5.0		5.0		4.0								4.0	4.0	
	Evaluator 6	2.0				4.0	4.0		4.0		4.0								3.0	4.0	
	Evaluator 7	1.0				4.0	4.0		5.0		5.0								3.0	3.0	
	Evaluator 8	3.0				4.0	4.0		4.0		4.0								3.0	4.0	
	Total Average Score	2.1				4.0	4.1		4.3		4.1								3.3	3.8	
20.0	**Criteria #1 - Total Points (Total Possible Points = 100.0)**	42.5				80.0	82.5		85.0		82.5								65.0	75.0	
	Criteria #2 - Consumption Models																				
	Evaluator 1	2.0				4.0	4.0		4.0		3.0								3.0	3.0	
	Evaluator 2	1.0				4.0	3.0		3.0		3.0								3.0	3.0	
	Evaluator 3	2.0				3.0	3.0		4.0		3.0								2.0	3.0	
	Evaluator 4	3.0				5.0	3.0		4.0		3.0								3.0	3.0	
	Evaluator 5	3.0				4.0	4.0		4.0		4.0								4.0	4.0	
	Evaluator 6	3.0				4.0	3.0		4.0		4.0								4.0	4.0	
	Evaluator 7	3.0				4.0	3.0		5.0		4.0								3.0	4.0	
	Evaluator 8	3.0				4.0	4.0		4.0		4.0								3.0	3.0	
	Total Average Score	2.5				4.0	3.4		4.0		3.5								3.1	3.4	
5.0	**Criteria #2 - Total Points (Total Possible Points = 25.0)**	12.5				20.0	16.9		20.0		17.5								15.6	16.9	
	Criteria #3 - Category Specific Security																				
	Evaluator 1	3.0				4.0	4.0		4.0		4.0								4.0	4.0	

Exhibit 1: Master Summary Evaluation

Weight	Stage 3: Category Qualification Evaluation	Vendor 2	AT&T	ATOS	Vendor 3	Cisco	Cradlepoint	Vendor 6	Extreme Networks	Vendor 7	Hewlett Packard Enterprise	Juniper Networks	Vendor 9	Vendor 10	Vendor 11	NEC	Palo Alto Networks	Vendor 13	Vendor 15	Vendor 16	Vendor 18
	Evaluator 2	1.0				3.0	3.0		3.0		3.0								3.0	3.0	
	Evaluator 3	1.0				4.0	3.0		3.0		3.0								3.0	3.0	
	Evaluator 4	3.0				5.0	4.0		4.0		4.0								4.0	3.0	
	Evaluator 5	2.0				5.0	5.0		4.0		4.0								4.0	3.0	
	Evaluator 6	3.0				3.0	4.0		4.0		4.0								3.0	4.0	
	Evaluator 7	2.0				4.0	4.0		3.0		4.0								2.0	2.0	
	Evaluator 8	3.0				4.0	4.0		4.0		4.0								4.0	4.0	
	Total Average Score	2.3				4.0	3.9		3.6		3.8								3.4	3.3	
10.0	**Criteria #3 - Total Points (Total Possible Points = 50.0)**	22.5				40.0	38.8		36.3		37.5								33.8	32.5	
	Criteria #4 - Open Standards and Interoperability																				
	Evaluator 1	3.0				4.0	4.0		4.0		4.0								4.0	4.0	
	Evaluator 2	2.0				3.0	3.0		3.0		3.0								3.0	3.0	
	Evaluator 3	1.0				3.0	3.0		3.0		3.0								3.0	3.0	
	Evaluator 4	2.0				3.0	4.0		3.0		4.0								4.0	4.0	
	Evaluator 5	2.0				4.0	2.0		4.0		4.0								4.0	4.0	
	Evaluator 6	2.0				3.0	3.0		4.0		4.0								3.0	4.0	
	Evaluator 7	2.0				2.0	4.0		3.0		3.0								3.0	2.0	
	Evaluator 8	3.0				4.0	3.0		3.0		4.0								4.0	3.0	
	Total Average Score	2.1				3.3	3.3		3.4		3.6								3.5	3.4	
10.0	**Criteria #4 - Total Points (Total Possible Points = 50.0)**	21.3				32.5	32.5		33.8		36.3								35.0	33.8	
	Criteria #5 - Value Added Services																				
	Evaluator 1	3.0				3.0	4.0		4.0		4.0								3.0	2.0	
	Evaluator 2	1.0				3.0	4.0		4.0		4.0								3.0	2.0	
	Evaluator 3	2.0				4.0	4.0		4.0		4.0								3.0	3.0	
	Evaluator 4	3.0				4.0	4.0		4.0		4.0								4.0	3.0	
	Evaluator 5	3.0				4.0	3.0		5.0		4.0								3.0	3.0	
	Evaluator 6	2.0				3.0	3.0		4.0		4.0								4.0	3.0	
	Evaluator 7	2.0				4.0	4.0		4.0		3.0								3.0	1.0	
	Evaluator 8	3.0				3.0	3.0		3.0		4.0								3.0	2.0	
	Total Average Score	2.4				3.5	3.6		4.0		3.9								3.3	2.4	
5.0	**Criteria #5 - Total Points (Total Possible Points = 25.0)**	11.9				17.5	18.1		20.0		19.4								16.3	11.9	
		Vendor 2	**AT&T**	**ATOS**	**Vendor 3**	**Cisco**	**Cradlepoint**	**Vendor 6**	**Extreme Networks**	**Vendor 7**	**Hewlett Packard Enterprise**	**Juniper Networks**	**Vendor 9**	**Vendor 10**	**Vendor 11**	**NEC**	**Palo Alto Networks**	**Vendor 13**	**Vendor 15**	**Vendor 16**	**Vendor 18**
	Total Technical Points (Total Possible Points = 250.0) Minimum Threshold = 175.0	110.6				190.0	188.8		195.0		193.1								165.6	170.0	
	Category 5: Facility Management, Monitoring, and Control																				
	Criteria #1 - Ability to Meet Requirements for Seclected Category																				
	Evaluator 1		4.0			4.0		4.0													4.0
	Evaluator 2		3.0			4.0		4.0													3.0
	Evaluator 3		4.0			3.0		4.0													4.0
	Evaluator 4		3.0			4.0		4.0													3.0
	Evaluator 5		4.0			5.0		4.0													4.0
	Evaluator 6		3.0			4.0		3.0													2.0
	Evaluator 7		2.0			4.0		2.0													2.0
	Evaluator 8		4.0			4.0		2.0													3.0
	Total Average Score		3.4			4.0		3.4													3.1
20.0	**Criteria #1 - Total Points (Total Possible Points = 100.0)**		67.5			80.0		67.5													62.5
	Criteria #2 - Consumption Models																				
	Evaluator 1		3.0			4.0		4.0													4.0
	Evaluator 2		3.0			4.0		4.0													3.0
	Evaluator 3		3.0			3.0		4.0													3.0
	Evaluator 4		3.0			5.0		4.0													3.0
	Evaluator 5		4.0			4.0		4.0													4.0
	Evaluator 6		4.0			4.0		4.0													4.0
	Evaluator 7		2.0			4.0		3.0													3.0
	Evaluator 8		4.0			4.0		4.0													4.0
	Total Average Score		3.3			4.0		3.9													3.5
5.0	**Criteria #2 - Total Points (Total Possible Points = 25.0)**		16.3			20.0		19.4													17.5
	Criteria #3 - Category Specific Security																				
	Evaluator 1		4.0			4.0		4.0													4.0
	Evaluator 2		3.0			3.0		3.0													3.0
	Evaluator 3		3.0			4.0		3.0													4.0
	Evaluator 4		3.0			5.0		3.0													4.0
	Evaluator 5		3.0			5.0		4.0													4.0
	Evaluator 6		3.0			3.0		4.0													4.0
	Evaluator 7		2.0			4.0		2.0													4.0
	Evaluator 8		3.0			4.0		3.0													4.0
	Total Average Score		3.0			4.0		3.3													3.9
10.0	**Criteria #3 - Total Points (Total Possible Points = 50.0)**		30.0			40.0		32.5													38.8

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Exhibit 1: Master Summary Evaluation

Weight	Stage 3: Category Qualification Evaluation	Vendor 2	AT&T	ATOS	Vendor 3	Cisco	Cradlepoint	Vendor 6	Extreme Networks	Vendor 7	Hewlett Packard Enterprise	Juniper Networks	Vendor 9	Vendor 10	Vendor 11	NEC	Palo Alto Networks	Vendor 13	Vendor 15	Vendor 16	Vendor 18
	Criteria #4 - Open Standards and Interoperability																				
	Evaluator 1		4.0			4.0		3.0													4.0
	Evaluator 2		3.0			3.0		3.0													3.0
	Evaluator 3		3.0			3.0		3.0													3.0
	Evaluator 4		3.0			3.0		3.0													4.0
	Evaluator 5		3.0			4.0		4.0													3.0
	Evaluator 6		3.0			3.0		3.0													4.0
	Evaluator 7		2.0			2.0		2.0													3.0
	Evaluator 8		4.0			4.0		3.0													3.0
	Total Average Score		3.1			3.3		3.0													3.4
10.0	**Criteria #4 - Total Points (Total Possible Points = 50.0)**		31.3			32.5		30.0													33.8
	Criteria #5 - Value Added Services																				
	Evaluator 1		3.0			3.0		4.0													3.0
	Evaluator 2		3.0			3.0		4.0													3.0
	Evaluator 3		3.0			4.0		4.0													3.0
	Evaluator 4		3.0			4.0		4.0													4.0
	Evaluator 5		3.0			4.0		3.0													4.0
	Evaluator 6		2.0			3.0		3.0													4.0
	Evaluator 7		1.0			4.0		3.0													3.0
	Evaluator 8		3.0			3.0		3.0													3.0
	Total Average Score		2.6			3.5		3.5													3.4
5.0	**Criteria #5 - Total Points (Total Possible Points = 25.0)**		13.1			17.5		17.5													16.9
		Vendor 2	**AT&T**	**ATOS**	**Vendor 3**	**Cisco**	**Cradlepoint**	**Vendor 6**	**Extreme Networks**	**Vendor 7**	**Hewlett Packard Enterprise**	**Juniper Networks**	**Vendor 9**	**Vendor 10**	**Vendor 11**	**NEC**	**Palo Alto Networks**	**Vendor 13**	**Vendor 15**	**Vendor 16**	**Vendor 18**
	Total Technical Points (Total Possible Points = 250.0) Minimum Threshold = 175.0		158.1			190.0		166.9													169.4

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STATE OF UTAH COOPERATIVE CONTRACT

1. CONTRACTING PARTIES: This contract is between the Utah Division of Purchasing and the following Contractor:

Cisco Systems, Inc.
Name

170 West Tasman Dr.
Street Address

San Jose	CA	95134
City	*State*	*Zip*

Vendor # VC0000118462 Commodity Code #: 920-05 Legal Status of Contractor: For-Profit Corporation

Contact *Name:* Mimi Nguyen-Farr, Sr Manager *Phone Number:* (408) 527-2627 *Email:* mimnguye@cisco.com

2. CONTRACT PORTFOLIO NAME: Data Communications Products and Services.

3. GENERAL PURPOSE OF CONTRACT: Provide Data Communications Products and Services for the Award Categories provided in Attachment B – Scope of Work.

4. PROCUREMENT: This contract is entered into as a result of the procurement process on FY2018, Solicitation# SK18001.

5. CONTRACT PERIOD: Effective Date: Tuesday, October 01, 2019. Termination Date: Monday, September 30, 2024 unless terminated early or extended in accordance with the terms and conditions of this contract. Renewal Options: Two (2) one year renewal options.

6. Administrative Fee (if any): Contractor shall pay to NASPO ValuePoint, or its assignee, a NASPO ValuePoint Administrative Fee of one-quarter of one percent (0.25% or 0.0025) of contract sales no later than 60 days following the end of each calendar quarter. The NASPO ValuePoint Administrative Fee shall be submitted quarterly and is based on sales of the Services.

7. Prompt Payment Discount Details (if any): N/A.

8. ATTACHMENT A: NASPO ValuePoint Master Terms and Conditions, including the attached Exhibits
ATTACHMENT B: Scope of Services Awarded to Contractor
ATTACHMENT C: Pricing Discounts and Value Added Services
ATTACHMENT D: [Reserved]

Any conflicts between Attachment A and the other Attachments will be resolved in favor of Attachment A.

9. DOCUMENTS INCORPORATED INTO THIS CONTRACT BY REFERENCE BUT NOT ATTACHED:
   a. All other governmental laws, regulations, or actions applicable to the goods and/or services authorized by this contract.
   b. Utah Procurement Code, Procurement Rules, and Contractor's response to solicitation # SK18001.

10. Each signatory below represents that he or she has the requisite authority to enter into this contract.

IN WITNESS WHEREOF, the parties sign and cause this contract to be executed. Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract shall be the date provided within Section 5 above.

CONTRACTOR

Contractor's signature	August 30, 2019 Date
Jenn Pate Authorized Signatory	
Type or Print Name and Title	

DIVISION OF PURCHASING

Director, Division of Purchasing	Sep 4, 2019 Date

APPROVED BY LEGAL

Note: sections negotiated 1, 2, 5, 6, 7, 8, 10, 13, 14, 16, 17, 18, 19, 20, 22, 24, 25, 26, 27, 28, 29, 30, 32, 37, 38, 40, and 46.

Attachment A: NASPO ValuePoint Master Agreement Terms and Conditions

1. Master Agreement Order of Precedence

a. Any Order placed under this Master Agreement shall consist of the following documents:

(1) A Participating Entity's Participating Addendum ("PA");

(2) NASPO ValuePoint Master Agreement Terms & Conditions;

(3), A Statement of Work, including a Service Level Agreement contained within the Statement of Work;

(4) The Solicitation; and

(5) Contractor's response to the Solicitation, as revised (if permitted) and accepted by the Lead State.

b. These documents shall be read to be consistent and complementary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above. Contractor terms and conditions that apply to this Master Agreement are only those that are expressly accepted by the Lead State and must be in writing and attached to this Master Agreement as an Exhibit or Attachment.

2. Definitions

Unless otherwise provided in this Master Agreement, capitalized terms will have the meanings given to those terms in this section.

Administrative Data means data related to Purchasing Entity's employees or representatives used to administer or manage Purchasing Entity's use of the Cloud Software. Administrative Data may include Personal Data and information about contractual commitments, whether collected at the time of the initial registration or thereafter.

Cloud Software means a Contractor-hosted software offering as described in the applicable Cloud Offering Description purchased by Purchasing Entity; Purchasing Entity's license to use Cloud Software is set forth in Exhibit 1.

Contractor means the person or entity directly delivering Products or performing services under the terms and conditions set forth in this Master Agreement or through its approved Fulfillment Partners.

Data Breach means any actual, or reasonably suspected by Contractor's information technology security teams, non-authorized access to or acquisition of computerized Purchasing Entity Data or Personal Data that compromises the security, confidentiality, or integrity of the Non-Public Data or Personal Data, or the ability of Purchasing Entity to access the Purchasing Entity Data or Personal Data.

Disabling Code means computer instructions or programs, subroutines, code, instructions, data or functions, (including but not limited to viruses, worms, date bombs or time bombs), including but not limited to other programs, data storage, computer libraries and programs that self-replicate without

manual intervention, instructions programmed to activate at a predetermined time or upon a specified event, and/or programs purporting to do a meaningful function but designed for a different function, that alter, destroy, inhibit, damage, interrupt, interfere with or hinder the operation of the Purchasing Entity's' software, applications and/or its end users processing environment, the system in which it resides, or any other software or data on such system or any other system with which it is capable of communicating.

Embedded Software means one or more software applications which are installed and reside on a computing device owned by Purchasing Entity; Purchasing Entity's license to use Embedded Software is set forth in Exhibit 1.

Fulfillment Partner means a third-party contractor or reseller qualified and authorized by Contractor, and approved by the Participating Entity under a Participating Addendum, who may, to the extent authorized by Contractor, fulfill any of the requirements of this Master Agreement including but not limited to providing Services under this Master Agreement and billing Purchasing Entity directly for such Services. Contractor may, upon written notice to the Participating Entity, add or delete authorized Fulfillment Partners as necessary at any time during the contract term. Fulfillment Partner has no authority to amend this Master Agreement or to bind Contractor to any additional terms and conditions.

Intellectual Property means any and all patents, copyrights, service marks, trademarks, trade secrets, trade names, patentable inventions, or other similar proprietary rights, in tangible or intangible form, and all rights, title, and interest therein.

Lead State means the State centrally administering any resulting Master Agreement(s).

Master Agreement means the underlying agreement executed by and between the Lead State, acting on behalf of the NASPO ValuePoint program, and the Contractor, as now or hereafter amended.

NASPO ValuePoint is the NASPO Cooperative Purchasing Organization LLC, doing business as NASPO ValuePoint, a 501(c)(3) limited liability company that is a subsidiary organization the National Association of State Procurement Officials (NASPO), the sole member of NASPO ValuePoint. NASPO ValuePoint facilitates administration of the NASPO cooperative group contracting consortium of state chief procurement officials for the benefit of state departments, institutions, agencies, and political subdivisions and other eligible entities (i.e., colleges, school districts, counties, cities, some nonprofit organizations, etc.) for all states, the District of Columbia, and territories of the United States. NASPO ValuePoint is identified in the Master Agreement as the recipient of reports and may perform contract administration functions relating to collecting and receiving reports as well as other contract administration functions as assigned by the Lead State.

Order or **Purchase Order** means any purchase order, sales order, contract or other document used by a Purchasing Entity to order the Products and/or Services as authorized under the Master Agreement and Participating Addenda. For clarification purposes, "Blanket Purchase Order" is excluded from the scope of this Master Agreement. "Blanket Purchase Order" is an order that contains multiple delivery dates scheduled during the term of and/or post the expiration date of the Master Agreement, often negotiated to take advantage of predetermined or to lock-in pricing (i.e. from older Contractor pricelists).

Participating Addendum means a bilateral agreement executed by a Contractor and a Participating Entity incorporating this Master Agreement and any other additional Participating Entity specific language or other requirements, e.g. ordering procedures specific to the Participating Entity, other terms and conditions.

Participating Entity means a state in the United States of America, or other public sector legal entity (i.e. political subdivisions such as municipalities and counties, and K-12 and higher education institutions) in the United States of America, properly authorized to enter into a Participating Addendum.

Participating State means a state, the District of Columbia, or one of the territories of the United States who has the authority to execute a Participating Addendum to this Master Agreement. Upon execution of the Participating Addendum, a Participating State becomes a Participating Entity; however, a Participating State listed in the Request for Proposal is not required to participate through execution of a Participating Addendum.

Personal Data means data alone or in combination that includes information relating to an individual that identifies the individual by name, identifying number, mark or description can be readily associated with a

particular individual and which is not a public record. Personal Information may include the following personally identifiable information (PII): government-issued identification numbers (e.g., Social Security, driver's license, passport); financial account information, including account number, credit or debit card numbers; or Protected Health Information (PHI) relating to a person.

Product means any equipment, software (including embedded software), documentation, service or other deliverable supplied or created by the Contractor pursuant to this Master Agreement. The term Products, supplies and services, and products and services are used interchangeably in these terms and conditions.

Purchasing Entity means a state (as well as the District of Columbia and U.S territories), city, county, district, other political subdivision of a State, and a nonprofit organization under the laws of some states if authorized by a Participating Addendum, that issues a Purchase Order against the Master Agreement and becomes financially committed to the purchase.

Purchasing Entity Data means all information, whether in oral or written (including electronic) form, created by or in any way originating with a Participating Entity or Purchasing Entity provided or transferred to Contractor in the course of using the Services or Cloud Software provided under this Agreement. Purchasing Entity Data includes Administrative Data and does not include Telemetry Data or Statistical Data.

Services mean services that are in scope of this Master Agreement and are supplied or created by the Contractor pursuant to this Master Agreement (to include the attached Services Exhibit in Exhibit 2).

Security Incident means the actual or reasonably suspected by Contractor's information technology security teams, unauthorized access to Purchasing Entity Data and Personal Data that Contractor believes could reasonably result in the use, disclosure or theft of a Purchasing Entity's Data within the possession or control of the Contractor. A Security Incident may or may not turn into a Data Breach.

Service Level Agreement (SLA) means a written agreement between both the Purchasing Entity and the Contractor that is subject to the terms and conditions in this Master Agreement and relevant Participating Addendum (unless otherwise expressly agreed in writing between the Purchasing Entity and the Contractor). A Service Level Agreement may be memorialized within a Statement of Work for the Services. SLAs should include: (1) the technical service level performance promises, (i.e. metrics for performance and intervals for measure), (2) description of service quality, (3) identification of roles and responsibilities, (4) remedies, such as credits, and (5) an explanation of how remedies or credits are calculated and issued. Not every Service provided under this Master Agreement need be covered by a SLA.

Solicitation means the documents used by the State of Utah, as the Lead State, to obtain Contractor's Proposal.

Statement of Work means a written document agreed between Contractor and Purchasing Entity that defines Services and deliverables to be provided to Purchasing Entity.

Software means the binary image of Contractor computer programs (including Upgrades) which could be a downloadable file, delivered on physical media, pre-installed on the on-premise computer system, resident in ROM/Flash (system memory) or cloud-hosted and purchased from Contractor. Software may be either Embedded Software or Cloud Software. Purchasing Entity's license to use Software is set forth in Exhibit 1.

Statistical Data means any information/data that Contractor derives from Purchasing Entity Data and/or Telemetry Data, provided that such information/data is aggregated and/or de-identified such that it cannot reasonably be used to identify an individual or entity.

Telemetry Data means information generated by instrumentation and logging systems created through the use and operation of Contractor products and services.

NASPO ValuePoint Program Provisions

3. Term of the Master Agreement

a. The initial term of this Master Agreement is for five (5) years. This Master Agreement may be extended beyond the original contract period for two (2) additional years at the Lead State's discretion and by mutual agreement and upon review of requirements of Participating Entities, current market conditions, and Contractor performance.

b. The Master Agreement may be extended for a reasonable period of time, not to exceed six (6) months, if in the judgment of the Lead State a follow-on, competitive procurement will be unavoidably delayed (despite good faith efforts) beyond the planned date of execution of the follow-on master agreement. This subsection shall not be deemed to limit the authority of a Lead State under its state law otherwise to negotiate contract extensions.

4. Amendments

The terms of this Master Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written agreement of the Lead State and Contractor.

5. Participants and Scope

a. Contractor may not deliver Products under this Master Agreement until a Participating Addendum acceptable to the Participating Entity and Contractor is executed. The NASPO ValuePoint Master Agreement Terms and Conditions are applicable to any Order by a Participating Entity (and other Purchasing Entities covered by their Participating Addendum), except to the extent altered, modified, supplemented or amended by a Participating Addendum. By way of illustration and not limitation, this authority may apply to unique delivery and invoicing requirements, confidentiality requirements, defaults on Orders, governing law and venue relating to Orders by a Participating Entity, indemnification, and insurance requirements. Statutory or constitutional requirements relating to availability of funds may require specific language in some Participating Addenda in order to comply with applicable law. The expectation is that these alterations, modifications, supplements, or amendments will be addressed in the Participating Addendum or, with the consent of the Purchasing Entity and Contractor, may be included in the ordering document (e.g. purchase order or contract) used by the Purchasing Entity to place the Order.

b. Use of specific NASPO ValuePoint's Master Agreements by state agencies, political subdivisions and other Participating Entities (including cooperatives) authorized by individual state's statutes to use state contracts are subject to the approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the respective State Chief Procurement Official.

c. Obligations under this Master Agreement are limited to those Participating Entities who have signed a Participating Addendum and Purchasing Entities within the scope of each Participating Addendum States or other entities permitted to participate may use an informal competitive process to determine which Master Agreements to participate in through execution of a Participating Addendum. Financial obligations of Participating Entities who are states are limited to the orders placed by the departments or other state agencies and institutions having available funds. Participating Entities who are states incur no financial obligations on behalf of other Purchasing Entities. Contractor shall email a fully executed PDF copy of each Participating Addendum to PA@naspovaluepoint.org to support documentation of participation and posting in appropriate databases.

d. NASPO Cooperative Purchasing Organization LLC, doing business as NASPO ValuePoint, is not a party to the Master Agreement. It is a nonprofit cooperative purchasing organization assisting states in administering the NASPO cooperative purchasing program for state government departments, institutions, agencies and political subdivisions (e.g., colleges, school districts,

counties, cities, etc.) for all 50 states, the District of Columbia and the territories of the United States.

e. Participating Addenda shall not be construed to amend the following provisions in this Master Agreement between the Lead State and Contractor that prescribe NASPO ValuePoint Program requirements: Term of the Master Agreement; Amendments; Participants and Scope; Administrative Fee; NASPO ValuePoint Summary and Detailed Usage Reports; NASPO ValuePoint Cooperative Program Marketing and Performance Review; NASPO ValuePoint eMarketCenter; Right to Publish; Price and Rate Guarantee Period; and Individual Purchasing Entity. Any such language shall be void and of no effect.

f. Participating Entities who are not states may under some circumstances sign their own Participating Addendum, subject to the consent to participation by the Chief Procurement Official of the state where the Participating Entity is located. Coordinate requests for such participation through NASPO ValuePoint. Any permission to participate through execution of a Participating Addendum is not a determination that procurement authority exists in the Participating Entity; they must ensure that they have the requisite procurement authority to execute a Participating Addendum.

g. **Resale**. "Resale" means any payment in exchange for transfer of tangible goods, software, or assignment of the right to services. Subject to any specific conditions included in the solicitation or Contractor's proposal as accepted by the Lead State, or as explicitly permitted in a Participating Addendum, Purchasing Entities may not resell Products (the definition of which includes services). Absent any such condition or explicit permission, this limitation does not prohibit: payments by employees of a Purchasing Entity for Products when purchased for the Purchasing Entity; sales of hardware Products to the general public as surplus property; and fees associated with inventory transactions with other governmental or nonprofit entities and consistent with a Purchasing Entity's laws and regulations. Any sale or transfer permitted by this subsection must be consistent with license rights granted for use of intellectual property. The transfer of licenses to software shall be subject to Contractor's then-current software transfer and relicensing policy.

6. Administrative Fees

a. The Contractor shall pay to NASPO ValuePoint, or its assignee, a NASPO ValuePoint Administrative Fee of one-quarter of one percent (0.25% or 0.0025) no later than sixty (60) days following the end of each calendar quarter. The NASPO ValuePoint Administrative Fee shall be submitted quarterly and is based on all sales of products and services under the Master Agreement (less any charges for taxes or shipping). The NASPO ValuePoint Administrative Fee is not negotiable. This fee is to be included as part of the pricing submitted with proposal.

b. Additionally, some states may require an additional fee be paid directly to the state only on purchases made by Purchasing Entities within that state. For all such requests, the fee level, payment method and schedule for such reports and payments will be incorporated into the Participating Addendum that is made a part of the Master Agreement. The Contractor may adjust the Master Agreement pricing accordingly for purchases made by Purchasing Entities within the jurisdiction of the state. All such agreements shall not affect the NASPO ValuePoint Administrative Fee percentage or the prices paid by the Purchasing Entities outside the jurisdiction of the state requesting the additional fee. The NASPO ValuePoint Administrative Fee in subsection 6a shall be based on the sum of all sales at Net Purchase Price at the adjusted prices (if any) in Participating Addenda, where "Net Purchase Price" is the Contractor's list price for an approved product or service minus all applicable contract discounts, rebates or value added incentives, and excluding sales, use or other applicable taxes, surcharges or like fees, to the extent applicable to an Order.

7. NASPO ValuePoint Summary and Detailed Usage Reports

In addition to other reports that may be required by this solicitation, the Contractor shall provide the following NASPO ValuePoint reports.

a. Summary Sales Data. The Contractor shall submit quarterly sales reports directly to NASPO ValuePoint using the NASPO ValuePoint Quarterly Sales/Administrative Fee Reporting Tool found at

http://calculator.naspovaluepoint.org. Any/all sales made under this Master Agreement shall be reported as cumulative totals by state. Even if Contractor experiences zero sales during a calendar quarter, a report is still required. Reports shall be due no later than sixty (60) days following the end of the calendar quarter (as specified in the reporting tool).

b. Detailed Sales Data. Contractor shall also report detailed sales data by: (1) state; (2) entity/Purchasing Entity type, e.g. local government, higher education, K12, non-profit; (3) Purchasing Entity name; (4) Purchasing Entity bill-to and ship-to locations; (4) Purchasing Entity and Contractor Purchase Order identifier/number(s); (5) Purchase Order Type (e.g. sales order, credit, return, upgrade, determined by industry practices); (6) Purchase Order date; (7) Ship Date; (8) and line item description, including product number if used. The report shall be submitted in any form required by the solicitation. Reports are due on a quarterly basis and must be received by the Lead State and NASPO ValuePoint Cooperative Development Team no later than thirty (30) days after the end of the reporting period. Reports shall be delivered to the Lead State and to the NASPO ValuePoint Cooperative Development Team electronically through a designated portal, email, CD-ROM, flash drive or other method as determined by the Lead State and NASPO ValuePoint. Detailed sales data reports shall include sales information for all sales under Participating Addenda executed under this Master Agreement. The format for the detailed sales data report is in Attachment H of the Solicitation.

c. Sales under Contractor's master agreement are intended for commercial, enterprise and government use only. Sales to employees for personal use are prohibited. [RESERVED].

d. Contractor shall provide the NASPO ValuePoint Cooperative Development Coordinator with an executive summary each quarter that includes, at a minimum, a list of states with an active Participating Addendum, states that Contractor is in negotiations with and any Participating Addendum roll out or implementation activities and issues. NASPO ValuePoint Cooperative Development Coordinator and Contractor will determine the format and content of the executive summary. The executive summary is due thirty (30) days after the conclusion of each calendar quarter.

e. Timely submission of these reports is a material requirement of the Master Agreement. The recipient of the reports shall have exclusive ownership of the media containing the reports. The Lead State and NASPO ValuePoint shall have a perpetual, irrevocable, non-exclusive, royalty free, transferable right to display, modify, copy, and otherwise use reports, data and information provided under this section.

8. NASPO ValuePoint Cooperative Program Marketing, Training, and Performance Review

a. Contractor agrees to work cooperatively with NASPO ValuePoint personnel. Contractor agrees to present plans to NASPO ValuePoint for the education of Contractor's contract administrator(s) and sales/marketing workforce regarding the Master Agreement contract, including the competitive nature of NASPO ValuePoint procurements, the Master Agreement and Participating Addendum process, and the manner in which qualifying entities can participate in the Master Agreement.

b. Contractor agrees, as Participating Addenda become executed, if requested by ValuePoint personnel to provide plans to launch the program within the participating state. Plans will include time frames to launch the agreement and confirmation that the Contractor's website has been updated to properly reflect the contract offer as available in the participating state.

c. Contractor agrees, absent anything to the contrary outlined in a Participating Addendum, to consider Purchasing Entity's proposed terms and conditions, as deemed important to the Purchasing Entity, for possible inclusion into the Purchasing Entity agreement. Contractor will ensure that their sales force is aware of this contracting option.

d. Contractor agrees to participate in an annual contract performance review at a location selected by the Lead State and NASPO ValuePoint, which may include a discussion of marketing action plans, target strategies, marketing materials, as well as Contractor reporting and timeliness of payment of administration fees.

e. Contractor acknowledges that the NASPO ValuePoint logos may not be used by Contractor in sales and marketing until a logo use agreement is executed with NASPO ValuePoint.

f. The Lead State expects to evaluate the utilization of the Master Agreement at the annual performance review. Lead State may, in its discretion, terminate the Master Agreement pursuant to section 35 or not exercise an option to renew, when Contractor utilization does not warrant further administration of the Master Agreement. The Lead State may exercise its right to not renew the Master Agreement if vendor fails to record or report revenue for three consecutive quarters, upon 60-calendar day written notice to the Contractor. Termination based on nonuse or under-utilization will not occur sooner than two years after award (or execution if later) of the Master Agreement. This subsection does not limit the discretionary right of either the Lead State or Contractor to terminate the Master Agreement pursuant to Section 35or to terminate for default pursuant to Section 37

9. NASPO ValuePoint eMarket Center

a. In July 2011, NASPO ValuePoint entered into a multi-year agreement with SciQuest, Inc. (doing business as JAGGAER) whereby JAGGAER will provide certain electronic catalog hosting and management services to enable eligible NASPO ValuePoint's Purchasing Entities' to access a central online website to view and/or shop the goods and services available from existing NASPO ValuePoint Cooperative Contracts. The central online website is referred to as the NASPO ValuePoint eMarket Center.

b. The Contractor will have visibility in the eMarket Center through Ordering Instructions. These Ordering Instructions are available at no cost to the Contractor and provide Purchasing Entity's information regarding the Contractor's website and ordering information. The Contractor is required at a minimum to participate in the eMarket Center through Ordering Instructions.

c. At a minimum, the Contractor agrees to the following timeline: NASPO ValuePoint eMarket Center Site Admin shall provide a written request to the Contractor to begin Ordering Instruction process. The Contractor shall have thirty (30) days from receipt of written request to work with NASPO ValuePoint to provide any unique information and ordering instructions that the Contractor would like the Purchasing Entity to have.

d. If the solicitation requires either a catalog hosted on or integration of a punchout site with eMarket Center, or either solution is proposed by a Contractor and accepted by the Lead State, the provisions of the eMarket Center Appendix to these NASPO ValuePoint Master Agreement Terms and Conditions apply.

10. Right to Publish

Throughout the duration of this Master Agreement, Contractor must secure from the Lead State prior approval for the release of information that pertains to the potential work or activities covered by the Master Agreement. This limitation does not preclude publication about the award of the Master Agreement or marketing activities consistent with any proposed and accepted marketing plan; nor does the limitation preclude Contractor providing limited information as necessary for Contractor to perform its duties or secure or exercise any rights under the Master Agreement. The Contractor shall not make any representations of NASPO ValuePoint's opinion or position as to the quality or effectiveness of the services that are the subject of this Master Agreement without prior written consent. Failure to adhere to this requirement may result in termination of the Master Agreement for cause.

11. Price and Rate Guarantee Period

All pricing must be guaranteed for the first year of the Master Agreement.

Following the guarantee period, any request for price increases must be for an equal guarantee period (1 year), and must be submitted to the Lead State at least thirty (30) calendar days prior to the effective date. The Lead State will review a documented request for an MSRP price list increase only after the Price Guarantee Period. Requests for price increases must include sufficient documentation supporting the request and demonstrating a reasonableness of the adjustment when comparing the current price list to the proposed price list. Documentation may include: the manufacturers national price increase

announcement letter, a complete and detailed description of what products are increasing and by what percentage, a complete and detailed description of what raw materials and/or other costs have increased and provide proof of increase, index data and other information to support and justify the increase.

No retroactive price increases will be allowed.

Price Reductions. In the event of a price decrease in any category of product at any time during the contract in an OEM's published commercial price list, including renewal options, the Lead State shall be notified immediately. All published commercial price list price reductions shall be effective upon the notification provided to the Lead State.

12. Individual Purchasing Entities

Except to the extent modified by a Participating Addendum, each Purchasing Entity shall follow the terms and conditions of the Master Agreement and applicable Participating Addendum and will have the same rights and responsibilities for their purchases as the Lead State has in the Master Agreement, including but not limited to, any indemnity or right to recover any costs as such right is defined in the Master Agreement and applicable Participating Addendum for their purchases. Each Purchasing Entity will be responsible for its own charges, fees, and liabilities. The Contractor will apply the charges and invoice each Purchasing Entity individually.

Administration of Orders

13. Ordering and Orders

a. Lead State desires that the Master Agreement identifier and purchase order numbers be clearly shown on all acknowledgments, shipping labels, packing slips, invoices, and on all correspondence. Any such information will be per Contractor's existing free form structure, without customization. The purchase order numbers reflect Contractor's Fulfillment Partner purchase order numbers; however, Contractor will request that its Fulfillment Partners use reasonable efforts to provide the Purchasing Entity's Purchase Order number in the free form notes.

b. Contractor reserves the right to require that purchases be made through Fulfillment Partners. Where so required by Contractor, Purchasing Entities shall not order Products and/or Services directly from Contractor and shall order same from Fulfillment Partner. Purchasing Entity shall purchase Products and/or Services by issuing a written or electronic Purchase Order, signed or (in the case of electronic transmission) sent by its authorized representative, indicating specific products, quantity, unit price, total purchase price, shipping instructions, requested delivery dates, bill-to and ship-to addresses, tax exempt certifications, if applicable, and any other special instructions.

c. Any contingencies on Purchasing Entity's Purchase Orders are not binding upon Contractor. The terms and conditions of this Master Agreement and applicable Participating Addendum prevail, regardless of any additional or conflicting terms on the Purchase Order, or other correspondence from Purchasing Entity to Contractor and any additional or conflicting terms are deemed rejected by Contractor unless Contractor has expressly agreed to such terms in writing. Mere acceptance or processing of a Purchase Order or Order containing such terms shall not constitute such express consent.

d. All Purchase Orders are subject to Contractor's reasonable acceptance (including performing any related credit checks). Contractor shall use commercially reasonable efforts to accept or reject orders in writing within ten (10) days from receipt, or within three (3) business days, if orders are placed electronically.

e. Purchasing Entity may defer product shipment up to thirty (30) days from the originally scheduled shipping date, provided written notice is received by Contractor at least ten (10) days before the originally scheduled shipping date. Cancelled orders, rescheduled deliveries, or product configuration changes made by Purchasing Entity less than ten (10)

days before the original shipping date are subject to Contractor's acceptance and a charge of fifteen percent (15%) of the total invoice amount relating to the affected Product(s). Contractor reserves the right to reschedule delivery due to configuration changes made within ten (10) days of scheduled shipment. No cancellation shall be accepted by Contractor where products are purchased with implementation services, including but not limited to design, customization, or installation services, except as may be set forth in the agreement or Statement of Work under which the services are to be rendered. Notwithstanding anything to the contrary, if Contractor is delayed in shipping the product for thirty (30) days or more from the original shipping date, the Purchasing Entity may cancel the order without charge.

f. Services. Purchasing Entity may place Purchase Orders for the various services offered by Contractor. The provision of any such services, if accepted by Contractor, shall be subject to the terms and conditions set forth in this Agreement, including the Services Exhibit attached hereto as Exhibit 2, as well as the then-current terms of service offerings set forth on Contractor's website at https://www.cisco.com/c/en/us/about/legal/service-descriptions.html. Contractor reserves the right to subcontract services to a third party organization to provision services for Purchasing Entity.

g. All stated prices are exclusive of any taxes, fees, and duties or other similar amounts, however designated, and including without limitation value added, sales and withholding taxes which are levied or based upon such prices, charges, or upon this Master Agreement. Purchasing Entity will pay sales and use taxes, if any, imposed on the Products and Services acquired under this Master Agreement, or furnish proof of its tax-exempt status upon request. Contractor will pay all other taxes based on Contractor's income or gross receipts, or personal property taxes levied or assessed on Contractor's personal property. In the event that the Purchasing Entity is exempt from property and sales taxes, it will not be charged same.

h. Notwithstanding anything contained in the Master Agreement to the contrary, modifications which Contractor deems necessary to comply with specifications, changed safety standards or governmental regulations, to make the product non-infringing with respect to any patent, copyright, or other proprietary interest, or to otherwise improve the product may be made at any time by Contractor without prior notice to or consent of Purchasing Entity or NASPO, and such altered product shall be deemed fully conforming. Contractor shall employ commercially reasonable efforts to announce, including by electronic posting, product discontinuance or changes other than those set forth in the previous sentence in accordance with Contractor's End-of-Life Policy, which is found at the following URL: http://www.cisco.com/c/en/us/products/eos-eol-policy.html Purchasing Entity may make a last-time purchase of such products as set forth in such policy.

i. Purchasing Entities may define entity or project-specific requirements and informally compete the requirement among companies having a Master Agreement on an “as needed” basis. This procedure may also be used when requirements are aggregated or other firm commitments may be made to achieve reductions in pricing. This procedure may be modified in Participating Addenda and adapted to the Purchasing Entity’s rules and policies. The Purchasing Entity may in its sole discretion determine which Master Agreement Contractors and/or Fulfillment Partners should be solicited for a quote. The Purchasing Entity may select the quote that it considers most advantageous, cost and other factors considered.

j. Each Purchasing Entity will identify and utilize its own appropriate purchasing procedure and documentation. Contractor and/or Fulfillment Partner as applicable is expected to become familiar with the Purchasing Entities’ rules, policies, and procedures regarding the ordering of supplies and/or services contemplated by this Master Agreement.

k. Contractor shall not begin work without a valid Purchase Order or other appropriate commitment document under the law of the Purchasing Entity.

l. Orders may be placed consistent with the terms of this Master Agreement during the term of the Master Agreement.

m. All Orders pursuant to this Master Agreement, at a minimum, shall include:

(1) The services or supplies being delivered;

(2) The place and requested time of delivery;

(3) A billing address;

(4) The name, phone number, and address of the Purchasing Entity representative;

(5) The price per hour or other pricing elements consistent with this Master Agreement and the contractor's proposal;

(6) A ceiling amount of the order for services being ordered; and

(7) The Master Agreement identifier.

n. All communications concerning administration of Orders placed shall be furnished solely to the authorized purchasing agent within the Purchasing Entity's purchasing office, or to such other individual identified in writing in the Order.

o. Orders must be placed pursuant to this Master Agreement prior to the termination date thereof, but may have a delivery date or performance period up to 120 days past the then-current termination date of this Master Agreement Maintenance agreements may have terms as prescribed in Section 27. Contractor is reminded that financial obligations of Purchasing Entities payable after the current applicable fiscal year are contingent upon agency funds for that purpose being appropriated, budgeted, and otherwise made available.

p. Notwithstanding the expiration or termination of this Master Agreement, Contractor agrees to perform in accordance with the terms of any Orders then outstanding at the time of such expiration or termination. Contractor shall not honor any Orders placed after the expiration or termination of this Master Agreement, or otherwise inconsistent with its terms. Orders from any separate indefinite quantity, task orders, or other form of indefinite delivery order arrangement priced against this Master Agreement may not be placed after or extend after the expiration or termination of this Master Agreement, notwithstanding the term of any such indefinite delivery order agreement.

14. Shipping and Delivery

a. The prices are the delivered price to any Purchasing Entity. All deliveries for hardware Products shall be F.O.B. destination, freight pre-paid, with all transportation and handling charges pre-paid by the Contractor, for the standard shipping time intervals. Expedited shipping and/or a special delivery request that are non-standard delivery beyond docking areas at warehouses or designated delivery drop-offs locations at buildings (i.e. delivery of the Order, including pallets, to a closet, designated rooms, etc.) will result in additional charges to the Purchasing Entity. Title for hardware Products and risk of loss shall pass to the Purchasing Entity upon delivery. The minimum shipment amount, if any, will be found in the special terms and conditions. Any order for less than the specified amount is to be shipped with the freight prepaid and added as a separate item on the invoice.

b. Any damage to a building interior, scratched walls, damage to the freight elevator, etc., negligently caused by Contractor will be the responsibility of the Contractor. If damage does occur, it is the responsibility of the Contractor to immediately notify the Purchasing Entity placing the Order.

c. All products must be delivered in the manufacturer's standard package. Costs shall include all packing and/or crating charges. Cases shall be of durable construction, good condition, properly labeled and suitable in every respect for storage and handling of contents.

d. Scheduled shipping dates will be assigned by Contractor as close as practicable to Purchasing Entity's requested date based on Cisco's then-current lead times for the Products. Contractor will use commercially reasonable efforts to ship all direct orders designated for shipment to U.S. locations within thirty (30) days for hardware Products. The following circumstances may affect lead times: (i) new products purchased within the first three (3) months of release of the product which are subject to Contractor's then current published lead-times, (ii) third-party stand-alone products which are not a component of equipment resold by Contractor, (iii) end-of-life products where the termination of the product has been announced by Contractor, (iv) products which have been line-

stopped due to software discrepancies, reconfiguration, industry-wide product shortages, or alleged infringement claims, or (vi) situations where government rated orders create delays in lead-times. Notwithstanding the foregoing, at any time when Purchasing Entity states "expedite" on an order for a hardware Product or otherwise communicates to Contractor that an order is to be expedited, Contractor shall use all commercially reasonable efforts to ensure the earliest possible delivery of such products.

e. Contractor will communicate scheduled shipping dates in the order acknowledgement or on www.Cisco.com within three (3) business days after receipt of an electronic order on www.cisco.com, provided, however, that in the event such notification is not received in this time period, Purchasing Entity shall notify Contractor of the non-receipt, and Contractor's sole obligation with respect to such non- receipt shall be to promptly provide the information to the Purchasing Entity after such notification.

f. If Contractor has reason to believe that the actual shipment date will occur later than the original shipment date acknowledged by Contractor for reasons caused by Contractor, Contractor shall use commercially reasonable efforts to promptly provide additional information to Purchasing Entity including by electronic posting of the expected period of delay and, upon request, of the steps available, if any, to minimize the delay. If the extended delivery date is anticipated to be more than thirty (30) calendar days beyond the originally scheduled delivery date, the parties will work in good faith to resolve any ordering issues.

g. Purchasing Entity shall assume responsibility for compliance with applicable export laws and regulations, including the preparation and filing of shipping documentation necessary for export clearance. This also applies in cases where Purchasing Entity requests delivery of hardware Products to Purchasing Entity’s forwarding agent. Purchasing Entity agrees not to use any export licenses owned by Contractor.

h. Contractor is not liable for damage or penalty for delay in delivery or for failure to give notice of delay.

i. All sales are final. Except for return remedies set forth in the warranty statements, Contractor only permits the return of unopened hardware Products due to Contractor’s shipping or order processing errors, or damage in transit. No other returns are authorized. The return of hardware Product must be in accordance with Contractor’s return policy and procedures. Warranty returns will not be subject to any restocking fees.

15. Laws and Regulations

Any and all Products offered and furnished shall comply fully with all applicable Federal and State laws and regulations.

16. Inspection and Acceptance

Purchasing Entity has thirty (30) days after hardware Product delivery to inspect the hardware Product for external damage and for any concealed damage ("Acceptance Period"). If external or concealed damage is revealed during the Acceptance Period, then Purchasing Entity shall notify Contractor. At Contractor's option, Contractor shall (i) repair such damage, (ii) ship a replacement, or (iii) refund the purchase price (upon return of the hardware Product). After such Acceptance Period the Products shall be deemed accepted. Acceptance does not relieve the Contractor of liability or responsibility under Contractor’s warranty obligation for the hardware Product.

17. Payment

Upon and subject to credit approval by Contractor, payment is due 30 days the date of the invoice. Invoices for products ordered without implementation services shall be rendered by Contractor on or after the date of delivery of such products to the Purchasing Entity. Contractor may assess overdue account charges up to a maximum rate of one percent per month on the outstanding balance, unless a different late payment amount is specified in a Participating Addendum, Order, or otherwise prescribed by applicable law. If at any time Purchasing Entity is delinquent in the payment of any invoice, or is otherwise

in breach of this Agreement, Cisco may, in its discretion, and without prejudice to its other rights, withhold shipment (including partial shipments) of any order, require Purchasing Entity to prepay for further shipments, and/or withhold the provision of Services, until complete payment has been received. Purchasing Entity grants Cisco a security interest in Products purchased under this Agreement to secure payment for such Products. If requested by Cisco, Purchasing Entity agrees to execute financing statements to perfect this security interest. Payments will be remitted by mail. Payments may be made via a State or political subdivision “Purchasing Card” to Fulfillment Partners under this contract.

18. Warranty

All hardware Products are sold, Software licensed, and Services delivered with Contractor’s standard limited warranty as set forth below.

a. Hardware Products. Contractor warrants that from the date of shipment by Contractor to Purchasing Entity, and continuing for a period of the longer of (a) ninety (90) days or (b) the period set forth in the warranty card accompanying the product or at https://www.cisco.com/go/warranty, the hardware Product will be free from defects in material and workmanship, under normal use. This limited warranty extends only to the original user of the product. Purchasing entity’s sole and exclusive remedy and the entire liability of Contractor and its suppliers under this limited warranty will be, at Contractor's or its service center's option, (i) shipment of a replacement within the period and according to the replacement process described in the warranty card (if any) or if no warranty card, as described at https://www.cisco.com/go/warranty, or (ii) a refund of the purchase price, if the hardware Product is returned to the party supplying it to Purchasing Entity, if different than Contractor, freight and insurance prepaid. Contractor replacement parts, used in the replacement of hardware Products, may be new or equivalent to new. Contractor's obligations hereunder are conditioned upon the return of affected products, in accordance with Contractor's then- current return procedures. This limited warranty does not apply if the hardware Product (i) has been altered, except by Contractor or its authorized representative, (ii) has not been installed, operated, repaired, or maintained in accordance with instructions supplied by Contractor, (ii) has been subjected to abnormal physical or electrical stress, abnormal environmental conditions, misuse, negligence, or accident; or (iv) is licensed or provided for beta, evaluation, testing or demonstration purposes.

b. Embedded Software Products. Contractor warrants that Embedded Software will substantially conform to the applicable documentation of the Embedded Software for the longer of (i) ninety (90) days following the date the Embedded Software is made available to Purchasing Entity for use or (ii) as otherwise set forth at http://www.cisco.com/go/warranty. This warranty does not apply if the Embedded Software, the hardware Product supplied by Contractor, or any other equipment upon which the Embedded Software is authorized to be used: (i) has been altered, except by Contractor or its authorized representative, (ii) has not been installed, operated, repaired, or maintained in accordance with instructions supplied by Contractor, (iii) has been subjected to abnormal physical or electrical stress, abnormal environmental conditions, misuse, negligence, or accident; (iv) is licensed for beta, evaluation, testing or demonstration purposes or other circumstances for which there is not payment of a purchase price or license fee; or (v) has not been provided by an authorized reseller of Contractor. Cisco will use commercially reasonable efforts to deliver to Embedded Software free from any viruses, programs, or programming devices designed to modify, delete, damage or disable the Embedded Software or data. At Contractor’s option and expense, Contractor shall repair, replace, or cause the refund of the license fees paid for the non-conforming Embedded Software. This remedy is conditioned on Purchasing Entity reporting the non-conformance in writing to Contractor within the warranty period. Purchasing Entity may be required to return the Embedded Software, the Contractor hardware product, and/or Documentation as a condition of this remedy. This is Purchasing Entity’s sole and exclusive remedy under this warranty for Embedded Software. Except as set forth herein, Embedded Software are provided “as is”. Contractor does not warrant that Embedded Software will operate uninterrupted or error-free or that all errors will be corrected. In addition, Contractor does not warrant that the Embedded Software or any equipment, system or network on which the Embedded Software is used will be free of vulnerability to intrusion or attack.

c. Cloud Software Products. Unless otherwise provided for in the applicable Cloud Offer Description, Contractor warrants that it will provide the Cloud Software in accordance with the Cloud Offer Description using commercially reasonable skill and care. Upon prompt notification by Purchasing Entity of Contractor's breach of this warranty, to the extent permitted by applicable law, Contractor will, at Contractor's option, (i) repair or replace the Cloud Software or (ii) refund fees paid to Contractor for the period in which the Cloud Software did not materially comply with the Cloud Offer Description. This is Purchasing Entity's sole and exclusive remedy under this warranty for Cloud Software.

d. Services. Contractor warrants that Services sold under this Agreement pursuant to Exhibit 2 will be performed in a workmanlike manner and, where applicable, will materially comply with the applicable Service Description. Purchasing Entity must promptly notify Contractor of a breach of this warranty. Purchasing Entity's sole and exclusive remedy for any breach of this warranty shall be, at Contractor's option, (i) reperformance of the Services or (ii) termination of the applicable Service, and return of the portion of the fees paid to Contractor by Purchasing Entity for such non-conforming Services

e. DISCLAIMER OF WARRANTY. EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 18, CONTRACTOR HEREBY DISCLAIMS ALL REPRESENTATIONS, CONDITIONS AND WARRANTIES (WHETHER EXPRESS, IMPLIED, OR STATUTORY), INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OR CONDITION (A) OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, TITLE, SATISFACTORY QUALITY, QUIET ENJOYMENT, ACCURACY, OR SYSTEM INTEGRATION, OR (B) ARISING FROM ANY COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE IN THE INDUSTRY. TO THE EXTENT AN IMPLIED WARRANTY OR CONDITION CANNOT BE DISCLAIMED, SUCH WARRANTY OR CONDITION IS LIMITED IN DURATION TO THE APPLICABLE EXPRESS WARRANTY PERIOD.

19. Title of Product

Title to hardware Products and risk of loss shall pass to Purchasing Entity upon delivery. To the extent the transfer of title to the hardware Product includes a license to use any Embedded Software in the hardware Product subject to the terms of the End User License Agreement set forth in Exhibit 1. If Purchasing Entity subsequently transfers title of the hardware Product to another entity, transfer of the license to use the Embedded Software shall be subject to Contractor's then-current software transfer and relicensing policy.

20. License of Pre-Existing Intellectual Property

Contractor grants to Purchasing Entity a license to Software pursuant to the license terms and restrictions set forth in Exhibit 1.

21. No Guarantee of Service Volumes

The Contractor acknowledges and agrees that the Lead State and NASPO ValuePoint makes no representation, warranty or condition as to the nature, timing, quality, quantity or volume of business for the Services or any other products and services that the Contractor may realize from this Master Agreement, or the compensation that may be earned by the Contractor by offering the Services. The Contractor acknowledges and agrees that it has conducted its own due diligence prior to entering into this Master Agreement as to all the foregoing matters.

22. Purchasing Entity Data

Purchasing Entity retains full right and title to Purchasing Entity Data provided by it. Contractor shall not collect, access, or use user-specific Purchasing Entity Data except as strictly necessary to provide Service to the Purchasing Entity. No information regarding Purchasing Entity's use of the Service that can be identified to Purchasing Entity may be disclosed, provided, rented or sold to any third party for any reason unless required by law or regulation or by an order of a court of competent jurisdiction. The obligation shall extend beyond the term of this Master Agreement in perpetuity.

23. System Failure or Damage

In the event of system failure or damage caused by Contractor or its Services, the Contractor agrees to use its best efforts to restore or assist in restoring the system to operational capacity.

24. [RESERVED].

25. Data Privacy

The Contractor must comply with all applicable laws related to data privacy and security, including IRS Pub 1075. Prior to entering into a Statement of Work with a Purchasing Entity for the processing of such data, at the request of the Purchasing Entity, the Contractor and Purchasing Entity must cooperate and hold a meeting to determine the data categorization to determine what data the Contractor will hold, store, or process. To the extent applicable and reasonable, the Contractor must document the data categorization in the Statement of Work.

26. Transition Assistance

a. The Contractor shall reasonably cooperate with other parties in connection with all Services to be delivered under this Master Agreement, including without limitation any successor service provider to whom a Purchasing Entity's Data is transferred in connection with the termination or expiration of this Master Agreement. Only as set forth in a Services SOW under this Agreement, the Contractor shall assist a Purchasing Entity in exporting and extracting a Purchasing Entity's Data, in a format usable without the use of the Services and as agreed by a Purchasing Entity. Any transition services requested by a Purchasing Entity involving additional knowledge transfer and support may be subject to a separate transition Statement of Work.

b. A Purchasing Entity and the Contractor shall, when reasonable, create a Transition Plan Document identifying the transition services to be provided and including a Statement of Work if applicable.

c. The Contractor must maintain the confidentiality and security of a Purchasing Entity's Data during the transition services and thereafter as required by the Purchasing Entity.

27. Performance and Payment Time Frames that Exceed Contract Duration

All maintenance or other agreements for services entered into during the duration of an SLA and whose performance and payment time frames extend beyond the duration of this Master Agreement shall remain in effect for performance and payment purposes (limited to the time frame and services established per each written agreement). No new leases, maintenance or other agreements for services may be executed after the Master Agreement has expired.

General Provisions

28. Insurance

a. Unless otherwise agreed in a Participating Addendum, Contractor shall, during the term of this Master Agreement, maintain in full force and effect, the insurance described in this section. Contractor shall acquire such insurance from an insurance carrier or carriers licensed to conduct business in each Participating Entity's state and having a rating of A-, Class VII or better, in the most recently published edition of A.M. Best's Insurance Reports. Failure to buy and maintain the required insurance may result in this Master Agreement's termination or, at a Participating Entity's option, result in termination of its Participating Addendum.

b. Coverage shall be written on an occurrence basis. The limits required shall be as indicated below:

(1) Commercial General Liability covering premises operations, independent contractors, products and completed operations, blanket contractual liability, personal injury (including death), advertising liability, and property damage, with a limit of $1 million per occurrence/$3 million general aggregate provided that such limit can be satisfied with any combination of primary and umbrella insurance;

(2) Contractor must comply with any applicable State Workers Compensation or Employers Liability Insurance requirements.

c. Contractor shall pay premiums on all insurance policies. Contractor shall provide notice to a Participating Entity who is a state within five (5) business days after Contractor is first aware of expiration, cancellation or nonrenewal of such policy or is first aware that cancellation is threatened or expiration, nonrenewal or expiration otherwise may occur.

d. Contractor's general liability insurance shall (1) include the Participating States identified in the Request for Proposal as additional insureds for liabilities falling within Contractor's indemnity obligations under this Agreement that are otherwise covered by such insurance, (2) provides that written notice of cancellation shall be delivered in accordance with the policy provisions, and (3) provides that the Contractor's liability insurance policy shall be primary, with any liability insurance of any Participating State as secondary and noncontributory. Unless otherwise agreed in any Participating Addendum, other state Participating Entities' rights and Contractor's obligations are the same as those specified in the first sentence of this subsection. If any of the insurance required herein is cancelled or nonrenewed, Contractor shall replace such insurance so that no lapse in coverage occurs, and shall provide a revised certificate of insurance evidencing same.

e. Contractor shall furnish to the Lead State copies of certificates of all required insurance within thirty (30) calendar days of the execution of this Master Agreement and prior to performing any work. Copies of renewal certificates of all required insurance shall be furnished within thirty (30) days after any renewal date to the applicable state Participating Entity. Failure to provide evidence of coverage may, at the sole option of the Lead State, or any Participating Entity, result in this Master Agreement's termination or the termination of any Participating Addendum.

f. Coverage and limits shall not limit Contractor's liability and obligations under this Master Agreement, any Participating Addendum, or any Purchase Order.

29. Records Administration and Audit

a. The Contractor shall maintain books, records, documents, and other evidence pertaining to this Master Agreement and Orders placed by Purchasing Entities under it to the extent and in such detail as shall adequately reflect payments and fees. Contractor shall permit the Lead State, a Participating Entity, a Purchasing Entity, the federal government (including its grant awarding entities and the U.S. Comptroller General), and any other duly authorized agent of a governmental agency, to audit, inspect, examine, copy and/or transcribe Contractor's books, documents, papers and records directly pertinent to this Master Agreement or orders placed by a Purchasing Entity under it for the purpose of making audits, examinations, excerpts, and transcriptions. This right shall survive for a period of six (6) years following termination of this Agreement or final payment for any order placed by a Purchasing Entity against this Agreement, whichever is later, or such longer period as is required by the Purchasing Entity's state statutes, to assure compliance with the terms hereof or to evaluate performance hereunder. Such access will be (i) with at least ten (10) business days advance written notice, during normal business hours (ii) shall not unduly interrupt or interfere with Contractor's normal business operations, and (iii) in the event that such audit is conducted by a third party, such third party shall, prior to conducting such audit, execute a confidentiality agreement for the benefit of Contractor in a form reasonably satisfactory to Contractor.

b. Without limiting any other remedy available to any governmental entity, the Contractor shall reimburse the applicable Lead State, Participating Entity, or Purchasing Entity for any overpayments inconsistent with the terms of the Master Agreement or Orders or underpayment of Administrative Fees found as a result of the examination of the Contractor's records.

c. The rights and obligations herein exist in addition to any quality assurance obligation in the Master Agreement requiring the Contractor to self-audit contract obligations and that permits the Lead State to review compliance with those obligations.

30. Confidentiality, Non-Disclosure, and Injunctive Relief

a. Confidentiality. Each party acknowledges that it and its employees or agents may, in the course of dealing under this Master Agreement, be exposed to or acquire information that is confidential to the other party. Any and all information of any form that is marked as confidential or would by its nature be deemed confidential obtained by the receiving party or its employees or agents (the "Receiving Party") in the performance of this Master Agreement, including, but not necessarily limited to (1) any Purchasing Entity's records, (2) personnel records, and (3) information concerning individuals, is confidential information ("Confidential Information") of the disclosing party ("Disclosing Party"). Any reports or other documents or items (including software) that result from the use of the Confidential Information by Contractor shall be treated in the same manner as the Confidential Information. Confidential Information does not include information that (1) is or becomes (other than by disclosure by Receiving Party) publicly known; (2) is furnished by Disclosing Party to others without restrictions similar to those imposed by this Master Agreement; (3) is rightfully in Receiving Party's possession without the obligation of nondisclosure prior to the time of its disclosure under this Master Agreement; (4) is obtained from a source other than Disclosing Party without the obligation of confidentiality, (5) is disclosed with the written consent of Disclosing Party or; (6) is independently developed by employees, agents or subcontractors of Receiving Party who can be shown to have had no access to the Confidential Information.

b. Non-Disclosure. Each Party shall hold Confidential Information in confidence, using at least the industry standard of confidentiality, and shall not copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties (other than subcontractors as necessary to perform the obligations of this Master Agreement) or use Confidential Information for any purposes whatsoever other than what is necessary to the performance of Orders placed under this Master Agreement. Each Party shall advise each of its employees and agents of their obligations to keep Confidential Information confidential. Each Party shall use commercially reasonable efforts to assist Disclosing Party in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the generality of the foregoing, Receiving Party shall advise Disclosing Party immediately if Disclosing Party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Master Agreement, and Receiving Party shall at its expense cooperate with Disclosing Party in seeking injunctive or other equitable relief in the name of Disclosing Party against any such person. Except as directed by Disclosing Party, Receiving Party will not at any time during or for three years after the term of this Master Agreement disclose, directly or indirectly, any Confidential Information to any person, except in accordance with this Master Agreement, and that upon termination of this Master Agreement or at Disclosing Party's request, Receiving Party shall turn over to Disclosing Party all documents, papers, and other matter in their possession that embody Confidential Information. Notwithstanding the foregoing, Receiving Party may keep one copy of such Confidential Information necessary for quality assurance, audits and evidence of the performance of this Master Agreement.

c. Injunctive Relief. The parties acknowledge that breach of this section, including disclosure of any Confidential Information, will cause irreparable injury to Disclosing Party that is inadequately compensable in damages. Accordingly, Disclosing Party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Receiving Party acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of Disclosing Party and are reasonable in scope and content.

d. Purchasing Entity Law. These provisions shall be applicable only to extent they are not in conflict with the applicable public disclosure laws of any Purchasing Entity.

e. The confidentiality obligations under this section shall also extend to (as included within the definition of Confidential Information) Participating Addenda, as well as Orders or transaction data relating to Orders under this Master Agreement that identify the entity/Purchasing Entity, Order dates, line item descriptions and volumes, and prices/rates. This provision does not apply to

disclosure to the Lead State, a Participating State, or any governmental entity exercising an audit, inspection, or examination pursuant to Section 29.

To the extent permitted by law, Receiving Party shall notify the Receiving Party of any entity seeking access to the Confidential Information described in this Section 30. The Receiving Party will be authorized to disclose Confidential Information as may be required by applicable law pursuant to a valid order issued by a court or government agency or relevant regulatory authority (including a stock exchange), provided that the Receiving Party provides: (i) prior written notice to the Disclosing Party of such obligation; and (ii) the opportunity to oppose such disclosure.

31. Public Information

This Master Agreement and all related documents are subject to disclosure pursuant to the Purchasing Entity's public information laws.

32. Assignment/Subcontracts

a. Contractor shall not assign, sell, transfer, or sublet rights, or delegate responsibilities under this Master Agreement, in whole or in part, without the prior written approval of the Lead State. Contractor may, with prior written consent from Participating States, which consent shall not be unreasonably withheld, enter into subcontracts with third parties as "Fulfillment Partners." Fulfillment Partners are Subcontractors who may provide products and services under this Master Agreement at the price discounts established in this Master Agreement and bill Purchasers directly for such products and services. In addition, Contractor may, without permission, utilize subcontractors to perform Services sold under this Master Agreement and provide Cloud Offers.

b. The Lead State reserves the right to assign any rights or duties, including written assignment of contract administration duties to NASPO Cooperative Purchasing Organization LLC, doing business as NASPO ValuePoint and other third parties.

33. Changes in Contractor Representation

The Contractor must notify the Lead State of changes in the Contractor's key administrative personnel managing the Master Agreement in writing within 10 calendar days of the change. The Lead State reserves the right to approve changes in key personnel, as identified in the Contractor's proposal. The Contractor agrees to propose replacement key personnel having substantially equal or better education, training, and experience as was possessed by the key person proposed and evaluated in the Contractor's proposal.

34. Independent Contractor

The Contractor shall be an independent contractor. Contractor shall have no authorization, express or implied, to bind the Lead State, Participating States, other Participating Entities, or Purchasing Entities to any agreements, settlements, liability or understanding whatsoever, and agrees not to hold itself out as agent except as expressly set forth herein or as expressly agreed in any Participating Addendum.

35. Termination

Unless otherwise stated, this Master Agreement may be terminated by either Lead State or Contractor upon 60 days written notice prior to the effective date of the termination. Further, any Participating Entity may terminate its participation upon 30 days written notice, unless otherwise limited or stated in the Participating Addendum. Termination may be in whole or in part. Any termination under this provision shall not affect the rights and obligations attending orders outstanding at the time of termination, including any right of a Purchasing Entity to indemnification by the Contractor, rights of payment for Products delivered and accepted, rights attending any warranty or default in performance in association with any Order, and requirements for records administration and audit. Termination of the Master Agreement due to Contractor default may be immediate.

36. Force Majeure

Neither party to this Master Agreement shall be held responsible for delay or default caused by fire, riot, unusually severe weather, other acts of God, or war which are beyond that party's reasonable control. The Lead State may terminate this Master Agreement after determining such delay or default will reasonably prevent successful performance of the Master Agreement.

37. Defaults and Remedies

a. The occurrence of any of the following events by Contractor shall be an event of default under this Master Agreement:

   (1) Nonperformance of contractual requirements; or

   (2) A material breach of any term or condition of this Master Agreement; or

   (3) Any certification, representation or warranty by Contractor in response to the solicitation or in this Master Agreement that proves to be untrue or materially misleading; or

   (4) Institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Contractor, or the appointment of a receiver or similar officer for Contractor or any of its property, which is not vacated or fully stayed within thirty (30) calendar days after the institution or occurrence thereof; or

   (5) Any default specified in another section of this Master Agreement.

b. Upon the occurrence of an event of default, the Lead State shall issue a written notice of default, identifying the nature of the default, and providing a period of sixty (60) calendar days in which Contractor shall have an opportunity to cure the default. The Lead State shall not be required to provide advance written notice or a cure period and may immediately terminate this Master Agreement in whole or in part if the Lead State, in its sole discretion, determines that it is reasonably necessary to preserve public safety or prevent immediate public crisis. Time allowed for cure shall not diminish or eliminate Contractor's liability for damages.

c. If Contractor is afforded an opportunity to cure and fails to cure the default within the period specified in the written notice of default, Contractor shall be in breach of its obligations under this Master Agreement and the Lead State shall have the right to exercise any or all of the following remedies:

   (1) Exercise any remedy provided by law; and

   (2) Terminate this Master Agreement and any related Contracts or portions thereof; and

   (4) Suspend Contractor from being able to respond to future bid solicitations; and

   (5) Suspend Contractor's performance; and

   (6) Withhold payment until the default is remedied.

d. Unless otherwise specified in the Participating Addendum, in the event of a default under a Participating Addendum, a Participating Entity shall provide a written notice of default as described in this section and shall have all of the rights and remedies under this paragraph regarding its participation in the Master Agreement with respect to its Participating Addendum, in addition to those set forth in its Participating Addendum. Unless otherwise specified in a Purchase Order, a Purchasing Entity shall provide written notice of default as described in this section and have all of the rights and remedies under this paragraph and any applicable Participating Addendum with respect to an Order placed by the Purchasing Entity.

38. Waiver of Breach

Failure of the either party to declare a default or enforce any rights and remedies shall not operate as a waiver under this Master Agreement or Participating Addendum. Any waiver must be in writing. Waiver by a party any default, right or remedy under this Master Agreement or Participating Addendum, or with respect to any Purchase Order, or breach of any terms or requirements of this Master Agreement, a Participating Addendum, or Purchase Order shall not be construed or operate as a waiver of any

subsequent default or breach of such term or requirement, or of any other term or requirement under this Master Agreement, Participating Addendum, or Purchase Order.

39. Debarment

The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. This certification represents a recurring certification made at the time any Order is placed under this Master Agreement. If the Contractor cannot certify this statement, attach a written explanation for review by the Lead State.

40. Indemnification; Limitation of Liability

a. General Indemnity - Each party shall defend, indemnify and hold harmless the other party, along with their officers and employees, from and against third-party claims, damages or causes of action including reasonable attorneys' fees and related costs for any death, bodily injury, or damage to tangible personal property (not including lost or damaged data) arising from negligent or willful misconduct act(s), error(s), or omission(s) of the indemnifying party, its employees or subcontractors or volunteers, relating to its performance under the Master Agreement. In the event that the indemnified party's or a third party's negligent or willful misconduct acts, errors or omissions contributed to cause the injury or damage for which a claim of indemnity is being asserted against the Contractor, the damages and expenses (including, without limitation, reasonable attorneys' fees) shall be allocated or reallocated, as the case may be, between the indemnified party, the Contractor, and any other party bearing responsibility in such proportion as appropriately reflects the relative fault of such parties, or their subcontractors, or the officers, directors, employees, agents, successors, and assigns of any of them, and the liability of the Contractor shall be proportionately reduced.

   The foregoing indemnification obligations are conditioned upon the indemnified party promptly notifying the indemnifying party in writing of the claim, suit, or proceeding for which the indemnifying party is obligated under this Subsection, cooperating with, assisting, and providing information to, the indemnifying party as reasonably required, and granting the indemnifying party the exclusive right to defend or settle such claim, suit, or proceeding; provided that any such settlement or compromise includes a release of the indemnified party from all liability arising out of such claim, suit or proceeding.

b. Indemnification – Intellectual Property. The Contractor shall defend any claim against NASPO, NASPO Cooperative Purchasing Organization LLC (doing business as NASPO ValuePoint), the Lead State, Participating Entities, or Purchasing Entities, along with their officers and employees ("Indemnified Party"), from and against claims by third parties that Contractor's Products provided under this Agreement, infringes patents, copyrights or trademarks ("Intellectual Property Claim") of another person or entity.

   (1) The Contractor's obligations under this section shall not extend to the extent any Intellectual Property Claim is based on:

      (a) compliance with any designs, specifications, requirements, or instructions by any Indemnified Party or a third party on Indemnified Part's behalf; or

      (b) the modification of the Contractor's Product by anyone other than Contractor; or

      (c) the amount or duration of use made of Contractor's Product, or services offered by Indemnified Party to external or internal Purchasing Entity, or revenue earned by the Indemnified Party; or

      (d) the combination of the operation, or use of a Contractor's Product with third party products, software or business processes.

   (2) The Indemnified Party shall notify the Contractor promptly after receiving notice of an Intellectual Property Claim. If Indemnified Party fails to notify Contractor promptly of the Intellectual Property Claim, and that failure prejudices Contractor's ability to defend, settle or respond to the Intellectual Property Claim, then Contractor's obligation to defend or indemnify Indemnified Party

with respect to that Intellectual Property Claim will be reduced to the extent Contractor has been prejudiced. In addition, such failure to provide prompt notification shall relieve Contractor of any obligation to reimburse for Indemnified Party's attorneys' fees incurred prior to notification. If the Contractor defends any Intellectual Property Claim, it shall have control over the defense and settlement of the Intellectual Property Claim. However, the Indemnified Party must consent in writing for any money damages or obligations for which it may be responsible. The Indemnified Party shall furnish, at the Contractor's reasonable request, information and assistance necessary for such defense.

(3) If an Intellectual Property Claim is made or appears likely, Indemnified Party shall permit Contractor to procure for Indemnified Party the right to continue using Contractor's Product, or to replace or modify the Contractor's Product with one that is at least functionally equivalent. If Contractor determines that none of those alternatives is reasonably available, then Indemnified Party will return and/or cease using Contractor's Product and Contractor will refund to Indemnified Party the remaining net book value of the Contractor's Product calculated according to generally accepted accounting principles.

(4) This Section 40(b) is Contractor's entire obligation and Indemnified Party's exclusive remedy regarding any Intellectual Property Claims.

c. Limitation of Liability. Except for Contractor's obligations under Section 40(a) (General Indemnity) and Section 40(b) (Indemnification – Intellectual Property) notwithstanding anything else herein, all liability of Contractor and its suppliers to any Participating Entity (and any Purchasing Entity under the Participating Entity) for claims arising under this Agreement, the applicable Participating Addendum, or otherwise shall be limited to the greater of (i) three million dollars ($3,000,000.00) or (ii) the money paid to Contractor by the Participating Entity under this Master Agreement in the twelve (12) month period prior to the event or circumstances that first gave rise to such liability. This limitation of liability is cumulative and not per incident.

d. Waiver of Consequential Damages. In no event shall Contractor or its suppliers be liable for any (i) special, exemplary, incidental, indirect or consequential damages, or loss of or damage to data (except for a loss of Purchaser data caused by Contractor's negligence), (ii) loss of: profits, revenue, business, anticipated savings, use of any product or service, opportunity, goodwill or reputation, or (iii) wasted expenditure (other than any expenditure necessarily incurred to discharge the innocent party's duty or to mitigate its losses)

41. No Waiver of Sovereign Immunity

In no event shall this Master Agreement, any Participating Addendum or any contract or any Purchase Order issued thereunder, or any act of the Lead State, a Participating Entity, or a Purchasing Entity be a waiver of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court.

This section applies to a claim brought against the Participating Entities who are states only to the extent Congress has appropriately abrogated the state's sovereign immunity and is not consent by the state to be sued in federal court. This section is also not a waiver by the state of any form of immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

42. Governing Law and Venue

a. The procurement, evaluation, and award of the Master Agreement shall be governed by and construed in accordance with the laws of the Lead State sponsoring and administering the procurement. The construction and effect of the Master Agreement after award shall be governed by the law of the state serving as Lead State. The construction and effect of any Participating Addendum or Order against the Master Agreement shall be governed by and construed in accordance with the laws of the Participating Entity's or Purchasing Entity's State.

b. Unless otherwise specified in the RFP, the venue for any protest, claim, dispute or action relating to the procurement, evaluation, and award is in the Lead State. Venue for any claim, dispute or action concerning the terms of the Master Agreement shall be in the state serving as Lead State. Venue for any claim, dispute, or action concerning any Order placed against the Master Agreement or the effect of a Participating Addendum shall be in the Purchasing Entity's State.

c. If a claim is brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for (in decreasing order of priority): the Lead State for claims relating to the procurement, evaluation, award, or contract performance or administration if the Lead State is a party; a Participating State if a named party; the state where the Participating Entity or Purchasing Entity is located if either is a named party.

43. Assignment of Antitrust Rights

Contractor irrevocably assigns to a Participating Entity who is a state any claim for relief or cause of action which the Contractor now has or which may accrue to the Contractor in the future by reason of any violation of state or federal antitrust laws (15 U.S.C. § 1-15 or a Participating Entity's state antitrust provisions), as now in effect and as may be amended from time to time, in connection with any goods or services provided in that state for the purpose of carrying out the Contractor's obligations under this Master Agreement or Participating Addendum, including, at the Participating Entity's option, the right to control any such litigation on such claim for relief or cause of action.

44. Contract Provisions for Orders Utilizing Federal Funds

Pursuant to Appendix II to 2 Code of Federal Regulations (CFR) Part 200, Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, Orders funded with federal funds may have additional contractual requirements or certifications that must be satisfied at the time the Order is placed or upon delivery. These federal requirements may be proposed by Participating Entities in Participating Addenda and Purchasing Entities for incorporation in Orders placed under this Master Agreement.

45. Leasing or Alternative Financing Methods

The procurement and other applicable laws of some Purchasing Entities may permit the use of leasing or alternative financing methods for the acquisition of Products under this Master Agreement. Where the terms and conditions are not otherwise prescribed in an applicable Participating Addendum, the terms and conditions for leasing or alternative financing methods are subject to negotiation between the Contractor and Purchasing Entity.

46. Entire Agreement:

This Master Agreement, along with any attachment, contains the entire understanding of the parties hereto with respect to the Master Agreement unless a term is modified in a Participating Addendum with a Participating Entity. No click-through, or other end user terms and conditions or agreements required by the Contractor ("Additional Terms") provided with any Services hereunder shall be binding on Participating Entities or Purchasing Entities, even if use of such Services requires an affirmative "acceptance" of those Additional Terms before access is permitted, except for those terms as referenced in this Master Agreement.

eMarket Center Appendix

a. This Appendix applies whenever a catalog hosted by or integration of a punchout site with eMarket Center is required by the solicitation or either solution is proposed by a Contractor and accepted by the Lead State.

b. Supplier's Interface with the eMarket Center. There is no cost charged by JAGGAER to the Contractor for loading a hosted catalog or integrating a punchout site.

c. At a minimum, the Contractor agrees to the following:

(1) Implementation Timeline: NASPO ValuePoint eMarket Center Site Admin shall provide a written request to the Contractor to begin enablement process. The Contractor shall have fifteen (15) days from receipt of written request to work with NASPO ValuePoint and JAGGAER to set up an enablement schedule, at which time JAGGAER's technical documentation shall be provided to the Contractor. The schedule will include future calls and milestone dates related to test and go live dates. The contractor shall have a total of Ninety (90) days to deliver either a (1) hosted catalog or (2) punch-out catalog, from date of receipt of written request.

(2) NASPO ValuePoint and JAGGAER will work with the Contractor, to decide which of the catalog structures (either hosted or punch-out as further described below) shall be provided by the Contractor. **Whether hosted or punch-out, the catalog must be strictly limited to the Contractor's awarded contract offering (e.g. products and/or services not authorized through the resulting cooperative contract should not be viewable by NASPO ValuePoint Participating Entity users).**

(a) Hosted Catalog. By providing a hosted catalog, the Contractor is providing a list of its awarded products/services and pricing in an electronic data file in a format acceptable to JAGGAER, such as Tab Delimited Text files. In this scenario, the Contractor must submit updated electronic data no more than once per 30 days to the eMarket Center for the Lead State's approval to maintain the most up-to-date version of its product/service offering under the cooperative contract in the eMarket Center.

(b) Punch-Out Catalog. By providing a punch-out catalog, the Contractor is providing its own online catalog, which must be capable of being integrated with the eMarket Center as a. Standard punch-in via Commerce eXtensible Markup Language (cXML). In this scenario, the Contractor shall validate that its online catalog is up-to-date by providing a written update no more than once per 30 days to the Lead State stating they have audited the offered products/services and pricing listed on its online catalog. The site must also return detailed UNSPSC codes (as outlined in line 3) for each line item. Contractor also agrees to provide e-Quote functionality to facilitate volume discounts.

d. Revising Pricing and Product Offerings: Any revisions to product/service offerings (new products, altered SKUs, new pricing etc.) must be pre-approved by the Lead State and shall be subject to any other applicable restrictions with respect to the frequency or amount of such revisions. However, no cooperative contract enabled in the eMarket Center may include price changes on a more frequent basis than once per year (see required Price Guarantee Period section 11). The following conditions apply with respect to hosted catalogs:

(1) Updated pricing files are required each calendar month of the month and shall go into effect in the eMarket Center on as approved by the Lead State contract administrator.

(2) Lead State-approved price changes are not effective until implemented within the eMarket Center. Errors in the Contractor's submitted pricing files will delay the implementation of the price changes in eMarket Center.

e. Supplier Network Requirements: Contractor shall join the JAGGAER Supplier Network (SQSN) and shall use JAGGAER's Supplier Portal to import the Contractor's catalog and pricing, into the JAGGAER system, and view reports on catalog spend and product/pricing freshness. The Contractor can receive orders through electronic delivery (cXML) or through low-tech options such as fax. More

information about the SQSN can be found at: www.sciquest.com or call the JAGGAER Supplier Network Services team at 800-233-1121.

f. Minimum Requirements: Whether the Contractor is providing a hosted catalog or a punch-out catalog, the Contractor agrees to meet the following requirements:

   (1) Catalog must contain the most current pricing, including all applicable administrative fees and/or discounts, as well as the most up-to-date product/service offering the Contractor is authorized to provide in accordance with the cooperative contract; and

   (2) The accuracy of the catalog must be maintained by Contractor throughout the duration of the cooperative contract; and

   (3) The Catalog must include a Lead State contract identification number; and

   (4) The Catalog must include detailed product line item descriptions; and

   (5) The Catalog must include pictures when possible; and

   (6) The Catalog must include any additional NASPO ValuePoint and Participating Addendum requirements. Although suppliers in the SQSN normally submit one (1) catalog, it is possible to have multiple contracts applicable to different NASPO ValuePoint Participating Entities. For example, a supplier may have different pricing for state government agencies and Board of Regents institutions. Suppliers have the ability and responsibility to submit separate contract pricing for the same catalog if applicable. The system will deliver the appropriate contract pricing to the user viewing the catalog.

g. Order Acceptance Requirements: Contractor must be able to accept Purchase Orders via fax or cXML. The Contractor shall provide positive confirmation via phone or email within 24 hours of the Contractor's receipt of the Purchase Order. If the Purchasing Order is received after 3pm EST on the day before a weekend or holiday, the Contractor must provide positive confirmation via phone or email on the next business day.

h. UNSPSC Requirements: Contractor shall support use of the United Nations Standard Product and Services Code (UNSPSC). UNSPSC versions that must be adhered to are driven by JAGGAER for the suppliers and are upgraded every year. NASPO ValuePoint reserves the right to migrate to future versions of the UNSPSC and the Contractor shall be required to support the migration effort. All line items, goods or services provided under the resulting statewide contract must be associated to a UNSPSC code. All line items must be identified at the most detailed UNSPSC level indicated by segment, family, class and commodity.

i. Applicability: Contractor agrees that NASPO ValuePoint controls which contracts appear in the eMarket Center and that NASPO ValuePoint may elect at any time to remove any supplier's offering from the eMarket Center.

j. The Lead State reserves the right to approve the pricing on the eMarket Center. This catalog review right is solely for the benefit of the Lead State and Participating Entities, and the review and approval shall not waive the requirement that products and services be offered at prices (and approved fees) required by the Master Agreement.

k. Several NASPO ValuePoint Participating Entities currently maintain separate JAGGAER eMarketplaces, these Participating Entities do enable certain NASPO ValuePoint Cooperative Contracts. In the event one of these entities elects to use this NASPO ValuePoint Cooperative Contract (available through the eMarket Center) but publish to their own eMarketplace, the Contractor agrees to work in good faith with the entity and NASPO ValuePoint to implement the catalog. NASPO ValuePoint does not anticipate that this will require substantial additional efforts by the Contractor; however, the supplier agrees to take commercially reasonable efforts to enable such separate JAGGAER catalogs.

Exhibit 1 – Additional Contractor Terms and Conditions

END USER LICENSE AGREEMENT

This End User License Agreement (the "Agreement") governs Your Use of Cisco Software and is between You and Cisco. Please read it carefully. The Agreement includes the applicable Cloud Offer Description(s) located at https://www.cisco.com/c/en/us/about/legal/cloud-and-software/cloud-terms.html and SEULA(s) located at https://www.cisco.com/c/en/us/about/legal/cloud-and-software/software-terms.html (each, "Supplemental Terms"). Capitalized terms are defined in Section entitled "Definitions" and the order of precedence in the event of conflict is in Section 1 ("Master Agreement Order of Precedence"). Depending on whether the Software is delivered on-premise as Embedded Software or as a Cisco-hosted cloud offering of Cloud Software, certain terms herein may not apply to Your purchase.

By clicking 'accept,' or Using the Software, You agree to the terms of this Agreement. You must have the authority to enter into this Agreement. If You do not have such authority, or if You do not agree with the terms of this Agreement, do not click accept and do not Use the Software. If You determine that You cannot comply with the terms of this Agreement after You have paid for the Software, You may return the Software to the Approved Source, disable or uninstall the Embedded Software and/or cease Your Use of the cloud-hosted Cloud Software and receive a full refund, provided You do so within thirty (30) days of Your initial purchase.

Section 1. License

a. **License**. Subject to Your payment of the applicable fees to an Approved Source and compliance with this Agreement, Cisco grants You a limited, non-exclusive license to Use the Software and related Documentation for Your internal business purposes only and in accordance with any Supplemental Terms, Order and/or Entitlement. In the event that Cisco requires You to register as an end user, Your license is valid only if the registration is complete and accurate. The Embedded Software delivered for Use on-premise may contain open source software, and is subject to separate license terms. A list of such open source software and related license agreements can be found at www.cisco.com/go/opensource.

b. **Limitations and Restrictions.** Unless expressly authorized by Cisco in writing, You will not and will not allow a third party to:

- i. Sell, resell, transfer, sublicense, or assign Your rights under this Agreement to any other person or entity (except as expressly provided in Section 1.f below);
- ii. modify, adapt or create derivative works of the Software or Documentation;
- iii. reverse engineer, decompile, decrypt, disassemble or otherwise attempt to derive the source code for the Software, except as authorized by Cisco ;
- iv. make the functionality of the Software available to third parties in a managed or network provisioned service;
- v. Use Software that is licensed for a specific device, whether physical or virtual, on another device;
- vi. remove, modify, or conceal any product identification, copyright, proprietary, intellectual property notices or other marks on or within the Software;
- vii. Use the Software on secondhand and/or refurbished Cisco equipment; or
- viii. Use the Software on third party hardware unless otherwise set forth in the Documentation (or otherwise authorized by Cisco in writing).

c. **Your Use of Cloud-Hosted Software.** You will be responsible for the accuracy, quality and legality of Your Customer Data, the means by which You acquired Your Customer Purchasing Entity Data and Your Use of Your Customer Entity Data with our Software. You will not (i) interfere with other customer access to, or use of, the Software, or with the security of the Software; (ii) facilitate the attack or

disruption of the Software, including a denial of service (DoS) attack, unauthorized access, monitoring or crawling or distribution of malware (including but not limited to viruses, Trojan horses, worms, time bombs, spyware, adware or cancelbots), or (iii) cause an unusual spike or increase in Your use of the Software that Cisco determines fraudulently or negatively impacts the operating capability of the Software. If Your use of the Software requires or permits You to use any Cisco Content, You (and Your agents) may only use such Cisco Content with the Software and with third-party products or services offerings that Cisco has identified as compatible. You will not extract Cisco Content from or use it separate from the Software, nor will you provide Cisco Content to a third party

d. Third Party Use of Software. You may allow a third party to Use the Software licensed to You solely (i) on Your behalf, (ii) for Your internal operations, and (iii) in compliance with this Agreement. You agree that You are responsible for any breach of this Agreement by that third party.

e. Upgrades and Additional Copies. Notwithstanding anything else in this Agreement, You may not Use Upgrades and additional copies of the Software unless You:

i. hold a valid license to the Software, are in compliance with such license, and have paid the applicable fee for the Upgrade; and

ii. purchase the Upgrade separately or have a valid support agreement covering the Software, either as part of a subscription or purchased separately; and

iii. Use additional copies *solely* for backup purposes limited to archiving for restoration purposes.

f. Transferability/Assignment. You may only transfer or assign Your license rights to on-premise Embedded Software to another person or entity in accordance with the current Cisco Relicensing/Transfer Policy. Any transfer or assignment other than in accordance with the Transfer Policy will have no effect. Cisco may transfer or assign any of its rights or delegate any of its obligations under this Agreement in its sole discretion.

g. Interoperability. If required by applicable law, Cisco will provide You with the interface information needed to achieve interoperability between the on-premise Embedded Software and another independently created program. Cisco will provide this interface information at Your written request after You pay Cisco's licensing fees (if any). You will keep this information in strict confidence and strictly follow any applicable terms and conditions upon which Cisco makes the information available.

h. Non-production and Trial Use.

i. We may provide beta versions of the Software for you to evaluate and provide feedback. Beta versions are not generally released and may only be used for limited, temporary purposes ("Beta Software"). The Beta Software may not be used in a production environment. Beta Software is unsupported and may contain bugs, errors, and other issues. You accept Beta Software "AS-IS," without warranty of any kind, and Cisco is not responsible for any problems or issues related to Your use. You understand that the Beta Software may never be generally available and we may discontinue it in our sole discretion at any time for any reason and delete any Customer Data or other data without liability to You. Your Use of the Beta Software is valid for thirty (30) days from the date it is made available to You. You will be invoiced for the list price if You do not return or stop Using it. You may not publish any results of benchmark tests run on the Beta Software without first obtaining written approval from Cisco.

ii. We may also give You trial access to generally-available Software. Any trial period will expire in thirty (30) days unless otherwise stated in writing from Cisco. Trials are also provided "AS-IS" without support or any express or implied warranty or indemnity of any kind. At any time during or at the end of the trial, Cisco may terminate the trial and deactivate or delete Your account and any related data, information, and files, and bar any further access to such data, information and files for any reason.

Section 2. Fees and Payment

Fees for the Software are set out in Your purchase terms with Your Approved Source. Fees are non-refundable and payment obligations are non-cancelable, except as provided here, in Your purchase terms, or where prohibited by law.

Section 3. Ownership and Your Data

a. **What We Own.** Cisco and its licensors retain ownership of all intellectual property rights in and to the Software and its underlying technology and associated Documentation (together, “Materials”), including all improvements, enhancements, modifications, and derivative works. Cisco reserves all rights to the Materials that are not expressly granted under this Agreement or the Supplemental Terms.

b. **What You Own and What You Do with It**. You retain all right, title and interest in and to Customer Data. You authorize Cisco to use any feedback or ideas You provide in connection with Your Use of the Software for any purpose. You represent that all account information You provide is accurate and will be kept up-to-date and that You will use reasonable means to protect Your account from any unauthorized use or access, and promptly notify Cisco of any such use or access.

c. **How We Use Your Data**. Cisco will process Customer Data and Personal Data in accordance with this Agreement, Cisco’s Privacy Statement, and the applicable Supplemental Terms. Cisco will maintain administrative, physical and technical safeguards consistent with industry standards and the Documentation, which are designed to provide security, confidentiality and integrity of the Customer Data we process. Certain Data that Cisco collects from the Software, or that You provide or make accessible to Cisco as part of Your use of the Software, is necessary for the essential use and functionality of such Software. Data is also used by Cisco to provide associated services such as technical support and to continually improve the operation, security and functionality of the Software. For those reasons, You may not be able to opt out from some of the Data collection other than by uninstalling, disabling or ceasing use of the Software.

i. **Use of Telemetry Data and Statistical Data.** Cisco may process Telemetry Data related to Your use of the Software in order to (i) deliver, enhance, improve, customize, support, and/or analyze the Software and other Cisco offerings, and (ii) derive Statistical Data. Cisco may freely use Telemetry Data that does not identify You or any of Your Authorized Users. Statistical Data is owned by Cisco and may be used for any legitimate interest or purpose, including, without limitation, for purposes of enhancing, developing, marketing, and/or promoting Cisco products and services, including the Software.

ii. **International Data Transfers**. Cisco may process and store Customer Data and Personal Data in the United States or outside of the country where it was collected. You are responsible for providing any required notices to Authorized Users and obtaining all required consents from Authorized Users regarding the processing and transfer of their Personal Data by the Software, including international transfers. Cisco will only transfer Personal Data consistent with applicable law. If Cisco processes Personal Data from the EEA or Switzerland on Your behalf, we will do so in a manner consistent with the relevant EU- or Swiss-US Privacy Shield Principles (“Principles”) (see www.commerce.gov/privacyshield) or successor frameworks. If Cisco transfers Personal Data from an APEC Member Economy on Your behalf, Cisco will process such Personal Data in a manner consistent with the APEC Cross Border Privacy Rules Systems requirements (“CBPRs”) (see www.cbprs.org) to the extent the requirements are applicable to Cisco’s processing of such data. If Cisco is unable to provide at least the same level of protection as required by the Principles or CBPRs, Cisco will promptly notify You and cease processing.

Section 4. Software Support

We will provide basic technical support for subscription Cloud and Embedded Software, as described in the Supplemental Terms. Higher levels of support for subscription Software, and support for perpetual Software is separately available for purchase.

Section 5. Term and Termination

a. Your right to Use the Software begins on the date (i) the on-premise Embedded Software is made available for download or installation, or (ii) You receive notice that the cloud hosted Cloud Software is provisioned or available for Your use , and continues until the end of the term specified in the Order or Entitlement, unless otherwise terminated in accordance with this Agreement (“Initial Term”).

If the Software is licensed for use both on-premise and cloud-hosted, Your right to Use begins on the earlier of the date the Software is made available for download or is ready for provisioning.

b. Software subscriptions will automatically renew for the renewal period selected on the Order ("Renewal Term") unless (i) either party notifies the other (including via the Approved Source) in writing at least thirty (30) days before the end of the then-current term of its intention not to renew or (ii) You or Your Approved Source elect on the Order at the time of initial purchase not to auto-renew the Software subscriptions. Your Approved Source will notify You reasonably in advance of any Renewal Term if there are fee changes. The new fees will apply for the upcoming Renewal Term unless You or Your Approved Source promptly notify us in writing, before the applicable renewal date, that You do not accept the fee changes. In such event, the Software subscription will terminate at the end of the Initial Term.

c. If a party materially breaches this Agreement and does not cure that breach within thirty (30) days after receipt of written notice of the breach, the non-breaching party may terminate this Agreement for cause. Cisco also has the right to immediately suspend or terminate Your use of the Software if You breach Section 1.c or Section 1.a or 1.b above. Upon termination or expiration of this Agreement, You must cease any further use of the Software and destroy any copies within Your control. Upon any termination by You for Cisco's material breach of the Agreement, we will refund to You or Your Approved Source any prepaid fees covering the remainder of the Term after the effective date of termination. Upon any termination by Cisco for Your material breach of the Agreement, You will pay Cisco or Your Approved Source any unpaid fees covering the remainder of the Term.

d. Cisco reserves the right to end the life ("EOL") of the Software by providing prior written notice by posting at http://www.cisco.com/c/en/us/products/index.html. If You or Your Approved Source prepaid a license fee for Your Use of EOL Cloud Software, Cisco will use commercially reasonable efforts to transition You to a substantially similar Cloud Software. If Cisco does not have a substantially similar Cloud Service, then Cisco will credit You any unused portion of the prepaid fee for such Cloud Service, calculated from the last date the Cloud Service is available. Such credit can be applied towards the future purchase of Cisco products.

Section 6. General Provisions

a. Audit. During the license term for the Software and for a period of three (3) years after its expiration or termination, you will take reasonable steps to maintain complete and accurate records of Your use of the Software sufficient to verify compliance with this Agreement. No more than once per twelve (12) month period, You will allow Cisco and its auditors the right to examine such records and any applicable books, systems (including Cisco product(s) or other equipment), and accounts, upon reasonable advanced notice, during Your normal business hours. If the audit discloses underpayment of license fees, You or Your Approved Source will pay such license fees plus the reasonable cost of the audit within thirty (30) days of receipt of written notice.

b. Survival. Sections 1.b, 3, 5, 6.a, 6.b, 6.d, 6.g shall survive termination or expiration of this Agreement.

c. Subcontracting. We may also subcontract any performance associated with the Software to third parties. Any such subcontract will not relieve Cisco of any of its obligations under this Agreement.
US Government End Users. The Software and Documentation are "commercial items," as defined at Federal Acquisition Regulation ("FAR") (48 C.F.R.) 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in FAR 12.212. Consistent with FAR 12.211 (Technical Data) and FAR 12.212 (Computer Software) and Defense Federal Acquisition Regulation Supplement ("DFAR") 227.7202-1 through 227.7202-4, and notwithstanding any other FAR or other contractual clause to the contrary in any agreement into which this Agreement may be incorporated, Government end users will acquire the Software and Documentation with only those rights set forth in this Agreement. Any license provisions that are inconsistent with federal procurement regulations are not enforceable against the U.S. Government.

d. Modifications. As our business evolves, we may change this Agreement or any of its components (except an Order). Changes to the Agreement will only apply to future Orders.

e. **Compliance with Law.** You will comply with all applicable laws and regulations related to Your receipt and use of the Software. You must ensure You have the right to use all features of the Software in Your jurisdiction. Cisco will comply with all applicable laws in the provision of the Software to You. We may restrict the availability of the Software in any particular location or modify or discontinue features to comply with applicable laws and regulations. Cisco may also share information as necessary to comply with laws and subject to Cisco's policy on law enforcement requests found at http://www.cisco.com/c/en/us/about/trust-transparency-center/validation/report.html.

f. **Integration.** If any portion of this Agreement is not enforceable, it will not affect any other terms. Except as expressly stated in a signed agreement, this Agreement, together with any Supplemental Terms is the complete agreement between the parties with respect to the Software and supersedes all prior or contemporaneous communications, understandings or agreements (whether written or oral) regarding this subject matter. In the event of any conflict, the order of precedence is: i) Supplemental Terms; ii) this Agreement; then iii) any applicable policies referenced in this Agreement. The parties agree that the English version of the Agreement will govern in the event of a conflict between it and any version translated into another language.

Definitions

"Administrative Data" means data related to Your employees or representatives to administer or manage Your use of the Software. Administrative Data may include Personal Data and information about our contractual commitments, whether collected at the time of the initial registration or thereafter.

"Approved Source" means Cisco or a Cisco authorized reseller, distributor or systems integrator, including a Fulfillment Partner under the NASPO ValuePoint Master Agreement Terms and Conditions.

"**Authorized User**" means the individuals authorized by You to access the Software.

"Cisco" "we," "our" or "us" means Cisco Systems, Inc. or its applicable affiliate, the Contractor under the NASPO ValuePoint Master Agreement Terms and Conditions.

"Cisco Content" means any Cisco-provided content or data including, but not limited to, geographic and domain information, rules, signatures, threat intelligence or other threat data feeds, suspicious URLs and IP address data feeds.

"**Cloud Software**" means a Cisco-hosted software offering as described in the applicable Cloud Offering Description purchased by You.

"**Confidential Information**" means non-public confidential or proprietary information of the disclosing party that is clearly marked confidential or should be reasonably assumed as confidential given the nature of the information and the circumstances of disclosure.

"Customer Data" means Purchasing Entity Data in the NASPO ValuePoint Master Agreement Terms and Conditions.

"Data" means Telemetry Data and Statistical Data.

"**Documentation**" means the Cisco user or technical manuals, training materials, specifications, privacy data sheets, or other information applicable to the Software.

"**Entitlement**" means the license detail, including license metric, duration, and quantity provided in a product ID (PID) published on Cisco's price list, claim certificate or right to use notification.

"Force Majeure Event" means an event beyond the affected party's reasonable control, including accidents, severe weather events, acts of God, actions of any government agency, epidemic, pandemic, acts of terrorism, or the stability or availability of the Internet or a portion thereof.

"Cloud Offer Description(s)" means the additional terms and conditions applicable to the specific cloud-hosted Software licensed under this Agreement (located here).

"**Order**" means an ordering document (including a web or other electronic form) that specifies the duration, type/product ID (PID) and quantity of Software to be provided and the associated fees.

“Personal Data” has the same meaning in the NASPO ValuePoint Master Agreement Terms and Conditions.

“SEULA” means the Supplemental End User License Agreement containing additional terms and conditions for the on-premise Software licensed under this Agreement (located here).

“**Software**” means the binary image of Cisco computer programs (including Upgrades) which could be a downloadable file, delivered on physical media, pre-installed on the on-premise computer system, resident in ROM/Flash (system memory) or cloud-hosted purchased from an Approved Source. Software may be either Embedded Software or Cloud Software.

“Statistical Data” means any information/data that Cisco derives from Customer Data and/or Telemetry Data, provided that such information/data is aggregated and/or de-identified such that it cannot reasonably be used to identify an individual or entity.

“Telemetry Data” means information generated by instrumentation and logging systems created through the use and operation of Cisco products and services.

“**Upgrades**” means all updates, upgrades, bug fixes, error corrections, enhancements and other modifications to the Software.

“**Use**” or “**Using**” means to download, install, activate, access or otherwise use the Software

“**You**” or “**Your**” means the Purchasing Entity purchasing the Software pursuant to the NASPO ValuePoint Master Agreement Terms and Conditions and applicable Participating Addendum.

Exhibit 2 -Additional Contractor Terms and Conditions

Services Exhibit

This Services Exhibit governs all Orders for Services placed under the NASPO Master Agreement Terms and Conditions ("NASPO Master Agreement"). This Services Exhibit consists of the terms set forth in Exhibit 2 (including its attachments) and the Service Description Purchasing Entity may elect to purchase.

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1. DEFINITIONS

Terms not defined in the body of the NASPO Master Agreement are those set out in the Glossary of Terms at the end of this Exhibit 2.

2. SCOPE

This Exhibit describes the terms and conditions for (a) Direct Purchases from Cisco by Customer of Services, and (b) delivery by Cisco of the Services according to the options ordered by Customer or otherwise provided by Cisco to Customer. Cisco will provide Services for Products and Customer will be entitled to receive Services for which (i) the applicable Services fees have been paid, (ii) a valid Software license has been granted and (iii) Customer provides information requested by Cisco such as valid serial numbers, site location, contract number, and Product type.

3. PRICING

For direct purchases from Cisco, and subsequent Equipment List renewals, prices for Services shall be those specified in Cisco's then-current Price List less any applicable contract discount in effect under the NASPO Master Agreement at the time of acceptance of the Purchase Order by Cisco, or (b) those set forth in a written price quotation submitted by Cisco or its Fulfilment Partner, if at or below the stated contract discount. All stated prices are exclusive of taxes, fees, and duties or other amounts in accordance with the NASPO Master Agreement. Any taxes related to Services purchased pursuant to this Agreement shall be paid by Customer or Customer shall present an exemption certificate acceptable to the taxing authorities. Applicable taxes shall be billed as a separate item on the invoice, to the extent possible. In the event that Customer is unable to provide valid and applicable serial number(s) for Product and Cisco agrees to provide Services, then Service fees payable by Customer shall be at Cisco's then-current time and materials or non-contract service rates. Subject to the price discount floor established by Cisco under the NASPO Master Agreement, for indirect purchases, Fulfillment Partners are free to determine their resale prices unilaterally.

Customer understands that no employee or representative of Cisco or anyone else has any authority to determine such resale prices, or to limit the Fulfillment Partners' pricing discretion with respect to Services

In the event that Customer is unable to provide valid and applicable serial number(s) for Product and Cisco agrees to provide Services, then Service fees payable by Customer shall be at Cisco’s then-current time and materials or non contract service rates.

4. INVOICING

Fees for Services, other than those for which a SOW is required, shall be invoiced in advance of delivery of Services. The timing of invoices for Services provided pursuant to a SOW shall be set forth in the respective SOW.

5. TERM AND TERMINATION

a. The term of an Equipment List shall commence on the date set forth on such Equipment List, which may be up to sixty (60) days following the date of Purchase Order acceptance. The term of an Equipment List shall be for a period of one year and shall be renewed automatically for

successive one year terms, unless either party notifies the other of its intent to terminate at least sixty (60) days prior to the expiration of the then current one year term.

b. The term of each SOW shall be stated in the SOW.

c. Any Equipment List or SOW may be terminated if Services fees are not paid when due and payment has not been received within thirty (30) days after notice from Cisco of such past due payment, or otherwise in accordance with the termination provisions set out in the Agreement.

d. Cisco reserves the right to make changes to the scope and content of the Services or part thereof, including terminating the availability of a given Service, at any time upon thirty (30) days' prior notice. Such changes will become effective upon renewal of the affected Equipment Lists and SOWs. If Customer does not agree to a change of scope or content, Customer may terminate any affected Equipment List or SOW by notifying Cisco at least sixty (60) days prior to the expiration of the then current one year term of the Equipment List or SOW. In such case, Cisco shall continue to provide Services until the next expiration date of the affected Equipment List or SOW.

e. Upon termination of any Equipment List, or SOWs, Customer shall pay Cisco for all work performed under the affected Equipment Lists or SOWs up to the effective date of termination at the agreed-upon prices, fees, and expense reimbursement rates.

f. Firm Orders for Services under this Services Exhibit placed and accepted prior to expiration of the contract term, (even if involving a multi-year commitment) remain valid in accordance with the contract terms which shall remain binding as to such prior orders only for the term stated therein, and shall not otherwise constitute an extension of the NASPO Master Agreement and this Services Exhibit for any other Services.

6. [INTENTIONALLY LEFT BLANK]

7. LICENSES

a. Subject to Customer's compliance with the terms of this Services Exhibit, any applicable AS Service Description or SOW, and the End User License Agreement (**EULA**) set forth in Exhibit 1, Cisco grants to Customer a worldwide, non-exclusive and non-transferable license to use for Customer's internal business use only: (i) Software provided as a result of Services, if any, solely in object code form; (ii) other Deliverables specified in an applicable AS Service Description or SOW, if any, and (iii) Data Collection Tools, if any (collectively and individually, the "**Licensed Materials**"). In addition, Cisco grants to Customer a right to modify and create derivative works of any Scripts provided by Cisco to Customer pursuant to this Services Exhibit, solely for Customer's internal business use. These license grants do not include the right to sublicense; provided that Customer may permit its suppliers, subcontractors and other related third parties to use the Licensed Materials solely on Customer's behalf for Customer's benefit, provided that Customer ensures that any such use is subject to license restrictions and confidentiality obligations at least as protective of Cisco's rights in such Licensed Materials as are specified in this Agreement.

b. Nothing in this Agreement, any AS Service Description or any SOW shall alter or affect the Intellectual Property rights and/or licenses provided with any Cisco Products.

c. Customer hereby grants to Cisco a perpetual, irrevocable, royalty free, worldwide right and license to all Intellectual Property in the Customer Feedback (as defined below) to use and incorporate Customer Feedback into any Services, Products, Deliverables, Data Collection Tools, Reports, Scripts or Cisco Pre-Existing Technology, and to use, make, have made, offer to sell, sell, copy, distribute and create derivative works of such Customer Feedback for any and all purposes whatsoever, and Customer acknowledges and agrees that it will obtain no rights in or to any Services, Products, Deliverables, Data Collection Tools, Reports, Scripts or Cisco Pre-Existing Technology as a result of Cisco's use of any such Customer Feedback. For purposes of this Agreement, "**Customer Feedback**" means all oral or written communications regarding improvements or changes to any Services, Products, Deliverables, Data Collection Tools, Reports, Scripts or Cisco Pre-Existing Technology that Customer provides to Cisco.

8. OWNERSHIP

a. Each party will retain the exclusive ownership of all its pre-existing Intellectual Property, Confidential Information and materials, including, without limitation, proprietary ideas, sketches, diagrams, text, know-how, concepts, proofs of concepts, artwork, software, algorithms, methods, processes, identifier codes or other technology that are owned by a party prior to commencement of any Services hereunder, or that are otherwise developed by or for such party outside the scope of this Agreement ("**Pre-Existing Technology**").

b. Except as otherwise expressly set forth in applicable SOW, Cisco owns and will continue to own all right, title and interest in and to the Services, Products, Deliverables, Data Collection Tools, Reports, Scripts, sketches, diagrams, text, know-how, concepts, proofs of concepts, artwork, software, algorithms, methods, processes, identifier codes or other technology provided or developed by Cisco (or a third party acting on Cisco's behalf) pursuant to this Agreement, including modifications, enhancements, improvements or derivative works of any of the foregoing, regardless of who first conceives or reduces to practice, and all Intellectual Property in any of the foregoing (collectively, "**Cisco Intellectual Property**").

c. As between Customer and Cisco, Customer shall at all times retain all right, title and interest in and to all of Customer's Pre-Existing Technology and all Intellectual Property that is developed by Customer or by a third party on Customer's behalf thereafter, other than Cisco Intellectual Property. Third Party Products shall at all times be owned by the applicable third party, and will be subject to any applicable third party license terms.

9. SUBCONTRACTING

Cisco reserves the right to subcontract Services to a third-party organization to provide Services to Customer. Any such subcontract shall not relieve Cisco of any of its obligations under this Services Exhibit or the NASPO Master Agreement.

EXHIBIT 2 -- ATTACHMENT 1

GLOSSARY OF TERMS

Additional Services means installation of new Hardware, system additions, Hardware upgrades, dispatch of a field engineer, or non-mandatory engineering changes.

Advance Replacement means shipment of replacement Field-Replaceable Unit (FRU) before receiving failed or defective FRU.

Advanced Services means the Services set forth in the AS Service Description(s) found at http://www.cisco.com/go/servicedescriptions and/or SOW(s) selected by the Customer. Advanced Services does not include Cisco's core maintenance services, such as Smart Net Total Care or Software Application Services, nor does it apply to the purchase, support or maintenance of any Products.

Advanced Services Engineer means the Cisco engineer appointed to be the main point of contact for a Customer purchasing Advanced Services.

Application Software means non-resident or standalone Software Products listed on the Price List that include but are not limited to Cisco Systems® Network management Software, security Software, IP telephony Software, Internet appliance Software, Cisco® Intelligent Contact Management Software, IP Contact Center Software, and Cisco Customer Interaction Suite Software.

AS Service Descriptions mean the description of the Advanced Services available from Cisco, which are available at http://www.cisco.com/go/servicedescriptions and which are incorporated in this Agreement by reference.

Authorized Channel means a system integrator, distributor or reseller authorized by Cisco to sell Services.

Business Days means the generally accepted days of operation per week within the relevant region where the Services shall be performed, excluding local holidays as observed by Cisco.

Cisco means Contractor under the NASPO Master Agreement.

Customer means Purchasing Entity under the NASPO Master Agreement.

Data Collection Tools means Hardware and/or Software tools that support Cisco's ability to provide troubleshooting on cases, data analysis, and report generation capabilities as part of the Advanced Services.

Depot Time or **Local Time** means Central European Time for Services provided in Europe-Middle-East and Africa, Australia's Eastern Standard Time for Services provided in Australia, Japan's Standard Time for Services provided in Japan, and Pacific Standard Time for Services provided in all other locations.

Deliverable(s) means, with respect to each AS Service Description and/or SOW, the items to be delivered by Cisco to Customer as set forth in an applicable AS Service Description and/or SOW, including, without limitation, any Software, Reports, Data Collection Tools, and/or Scripts.

Device Type means a Cisco supported Hardware Product (for example, Cisco Catalyst® 6509 Switch, GSR 12000 and Cisco 7200 Series Router).

Direct Purchases means purchases of Services by Customer directly from Cisco.

Equipment List means the list of Hardware and/or Software for which Cisco provides services.

Event means notification by Customer of its performance of a planned Network Hardware, Software, or configuration change.

Feature Set Upgrade means a separately licensed and priced Software release that contains an enhanced configuration or feature set.

Field-Replaceable Unit (FRU) means any component or subassembly of an item or unit of Hardware that reasonably can be replaced at Customer's location. FRUs also may be subject to size and weight limitations.

Four-hour Response means:

(i) For Advance Replacement Service, the four-hour time period commences upon the Cisco problem diagnosis and determination that a FRU is required and ends when the FRU is delivered onsite.

(ii) For onsite service, the four-hour time period commences upon the Cisco problem diagnosis and determination that remedial onsite service is required and ends when Cisco personnel arrive onsite.

Indirect Purchases means purchases of Services by Customer through an Authorized Channel.

Intellectual Property means any and all tangible and intangible: (i) rights associated with works of authorship throughout the world, including but not limited to copyrights, neighboring rights, moral rights, and mask works, and all derivative works thereof, (ii) trademark and trade name rights and similar rights, (iii) trade secret rights, (iv) patents, designs, algorithms and other industrial property rights, (v) all other intellectual and industrial property rights (of every kind and nature throughout the world and however designated) whether arising by operation of law, contract, license, or otherwise, and (vi) all registrations, initial applications, renewals, extensions, continuations, divisions or reissues thereof now or hereafter in force (including any rights in any of the foregoing).

Level 1 means support that is defined as having the necessary technical staff (Cisco or Cisco-authorized reseller) with appropriate skill, perform installations, Remedial Hardware Maintenance, and basic Hardware and Software configuration on Cisco Products.

Level 2 means support that is defined as having the necessary technical staff with the appropriate skills to perform isolation, replication and diagnosis of internet-based problems on Cisco Product(s). Customer shall not report Software bugs to Cisco prior to attempting to identify the source of such bugs and testing in Customer's Network where appropriate. If the Customer cannot duplicate the bug in Customer's Network, Customer and Cisco shall cooperate in attempting to replicate and resolve related Software bugs in either Customer's or Cisco's test facility as mutually agreed. In all cases Customer will address Software bugs on a best effort basis to replicate same in Customer's Network and document activity to Cisco before seeking further resolution with Cisco's participation.

Local Time means local time on Business Days.

Maintenance Release means an incremental Software release that provides maintenance fixes and may provide additional Software functions. Cisco designates Maintenance Releases as a change in the digits to the right of the tenths digit or of the hundredths digit of the Software version number [x.x.(x) or x.x.x.(x)].

Major Release means a release of Software that provides additional software functions. Cisco designates Major Releases as a change in the ones digit of the Software version number [(x).x.x].

Minor Release means an incremental release of Software that provides maintenance fixes and additional Software functions. Cisco designates Minor releases as a change in the tenths digit of the Software version number [x.(x).x].

Network means a set of interconnected and interworking Cisco supported Hardware and Software that is implemented, operated, and supported by Customer from a single network operations center (NOC).

Network Infrastructure means your core transport and aggregation Network technology (for example, metro optical, ATM/Frame Relay, IP core and Cisco security devices including, but not limited to, Firewall, IDS and VPN3000).

Network Infrastructure Size means the total value of Products in Customer's Network based on the global list price of the Products that Customer has purchased.

Remedial Hardware Maintenance means diagnosis and onsite replacement of Hardware components with FRUs.

Reports means reports, recommendations, network configuration diagrams, and related non-Software Deliverables provided by Cisco to Customer pursuant to this Agreement.

Scripts means software scripts, macros and batch files provided by Cisco to Customer pursuant to this Agreement.

Services means one or more of the services options selected by the Customer in its Purchase Order and described at: http://www.cisco.com/go/servicedescriptions

Services Descriptions mean the detailed descriptions of the Services purchased by Customer which are incorporated into this Services Exhibit by reference.

Standard Business Hours means (i) 8:00 AM to 5:00 PM, Depot time, on Business Days for replacement of failed Products and (ii) 8:00 AM to 5:00 PM, Local Time at location of the respective Cisco TAC, on Business Days for case handling of TAC calls.

TAC means the Cisco Technical Assistance Center.

Technical Support Services means Services that provide both essential proactive and reactive operation and maintenance support Services identified as Technical Support Services at http://www.cisco.com/go/servicedescriptions.

Technology Application means specific technologies including, but not limited to, content networking, broadband, and IP telephony that do not operate at the Network Infrastructure level.

Third Party Products means third party hardware and/or software, and all upgrades/updates thereto, that are designated by Cisco as required for:

(i) The operation of Application Software in conformance with Cisco applicable Application Software Documentation; and

(ii) Cisco support of the Application Software.

Transactional Advanced Services means the project related or consultancy Services sold under a Statement of Work.

Two-hour Response means:

(i) For Advance Replacement, the two-hour time period commencing with Cisco's problem diagnosis and determination that a FRU is required and ending when the FRU is delivered onsite.

(ii) For onsite service, the two-hour time period commencing with our problem diagnosis and determination that remedial onsite service is required and ending when Cisco personnel arrive onsite.

Update means Cisco Software Maintenance Releases, Minor Releases and Major Releases containing the same configuration or feature set as originally acquired, unless the Customer has upgraded the applicable Hardware or Software to a configuration or feature set other than what was originally acquired, and the applicable license fee for that upgrade has been paid. Updates do not include Feature Set Upgrades.

EXHIBIT 2 -- ATTACHMENT 2

CISCO SEVERITY AND ESCALATION GUIDELINES

Customer shall assign a severity to all problems submitted to Cisco.

Severity 1 means an existing Network is down or there is a critical impact to Customer's business operation. Customer and Cisco both will commit full-time resources to resolve the situation.

Severity 2 means operation of an existing Network is severely degraded or significant aspects of Customer's business operation are negatively impacted by unacceptable Network performance. Customer and Cisco both will commit full-time resources during Standard Business Hours to resolve the situation.

Severity 3 means operational performance of the Network is impaired, although most business operations remain functional. Customer and Cisco both are willing to commit resources during Standard Business Hours to restore service to satisfactory levels.

Severity 4 means information is required on Application Software capabilities, installation, or configuration. There is little or no impact to Customer's business operation. Customer and Cisco both are willing to provide resources during Standard Business Hours to provide information or assistance as requested.

If you do not believe that adequate progress is being made or that the quality of Cisco service is satisfactory, we encourage you to escalate the problem to the appropriate level of management by asking for the TAC duty manager.

Cisco Escalation Guideline

*Elapsed Time**	*Severity 1*	*Severity 2*	*Severity 3*	*Severity 4*
1 hour	Customer Engineering Manager			
4 hours	Technical Support Director	Customer Engineering Manager		
24 hours	Vice President, Customer Advocacy	Technical Support Director		
48 hours	President/CEO	Vice President, Customer Advocacy		
72 hours			Customer Engineering Manager	
96 hours		President/CEO	Technical Support Director	Customer Engineering Manager

*Severity 1 escalation times are measured in calendar hours—24 hours per day, 7 days per week. Severity 2, 3, and 4 escalation times correspond with Standard Business Hours.

EXHIBIT 2 -- ATTACHMENT 3

SERVICES NOT COVERED

Services that are not expressly set forth in the applicable Service Description or Statement of Work document are not covered under such Service Description or Statement of Work, including, without limitation, the following:

1. Services are only provided for generally available Products and Software releases/versions, unless agreed otherwise.
2. Any customization of, or labor to install, Software and Hardware (including installation of Updates).
3. Furnishing of supplies, accessories or the replacement of expendable parts (e.g., cables, blower assemblies, power cords, and rack mounting kits).
4. Electrical or site work external to the Products.
5. Any expenses incurred to visit End User's location, except as required during escalation of problems by Cisco.
6. Service for Hardware that is installed outdoors or that is installed indoors but requires special equipment to perform such Service.
7. Hardware replacement in quantities greater than three (3) FRUs, including those replacements due to pervasive issues documented in an engineering change notice or field alert unless End User has troubleshot failed Hardware down to the FRU level.
8. Services performed at domestic residences.
9. Support or replacement of Product that is altered, modified, mishandled, destroyed or damaged by one or more of the following: (a) natural causes; (b) environmental failures; (c) your failure to take any required actions; (d) a negligent or willful act or omission by you or use by you other than as specified in the applicable Cisco-supplied documentation; or (e) an act or omission of a third party.
10. Services or software to resolve Software or Hardware problems resulting from third party product or causes beyond Cisco's control or failure to perform your responsibilities set out in this document.
11. Services for non-Cisco Software installed on any Cisco Product.
12. Any Hardware or third party product upgrade required to run new or updated Software.
13. Erasure or other removal of any customer or third party data on Products (or parts thereof) returned, repaired or otherwise handled by Cisco.
14. Additional Services are provided at the then-current time and materials rates.
15. Except as otherwise agreed, Software entitlement, including media, documentation, binary code, source code or access in electronic or other form is not provided. In addition, except as otherwise provided, no right, use or license to our Software is granted and you acknowledge and agree that you obtain no such rights.
16. Application Software is not supported as part of the SMARTnet support services provided by Cisco and is only supported under a separate service description.

The non-entitlement policies posted at http://www.cisco.com/go/warranty are hereby incorporated into this Agreement by this reference.

Capitalized terms are defined in the Glossary of Terms, or may be as set forth in the applicable Service Description or Statement of Work.

Attachment B – Scope of Services Awarded to Contractor

I. Data Communications Award Categories

The scope for this contract is as provided below. Contractor may offer products (i.e. white box, artificial intelligence, etc.) and services within the Categories it received an award in. Each category also allows for Internet of Things (IoT) products. These products must be an IoT product that can be deployed within, upon, or integrated into a government agency's physical asset to address government line of business needs. Proposals are expected to include IoT products designed to support common government lines of business in specific subcategories i.e. routers, switches, end points, etc. IoT products can only be provided in categories that the vendor is awarded in and can include endpoints that support items in that category.

Category 1.1: UNIFIED COMMUNICATIONS (UC).

A set of products that provides a consistent unified user interface and user experience across multiple devices and modes of communications. Unified Communications that is able to provide services such as session management, voice, video, messaging, mobility, and meeting solutions (i.e., web, audio, IM&P, file sharing, white boarding, guest support, etc.). It can provide the foundation for advanced unified communications capabilities of IM and presence-based services and extends telephony features and capabilities to packet telephony network devices such as IP phones, media processing devices, Voice over IP (VoIP) gateways, and multimedia applications. Additional services, such as unified messaging, multimedia conferencing, collaborative contact centers, and interactive multimedia response systems, are made possible through open telephony APIs. General UC solution capabilities should include:

- High Availability for Call Processing
- Hardware Platform High Availability
- Network Connectivity High Availability
- PSTN Access resiliency
- Call Processing Redundancy
- Optional Branch Office Survivability Services

1.1.1 IP Telephony — Solutions utilized to provide the delivery of the telephony application (for example, call setup and teardown, and telephony features) over IP, instead of using circuit-switched or other modalities. Capabilities should include:

- Support for analog, digital, and IP endpoints
- Centralized Management
- Enterprise Telephony Features (CFx, Transfer, CID, Shared line appearance, One Number Service, etc.)
- Provide basic hunt group and call queuing capabilities
- Flexibility to configure queue depth and hold time, play unique announcements and Music on Hold (MoH), log in and log out users from a queue and basic queue statistics (from the phone
- E911 Support
    - National E911 Routing Services (proper PSAP routing when PSTN access is centralized)
    - 911 Device Tracking Services
    - 911 On-Site Notification Services

1.1.2 Instant messaging/ Presence — Solutions that allow communication over the Internet Protocol, within the enterprise, and remotely, as well as with guest users that offers quick transmission of text-based messages from sender to receiver. In push mode between two or more people using personal computers, Desktop (Windows/Mac/VDI/Linux), Mobile/Smartphone, Tablet, along with shared clients, instant messaging basically offers real-time direct written language-based online chat. Instant messaging may also provide video calling, file sharing, PC-to-PC voice calling and PC-to-regular-phone calling.

- IM Persistency / Workstream Collab
- File Sharing Services, Desktop Sharing Services

1.1.3 Unified messaging — Integration of different electronic messaging and communications media (e-mail, SMS, Fax, voicemail, video messaging, etc.) technologies into a single interface, accessible from a variety of different devices.

- Ability to access and manage voice messages in a variety of ways, using email inbox, Web browser, desktop client, VoIP phone, or mobile phone
- Visual Voicemail Support (Optional)
- ASR / Transcription Services for recorded messages

1.1.4 Contact Center — A computer-based system that provides call and contact routing for high-volume telephony transactions, with specialist answering "agent" stations and a sophisticated real-time contact management system. The definition includes all contact center systems that provide inbound contact handling capabilities, outbound call/contact center and automatic contact distribution, combined with a high degree of sophistication in terms of dynamic contact traffic routing management.

1.1.5 Communications End Points and Applications

- Attendant Consoles (Telephone Station)
- IP Phones (desktop devices and accessories)
- Room Based Conferencing Endpoints (Conf Phones, SparkBoard, JamBoard, Surface Hub)

1.1.6 UC Network Monitoring — Provides end-to-end service management for Unified Communications. Capabilities include testing, performance monitoring, configuration management, accounting/billing, analytics (capacity planning), contact center specialized reports (utilization, queue KIIs, call abandonment rations, etc.), and business intelligence reporting.

1.1.7 Collaboration — Voice, video, workstream collaboration, and web conferencing; messaging; mobile applications; and enterprise social software. Doesn't include the audio visional software or hardware.

1.1.8 Collaborative Video — A set of immersive video technologies that enable people to feel or appear as if they were present in a location that they are not physically in. Immersive video consists of a multiple codec video system, where each meeting attendee uses an immersive video room to "dial in" and can see/talk to every other member on a screen (or screens) as if they were in the same room and provides call control that enables intelligent video bandwidth management.

1.1.9 Content Delivery Systems (CDS) — A large distributed system of servers deployed in multiple data centers connected by the Internet. The purpose of the content delivery system is to serve content to a very large number of end-users (i.e., quarterly all hands meetings/webinar) with high availability and high performance. CDSs serve content over the Internet, including web objects (text, graphics, URLs, and scripts), downloadable objects (media files, software, documents), applications (e-commerce, portals), live streaming media, on-demand streaming media, and social networks.

Category 1.2: NETWORKING.

1.2.1 Network Application Services.

Application networking solutions and technologies that enable the successful and secure delivery of applications to local, remote, and branch-office users using technology to accelerate, secure, and increase availability of both application traffic and computing resources.

1.2.1.1 Virtualized Load Balancers — Virtual devices that act like a reverse proxy to distribute network and/or application traffic across multiple servers to improve the concurrent user capacity and overall reliability of applications. Capabilities should include:

- SSL (Secure Sockets Layer) Off-loading
- Caching capabilities
- Layer 4 Load Balancing
- Layer 7 Load Balancing
- Detailed Reporting
- Supports multiple load balancers in the same system for multiple groups
- Supports TLS1.2

1.2.1.2 WAN Optimization — An appliance utilizing a collection of techniques for increasing data-transfer efficiencies across wide-area networks (WAN). Capabilities should include:

- CIFS (Common Internet File System) acceleration
- Data Compression
- SSL encryption/decryption for acceleration (Optional)
- Layer 4-7 visibility
- Application Specific optimization
- Network analysis tools (solutions utilized to collect, classify, analyze, and securely store log messages)

1.2.2 Networking Software.

Software that runs on a server, or within the Cloud, and enables the server to manage data, users, groups, security, applications, and other networking functions. The network operating system is designed to allow transfer of data among multiple computers in a network, typically a local area network (LAN), a private network or to other networks. Networking software capabilities should include:

- Restartable Process
- High availability options
- Targeted operating systems, i.e. DC, campus, core, wan, etc.
- Operating System Efficiencies
- Network analysis tools (solutions utilized to collect, classify, analyze, and securely store log messages).

1.2.2.1 Network Management and Automation — Software products and solutions for network automation, cloud computing, and IT systems management.

1.2.2.2 Data Center Management and Automation — Software products and solutions that capture and automate manual tasks across servers, network, applications, and virtualized infrastructure.

1.2.2.3 Cloud Portal and Automation — Software products and solutions for cloud management with policy-based controls for provisioning virtual and physical resources.

1.2.2.4 Branch Office Management and Automation — Software products and solutions for management of branch offices. Capabilities include remote troubleshooting, device management, and WAN performance monitoring.

1.2.3 Network Optimization and Acceleration.

Devices and tools for increasing data-transfer efficiencies across wide-area networks.

1.2.3.1 Data Analytics — Appliance for improving network management by more effectively factoring in issues related to congestion, such as utilization, service consumption and routing. Provides real-time insights into network traffic to determine the value of different portions of that traffic.

1.2.3.2 Dynamic Load Balancing (Network Traffic Management) — An appliance that performs a series of checks and calculations to determine which server can best service each client request in order to select the server that can successfully fulfill the client request and do so in the shortest amount of time without overloading either the server or the server farm as a whole.

1.2.3.3 WAN Acceleration — Appliance that optimizes bandwidth to improve the end user's experience on a wide area network (WAN). Capabilities should include:

- CIFS acceleration
- Data Compression
- SSL encryption/decryption for acceleration (Optional)
- Layer 4-7 visibility
- Application Specific optimization

1.2.3.4 High Availability and Redundancy — Limits any disruption to network uptime should an appliance face unforeseen performance issues. Transparently redistributes workloads to surviving cluster appliances without impacting communication throughout the cluster.

1.2.4 Optical Networking.

High capacity networks based on optical technology and components that provide routing, grooming, and restoration at the wavelength level as well as wavelength based services.

1.2.4.1 Core DWDM (Dense Wavelength Division Multiplexing) Switches — Switches used in systems designed for long haul and ultra long-haul optical networking applications.

1.2.4.2 Edge Optical Switches — Provide entry points into the enterprise or service provider core networks.

1.2.4.3 Optical Network Management — Provides capabilities to manage the optical network and allows operators to execute end-to-end circuit creation.

1.2.4.4 IP over DWDM (IPoDWDM) — A device utilized to integrate IP Routers and Switches in the OTN (Optical Transport Network).

Category 1.3: ROUTERS, SWITCHES, SECURITY, AND NETWORKING STORAGE.

1.3.1 Routers.

A device that forwards data packets along networks. A router is connected to at least two networks, commonly two LANs or WANs or a LAN and its ISP's network. Routers are located at gateways, the places where two or more networks connect, and are the critical device that keeps data flowing between networks and keep the networks connected to the Internet.

1.3.1.1 Branch Routers — A multiservice router typically used in branch offices or locations with limited numbers of users and supports flexible configurations/feature. For example: security, VoIP, wan acceleration, etc.

1.3.1.2 Network Edge Routers — A specialized router residing at the edge or boundary of a network. This router ensures the connectivity of its network with external networks, a wide area network or the Internet. An edge router uses an External Border Gateway Protocol, which is used extensively over the Internet to provide connectivity with remote networks.

1.3.1.3 Core Routers - High performance, high speed, low latency routers that enable Enterprises to deliver a suite of data, voice, and video services to enable next-generation applications such as IPTV and Video on Demand (VoD), and Software as a Service (SaaS).

1.3.1.4 Service Aggregation Routers — Provides multiservice adaptation, aggregation and routing for Ethernet and IP/MPLS networks to enable service providers and enterprise edge networks simultaneously host resource-intensive integrated data, voice and video business and consumer services.

1.3.1.5 Carrier Ethernet Routers — High performance routers that enable service providers to deliver a suite of data, voice, and video services to enable next-generation applications such as IPTV, Video on Demand (VoD), and Software as a Service (SaaS).

1.3.2 Security.

1.3.2.1 Data Center and Virtualization Security Products and Appliances — Products designed to protect high-value data and data center resources with threat defense and policy control.

1.3.2.2 Intrusion Detection/Protection and Firewall Appliances — Provide comprehensive inline network firewall security from worms, Trojans, spyware, key loggers, and other malware. This includes Next-Generation Firewalls (NGFW), which offer a wire-speed integrated network platform that performs deep inspection of traffic and blocking of attacks. Intrusion Detection/Protection and Firewall Appliances should provide:

- Non-disruptive in-line bump-in-the-wire configuration
- Standard first-generation firewall capabilities, e.g., network-address translation (NAT), stateful protocol inspection (SPI) and virtual private networking (VPN), etc.
- Application awareness, full stack visibility and granular control
- Capability to incorporate information from outside the firewall, e.g., directory-based policy, blacklists, white lists, etc.
- Upgrade path to include future information feeds and security threats
- SSL decryption to enable identifying undesirable encrypted applications (Optional)

1.3.2.3 Logging Appliances and Analysis Tools — Solutions utilized to collect, classify, analyze, and securely store log messages.

1.3.2.4 Secure Edge and Branch Integrated Security Products — Network security, VPN, and intrusion prevention for branches and the network edge. Products typically consist of appliances or routers.

1.3.2.5 Secure Mobility Products — Delivers secure, scalable access to corporate applications across multiple mobile devices.

1.3.2.6 Encryption Appliances — A network security device that applies crypto services at the network transfer layer - above the data link level, but below the application level.

1.3.2.7 On-premise and Cloud-based services for Network Communications Integrity — Solutions that provide threat protection, data loss prevention, message level encryption, acceptable use and application control capabilities to secure web and email communications. This could include cloud access security brokers (CASBs) and DNS security.

1.3.2.8 Secure Access — Products that provide secure access to the network for any device, including personally owned mobile devices (laptops, tablets, and smart phones). Capabilities should include:

- Management visibility for device access
- Self-service on-boarding

- Centralized policy enforcement
- Differentiated access and services
- Device Management

1.3.3 Storage Networking.

High-speed network of shared storage devices connecting different types of storage devices with data servers.

1.3.3.1 Director Class SAN (Storage Area Network) Switches and Modules — A scalable, high-performance, and protocol-independent designed primarily to fulfill the role of core switch in a core-edge Fibre Channel (FC), FCOE or similar SAN topology. A Fibre Channel director is, by current convention, a switch with at least 128 ports. It does not differ from a switch in core FC protocol functionality. Fibre Channel directors provide the most reliable, scalable, high-performance foundation for private cloud storage and highly virtualized environments.

1.3.3.2 Fabric and Blade Server Switches — A Fibre Channel switch is a network switch compatible with the Fibre Channel (FC) protocol. It allows the creation of a Fibre Channel fabric, which is currently the core component of most SANs. The fabric is a network of Fibre Channel devices, which allows many-to-many communication, device name lookup, security, and redundancy. FC switches implement zoning; a mechanism that disables unwanted traffic between certain fabric nodes.

1.3.3.3 Enterprise and Data Center SAN and VSAN (Virtual Storage Area Network) Management - Management tools to provisions, monitors, troubleshoot, and administers SANs and VSANs.

1.3.3.4 SAN Optimization — Tools to help optimize and secure SAN performance (ie. Encryption of data- at-rest, data migration, capacity optimization, data reduction, etc.

1.3.4: Switches.

Layer 2/3 devices that are used to connect segments of a LAN (local area network) or multiple LANs and to filter and forward packets among them.

1.3.4.1 Campus LAN – Access Switches — Provides initial connectivity for devices to the network and controls user and workgroup access to internetwork resources. The following are some of the features a campus LAN access switch should support:

1. Security
    a. SSHv2 (Secure Shell Version 2)
    b. 802.1X (Port Based Network Access Control)
    c. Port Security
    d. DHCP (Dynamic Host Configuration Protocol) Snooping
2. VLANs
3. Fast Ethernet/Gigabit Ethernet
4. PoE (Power over Ethernet)
5. link aggregation
6. 10 Gb support
7. Port mirroring
8. Span Taps
9. Support of IPv6 and IPv4
10. Standards-based rapid spanning tree
11. NetFlow Support (Optional).

1.3.4.2 Campus LAN – Core Switches — Campus core switches are generally used for the campus backbone and are responsible for transporting large amounts of traffic both reliably and quickly. Core switches should provide:

- High bandwidth
- Low latency
- Hot swappable power supplies and fans
- Security
    - SSHv2
    - MacSec encryption
    - Role-Based Access Control Lists (ACL)
- Support of IPv6 and IPv4
- 1/10/40/100 Gbps support
- IGP (Interior Gateway Protocol) routing
- EGP (Exterior Gateway Protocol) routing
- VPLS (Virtual Private LAN Service) Support
- VRRP (Virtual Router Redundancy Protocol) Support
- NetFlow Support.

1.3.4.3 Campus Distribution Switches — Collect the data from all the access layer switches and forward it to the core layer switches. Traffic that is generated at Layer 2 on a switched network needs to be managed, or segmented into Virtual Local Area Networks (VLANs), Distribution layer switches provides the inter-VLAN routing functions so that one VLAN can communicate with another on the network. Distribution layer switches provides advanced security policies that can be applied to network traffic using Access Control Lists (ACLs).

- High bandwidth
- Low latency
- Hot swappable power supplies and fans
- Security (SSHv2 and/or 802.1X)
- Support of IPv6 and IPv4
- Jumbo Frames Support
- Dynamic Trunking Protocol (DTP)
- Per-VLAN Rapid Spanning Tree (PVRST+)
- Switch-port auto recovery
- NetFlow Support or equivalent

1.3.4.4 Data Center Switches — Data center switches, or Layer 2/3 switches, switch all packets in the data center by switching or routing good ones to their final destinations, and discard unwanted traffic using Access Control Lists (ACLs) a minimum of 10 Gigabit speeds. High availability and modularity differentiates a typical Layer 2/3 switch from a data center switch. Capabilities should include:

- High bandwidth
- Low latency
- Hot swappable power supplies and fans
- Ultra-low latency through wire-speed ports with nanosecond port-to-port latency and hardware-based Inter-Switch Link (ISL) trunking
- Load Balancing across Trunk group able to use packet based load balancing scheme
- Bridging of Fibre Channel SANs and Ethernet fabrics
- Jumbo Frame Support

- Plug and Play Fabric formation that allows a new switch that joins the fabric to automatically become a member
- Ability to remotely disable and enable individual ports
- Support NetFlow or equivalent

1.3.4.5 Software Defined Networks (SDN) — An application in SDN that manages flow control to enable intelligent networking.

1.3.4.6 Software Defined Networks (SDN) - Virtualized Switches and Routers — Technology utilized to support software manipulation of hardware for specific use cases.

1.3.4.7 Software Defined Networks (SDN) — **Controllers** - is an application in software-defined networking (SDN) that manages flow control to enable intelligent networking. SDN controllers are based on protocols, such as OpenFlow, that allow servers to tell switches where to send packets. The SDN controller lies between network devices at one end and applications at the other end. Any communications between applications and devices have to go through the controller. The controller uses multiple routing protocols including OpenFlow to configure network devices and choose the optimal network path for application traffic.

1.3.4.8 Carrier Aggregation Switches — Carrier aggregation switches route traffic in addition to bridging (transmitted) Layer 2/Ethernet traffic. Carrier aggregation switches' major characteristics are:

- Designed for Metro Ethernet networks
- Designed for video and other high bandwidth applications
- Supports a variety of interface types, especially those commonly used by Service Providers

Capabilities should include:

- Redundant Processors
- Redundant Power
- IPv4 and IPv6 unicast and multicast
- High bandwidth
- Low latency
- Hot swappable power supplies and fans
- MPLS (Multiprotocol Label Switching)
- BGP (Border Gateway Protocol)
- Software router virtualization and/or multiple routing tables
- Policy based routing
- Layer 2 functionality
    - Per VLAN Spanning Tree
    - Rapid Spanning Tree
    - VLAN IDs up to 4096
    - Layer 2 Class of Service (IEEE 802.1p)
    - Link Aggregation Control Protocol (LACP)
    - QinQ (IEEE 802.1ad)

1.3.4.9 Carrier Ethernet Access Switches — A carrier Ethernet access switch can connect directly to the customer or be utilized as a network interface on the service side to provide layer 2 services.

- Hot-swappable and field-replaceable integrated power supply and fan tray
- AC or DC power supply with minimum DC input ranging from 18V to 32 VDC and 36V to 72 VDC
- Ethernet and console port for manageability

- SD flash card slot for additional external storage
- Stratum 3 network clock
- Line-rate performance with a minimum of 62-million packets per second (MPPS) forwarding rate
- Support for dying gasp on loss of power
- Support for a variety of small form factor pluggable transceiver (SFP and SFP+) with support for Device Object Model (DOM)
- Timing services for a converged access network to support mobile solutions, including Radio Access Network (RAN) applications
- Support for Synchronous Ethernet (SyncE) services
- Supports Hierarchical Quality of Service (H-QoS) to provide granular traffic-shaping policies
- Supports Resilient Ethernet Protocol REP/G.8032 for rapid layer-two convergence

Category 1.4: WIRELESS.

Provides connectivity to wireless devices within a limited geographic area. System capabilities should include:

- Redundancy and automatic failover
- IPv6 compatibility
- NTP Support

1.4.1 Access Points — A wireless Access Point (AP) is a device that allows wireless devices to connect to a wired network using Wi-Fi, or related standards. Capabilities should include:

- 802.11a/b/g/n
- 802.11n
- 802.11ac
- Capable of controller discovery method via DHCP (onsite controller or offsite through Cloud Architecture)
- UL2043 plenum rated for safe mounting in a variety of indoor environments
- Support AES-CCMP (128-bit)
- Provides real-time wireless intrusion monitoring and detection

1.4.2 Outdoor Wireless Access Points — Outdoor APs are rugged, with a metal cover and a DIN rail or other type of mount. During operations they can tolerate a wide temperature range, high humidity and exposure to water, dust, and oil. Capabilities should include:

- Flexible Deployment Options
- Provides real-time wireless intrusion monitoring and detection
- Capable of controller discovery method via DHCP (onsite controller or offsite through Cloud Architecture)

1.4.3 Wireless LAN Controllers — An onsite or offsite solution utilized to manage Light-weight access points in large quantities by the network administrator or network operations center. The WLAN controller automatically handles the configuration of wireless access-points. Capabilities should include:

- Ability to monitor and mitigate RF interference/self-heal
- Support seamless roaming from AP to AP without requiring re-authentication
- Support configurable access control lists to filter traffic and denying wireless peer to peer traffic
- System encrypts all management layer traffic and passes it through a secure tunnel

- Policy management of users and devices provides ability to de-authorize or deny devices without denying the credentials of the user, nor disrupting other AP traffic
- Support configurable access control lists to filter traffic and denying wireless peer to peer traffic

1.4.4 Wireless LAN Network Services and Management — Enables network administrators to quickly plan, configure and deploy a wireless network, as well as provide additional WLAN services. Some examples include wireless security, asset tracking, and location services. Capabilities should include:

- Provide for redundancy and automatic failover
- Historical trend and real time performance reporting is supported
- Management access to wireless network components is secured
- SNMPv3 enabled
- RFC 1213 compliant
- Automatically discover wireless network components
- Capability to alert for outages and utilization threshold exceptions
- Capability to support Apple's Bonjour Protocol / mDNS
- QoS / Application identification capability

1.4.5 Cloud-based services for Access Points — Cloud-based management of campus-wide WiFi deployments and distributed multi-site networks. Capabilities include:

- Zero-touch access point provisioning
- Network-wide visibility and control
- RF optimization,
- Firmware updates

1.4.6 Mobile Device Management (MDM) — MDM technology utilized to allow employees to bring personally owned mobile devices (laptops, tablets, and smart phones) to their workplace, and use those devices to access privileged government information and applications in a secure manner. Capabilities should include:

- Ability to apply corporate policy to new devices accessing the network resources, whether wired or wireless
- Provide user and devices authentication to the network
- Provide secure remote access capability
- Support 802.1x
- Network optimization for performance, scalability, and user experience

Category 1.5: FACILITY MANAGEMENT, MONITORING, AND CONTROL.

Technology utilized in the management, monitoring and control of facilities. Technologies include:

a. Access control systems
b. Detection/Identification systems, such as surveillance systems, closed circuit television cameras, or IP camera networks and the associated monitoring systems.
c. Response systems such as alert systems, desktop monitoring systems, radios, and digital signage.
d. Building and energy controls

II. Value Added Services

For each Award Category above, the following valued services should also be available for procurement at the time of product purchase or anytime afterwards. This provided list of value added services is not intended to be exhaustive, and may be updated pursuant to the terms of the resulting Master Agreement

2.1 Maintenance Services — Capability to provide technical support, software maintenance, flexible hardware coverage, and smart, proactive device diagnostics for hardware.

2.2 Professional Services

a. Deployment Services
   i. Survey/ Design Services — Includes, but not limited to, discovery, design, architecture review/validation, and readiness assessment.
   ii. Implementation Services — Includes, but not limited to, basic installation and configuration or end-to-end integration and deployment.
   iii. Optimization — Includes, but not limited to, assessing operational environment readiness, identify ways to increase efficiencies throughout the network, and optimize Customer's infrastructure, applications and service management.
b. Remote Management Services — Includes, but not limited to, continuous monitoring, incident management, problem management, change management, and utilization and performance reporting that may be on a subscription basis.
c. Consulting/Advisory Services — Includes, but not limited to, assessing the availability, reliability, security and performance of Customer's existing solutions.
d. Data Communications Architectural Design Services — Developing architectural strategies and roadmaps for transforming Customer's existing network architecture and operations management.
e. Statement of Work (SOW) Services — Customer-specific tasks to be accomplished and/or services to be delivered based on Customer's business and technical requirements.
f. Testing Services – Includes, but not limited to, testing the availability, reliability, security and performance of Customer's existing solutions

2.3 Fulfillment Partner's Services — Provided by Contractor's Fulfillment Partners.

a. Subject to Contractor's approval and the certifications held by its Fulfillment Partner, many Fulfillment Partners can also offer and provide some or all of the Services as listed above at competitive pricing, along with local presence and support. Contractor, as the prime, has sole discretion to determine what Services as listed above may be provided by the Fulfillment Partners. As the primary Contractor (OEM), Contractor is ultimately responsible for the service and performance of its Fulfillment Partners. Customers may have the option to purchase the Services to be directly delivered by Contractor (OEM) or its certified Fulfillment Partners.

2.4 Training — Learning offerings for IT professionals on networking technologies, including but not limited to designing, implementing, operating, configuring, and troubleshooting network systems pertaining to items provided under the master agreement.

Attachment C - Pricing Discounts & Value Added Services

Contractor ***Cisco Systems, Inc.***

Section 1: Pricing Notes

1. % discounts are based on minimum discounts off Contractor's commercially published pricelists versus fixed pricing. Nonetheless, Orders will be fixed-price or fixed-rate and not cost reimbursable contracts. Contractor has the ability to update and refresh its respective price catalog, as long as the agreed-upon discounts are fixed.

2. Minimum guaranteed contract discounts do not preclude Contractor and/or its Fulfillment Partners from providing deeper or additional, incremental discounts at their sole discretion.

3. Purchasing Entities shall benefit from any promotional pricing offered by Contractor to similar customers. Promotional pricing shall not be cause for a permanent price change.

4. Contractor's price catalog shall only include offers that are in contract scope and within the awarded categories. Quotes to eligible Purchasing Entities shall be based on the then-current approved price catalog as posted on the NASPO ValuePoint's website as well as the Contractor's mandatory contract webpage.

Section 2: Minimum Discount % off List	
Category 1.1 Unified Communications (UC)	
Hardware and Software (on premise)	35.00%
Cloud Services	10.00%
Service Packages (i.e., Maintenance, etc.)	10.00%
Category 1.2 Networking	
Hardware and Software (on premise)	35.00%
Cloud Services	10.00%
Service Packages (i.e., Maintenance, etc.)	10.00%
Category 1.3 Routers, Switches, Secuirty, and Networking Storage	
Hardware and Software (on premise)	35.00%
Cloud Services	10.00%
Service Packages (i.e., Maintenance, etc.)	10.00%
Category 1.4 Wireless	
Hardware and Software (on premise)	35.00%
Cloud Services	10.00%
Service Packages (i.e., Maintenance, etc.)	10.00%
Category 1.5 Facility Management, Monitoring, and Control	
Hardware and Software (on premise)	35.00%
Cloud Services	10.00%
Service Packages (i.e., Maintenance, etc.)	10.00%

Section 3: Value Added Services

		Hourly Rates					
		Weekday		Weekend		State Holiday	
Title	**Job Description**	**Onsite**	**Remote**	**Onsite**	**Remote**	**Onsite**	**Remote**
Maintenance Services	Non-Packaged (i.e. not SMART Total Care); Not-To-Exceed (NTE) Rates	$600.00	$525.00	$600.00	$525.00	$600.00	$525.00
Professional Services	i.e. Cisco Advanced Services, IoT, NTE	$743.17	$661.17	$743.17	$661.17	$743.17	$661.17
Deployment Services	i.e. Cisco Implementation Services, IoT, NTE	$743.17	$661.17	$743.17	$661.17	$743.17	$661.17
Consulting Advisory Services	i.e. Cisco Advisory Services, IoT, NTE	$743.17	$661.17	$743.17	$661.17	$743.17	$661.17
Architectural Design Services	i.e. Cisco Advanced Services, IoT, NTE	$743.17	$661.17	$743.17	$661.17	$743.17	$661.17
Statement of Work Services	i.e. Cisco Advanced Services, IoT, NTE	$743.17	$661.17	$743.17	$661.17	$743.17	$661.17
Partner Services	Basic Install & Config Only (i.e. rack & stack, cabling, etc.), IoT, NTE	$600.00	$525.00	$600.00	$525.00	$600.00	$525.00
Training Deployment Services	i.e. Software Adoption, Cisco Training Services, NTE	$600.00	$525.00	$600.00	$525.00	$600.00	$525.00

Att

Attachment B – Scope of Services Awarded to Contractor

I. Data Communications Award Categories

The scope for this contract is as provided below. Contractor may offer products (i.e. white box, artificial intelligence, etc.) and services within the Categories it received an award in. Each category also allows for Internet of Things (IoT) products. These products must be an IoT product that can be deployed within, upon, or integrated into a government agency's physical asset to address government line of business needs. Proposals are expected to include IoT products designed to support common government lines of business in specific subcategories i.e. routers, switches, end points, etc. IoT products can only be provided in categories that the vendor is awarded in and can include endpoints that support items in that category.

Category 1.1: UNIFIED COMMUNICATIONS (UC).

A set of products that provides a consistent unified user interface and user experience across multiple devices and modes of communications. Unified Communications that is able to provide services such as session management, voice, video, messaging, mobility, and meeting solutions (i.e., web, audio, IM&P, file sharing, white boarding, guest support, etc.). It can provide the foundation for advanced unified communications capabilities of IM and presence-based services and extends telephony features and capabilities to packet telephony network devices such as IP phones, media processing devices, Voice over IP (VoIP) gateways, and multimedia applications. Additional services, such as unified messaging, multimedia conferencing, collaborative contact centers, and interactive multimedia response systems, are made possible through open telephony APIs. General UC solution capabilities should include:

- High Availability for Call Processing
- Hardware Platform High Availability
- Network Connectivity High Availability
- PSTN Access resiliency
- Call Processing Redundancy
- Optional Branch Office Survivability Services

1.1.1 IP Telephony — Solutions utilized to provide the delivery of the telephony application (for example, call setup and teardown, and telephony features) over IP, instead of using circuit-switched or other modalities. Capabilities should include:

- Support for analog, digital, and IP endpoints
- Centralized Management
- Enterprise Telephony Features (CFx, Transfer, CID, Shared line appearance, One Number Service, etc.)
- Provide basic hunt group and call queuing capabilities
- Flexibility to configure queue depth and hold time, play unique announcements and Music on Hold (MoH), log in and log out users from a queue and basic queue statistics (from the phone
- E911 Support
    - National E911 Routing Services (proper PSAP routing when PSTN access is centralized)
    - 911 Device Tracking Services
    - 911 On-Site Notification Services

1.1.2 Instant messaging/ Presence — Solutions that allow communication over the Internet Protocol, within the enterprise, and remotely, as well as with guest users that offers quick transmission of text-based messages from sender to receiver. In push mode between two or more people using personal computers, Desktop (Windows/Mac/VDI/Linux), Mobile/Smartphone, Tablet, along with shared clients, instant messaging basically offers real-time direct written language-based online chat. Instant messaging may also provide video calling, file sharing, PC-to-PC voice calling and PC-to-regular-phone calling.

- IM Persistency / Workstream Collab
- File Sharing Services, Desktop Sharing Services

1.1.3 Unified messaging — Integration of different electronic messaging and communications media (e-mail, SMS, Fax, voicemail, video messaging, etc.) technologies into a single interface, accessible from a variety of different devices.

- Ability to access and manage voice messages in a variety of ways, using email inbox, Web browser, desktop client, VoIP phone, or mobile phone
- Visual Voicemail Support (Optional)
- ASR / Transcription Services for recorded messages

1.1.4 Contact Center — A computer-based system that provides call and contact routing for high-volume telephony transactions, with specialist answering "agent" stations and a sophisticated real-time contact management system. The definition includes all contact center systems that provide inbound contact handling capabilities, outbound call/contact center and automatic contact distribution, combined with a high degree of sophistication in terms of dynamic contact traffic routing management.

1.1.5 Communications End Points and Applications

- Attendant Consoles (Telephone Station)
- IP Phones (desktop devices and accessories)
- Room Based Conferencing Endpoints (Conf Phones, SparkBoard, JamBoard, Surface Hub)

1.1.6 UC Network Monitoring — Provides end-to-end service management for Unified Communications. Capabilities include testing, performance monitoring, configuration management, accounting/billing, analytics (capacity planning), contact center specialized reports (utilization, queue KIIs, call abandonment rations, etc.), and business intelligence reporting.

1.1.7 Collaboration — Voice, video, workstream collaboration, and web conferencing; messaging; mobile applications; and enterprise social software. Doesn't include the audio visional software or hardware.

1.1.8 Collaborative Video — A set of immersive video technologies that enable people to feel or appear as if they were present in a location that they are not physically in. Immersive video consists of a multiple codec video system, where each meeting attendee uses an immersive video room to "dial in" and can see/talk to every other member on a screen (or screens) as if they were in the same room and provides call control that enables intelligent video bandwidth management.

1.1.9 Content Delivery Systems (CDS) — A large distributed system of servers deployed in multiple data centers connected by the Internet. The purpose of the content delivery system is to serve content to a very large number of end-users (i.e., quarterly all hands meetings/webinar) with high availability and high performance. CDSs serve content over the Internet, including web objects (text, graphics, URLs, and scripts), downloadable objects (media files, software, documents), applications (e-commerce, portals), live streaming media, on-demand streaming media, and social networks.

Category 1.2: NETWORKING.

1.2.1 Network Application Services.

Application networking solutions and technologies that enable the successful and secure delivery of applications to local, remote, and branch-office users using technology to accelerate, secure, and increase availability of both application traffic and computing resources.

1.2.1.1 Virtualized Load Balancers — Virtual devices that act like a reverse proxy to distribute network and/or application traffic across multiple servers to improve the concurrent user capacity and overall reliability of applications. Capabilities should include:

- SSL (Secure Sockets Layer) Off-loading
- Caching capabilities
- Layer 4 Load Balancing
- Layer 7 Load Balancing
- Detailed Reporting
- Supports multiple load balancers in the same system for multiple groups
- Supports TLS1.2

1.2.1.2 WAN Optimization — An appliance utilizing a collection of techniques for increasing data-transfer efficiencies across wide-area networks (WAN). Capabilities should include:

- CIFS (Common Internet File System) acceleration
- Data Compression
- SSL encryption/decryption for acceleration (Optional)
- Layer 4-7 visibility
- Application Specific optimization
- Network analysis tools (solutions utilized to collect, classify, analyze, and securely store log messages)

1.2.2 Networking Software.

Software that runs on a server, or within the Cloud, and enables the server to manage data, users, groups, security, applications, and other networking functions. The network operating system is designed to allow transfer of data among multiple computers in a network, typically a local area network (LAN), a private network or to other networks. Networking software capabilities should include:

- Restartable Process
- High availability options
- Targeted operating systems, i.e. DC, campus, core, wan, etc.
- Operating System Efficiencies
- Network analysis tools (solutions utilized to collect, classify, analyze, and securely store log messages).

1.2.2.1 Network Management and Automation — Software products and solutions for network automation, cloud computing, and IT systems management.

1.2.2.2 Data Center Management and Automation — Software products and solutions that capture and automate manual tasks across servers, network, applications, and virtualized infrastructure.

1.2.2.3 Cloud Portal and Automation — Software products and solutions for cloud management with policy-based controls for provisioning virtual and physical resources.

1.2.2.4 Branch Office Management and Automation — Software products and solutions for management of branch offices. Capabilities include remote troubleshooting, device management, and WAN performance monitoring.

1.2.3 Network Optimization and Acceleration.

Devices and tools for increasing data-transfer efficiencies across wide-area networks.

1.2.3.1 Data Analytics — Appliance for improving network management by more effectively factoring in issues related to congestion, such as utilization, service consumption and routing. Provides real-time insights into network traffic to determine the value of different portions of that traffic.

1.2.3.2 Dynamic Load Balancing (Network Traffic Management) — An appliance that performs a series of checks and calculations to determine which server can best service each client request in order to select the server that can successfully fulfill the client request and do so in the shortest amount of time without overloading either the server or the server farm as a whole.

1.2.3.3 WAN Acceleration — Appliance that optimizes bandwidth to improve the end user's experience on a wide area network (WAN). Capabilities should include:

- CIFS acceleration
- Data Compression
- SSL encryption/decryption for acceleration (Optional)
- Layer 4-7 visibility
- Application Specific optimization

1.2.3.4 High Availability and Redundancy — Limits any disruption to network uptime should an appliance face unforeseen performance issues. Transparently redistributes workloads to surviving cluster appliances without impacting communication throughout the cluster.

1.2.4 Optical Networking.

High capacity networks based on optical technology and components that provide routing, grooming, and restoration at the wavelength level as well as wavelength based services.

1.2.4.1 Core DWDM (Dense Wavelength Division Multiplexing) Switches — Switches used in systems designed for long haul and ultra long-haul optical networking applications.

1.2.4.2 Edge Optical Switches — Provide entry points into the enterprise or service provider core networks.

1.2.4.3 Optical Network Management — Provides capabilities to manage the optical network and allows operators to execute end-to-end circuit creation.

1.2.4.4 IP over DWDM (IPoDWDM) — A device utilized to integrate IP Routers and Switches in the OTN (Optical Transport Network).

Category 1.3: ROUTERS, SWITCHES, SECURITY, AND NETWORKING STORAGE.

1.3.1 Routers.

A device that forwards data packets along networks. A router is connected to at least two networks, commonly two LANs or WANs or a LAN and its ISP's network. Routers are located at gateways, the places where two or more networks connect, and are the critical device that keeps data flowing between networks and keep the networks connected to the Internet.

1.3.1.1 Branch Routers — A multiservice router typically used in branch offices or locations with limited numbers of users and supports flexible configurations/feature. For example: security, VoIP, wan acceleration, etc.

1.3.1.2 Network Edge Routers — A specialized router residing at the edge or boundary of a network. This router ensures the connectivity of its network with external networks, a wide area network or the Internet. An edge router uses an External Border Gateway Protocol, which is used extensively over the Internet to provide connectivity with remote networks.

1.3.1.3 Core Routers - High performance, high speed, low latency routers that enable Enterprises to deliver a suite of data, voice, and video services to enable next-generation applications such as IPTV and Video on Demand (VoD), and Software as a Service (SaaS).

1.3.1.4 Service Aggregation Routers — Provides multiservice adaptation, aggregation and routing for Ethernet and IP/MPLS networks to enable service providers and enterprise edge networks simultaneously host resource-intensive integrated data, voice and video business and consumer services.

1.3.1.5 Carrier Ethernet Routers — High performance routers that enable service providers to deliver a suite of data, voice, and video services to enable next-generation applications such as IPTV, Video on Demand (VoD), and Software as a Service (SaaS).

1.3.2 Security.

1.3.2.1 Data Center and Virtualization Security Products and Appliances — Products designed to protect high-value data and data center resources with threat defense and policy control.

1.3.2.2 Intrusion Detection/Protection and Firewall Appliances — Provide comprehensive inline network firewall security from worms, Trojans, spyware, key loggers, and other malware. This includes Next-Generation Firewalls (NGFW), which offer a wire-speed integrated network platform that performs deep inspection of traffic and blocking of attacks. Intrusion Detection/Protection and Firewall Appliances should provide:

- Non-disruptive in-line bump-in-the-wire configuration
- Standard first-generation firewall capabilities, e.g., network-address translation (NAT), stateful protocol inspection (SPI) and virtual private networking (VPN), etc.
- Application awareness, full stack visibility and granular control
- Capability to incorporate information from outside the firewall, e.g., directory-based policy, blacklists, white lists, etc.
- Upgrade path to include future information feeds and security threats
- SSL decryption to enable identifying undesirable encrypted applications (Optional)

1.3.2.3 Logging Appliances and Analysis Tools — Solutions utilized to collect, classify, analyze, and securely store log messages.

1.3.2.4 Secure Edge and Branch Integrated Security Products — Network security, VPN, and intrusion prevention for branches and the network edge. Products typically consist of appliances or routers.

1.3.2.5 Secure Mobility Products — Delivers secure, scalable access to corporate applications across multiple mobile devices.

1.3.2.6 Encryption Appliances — A network security device that applies crypto services at the network transfer layer - above the data link level, but below the application level.

1.3.2.7 On-premise and Cloud-based services for Network Communications Integrity — Solutions that provide threat protection, data loss prevention, message level encryption, acceptable use and application control capabilities to secure web and email communications. This could include cloud access security brokers (CASBs) and DNS security.

1.3.2.8 Secure Access — Products that provide secure access to the network for any device, including personally owned mobile devices (laptops, tablets, and smart phones). Capabilities should include:

- Management visibility for device access
- Self-service on-boarding

- Centralized policy enforcement
- Differentiated access and services
- Device Management

1.3.3 Storage Networking.

High-speed network of shared storage devices connecting different types of storage devices with data servers.

1.3.3.1 Director Class SAN (Storage Area Network) Switches and Modules — A scalable, high-performance, and protocol-independent designed primarily to fulfill the role of core switch in a core-edge Fibre Channel (FC), FCOE or similar SAN topology. A Fibre Channel director is, by current convention, a switch with at least 128 ports. It does not differ from a switch in core FC protocol functionality. Fibre Channel directors provide the most reliable, scalable, high-performance foundation for private cloud storage and highly virtualized environments.

1.3.3.2 Fabric and Blade Server Switches — A Fibre Channel switch is a network switch compatible with the Fibre Channel (FC) protocol. It allows the creation of a Fibre Channel fabric, which is currently the core component of most SANs. The fabric is a network of Fibre Channel devices, which allows many-to-many communication, device name lookup, security, and redundancy. FC switches implement zoning; a mechanism that disables unwanted traffic between certain fabric nodes.

1.3.3.3 Enterprise and Data Center SAN and VSAN (Virtual Storage Area Network) Management - Management tools to provisions, monitors, troubleshoot, and administers SANs and VSANs.

1.3.3.4 SAN Optimization — Tools to help optimize and secure SAN performance (ie. Encryption of data- at-rest, data migration, capacity optimization, data reduction, etc.

1.3.4: Switches.

Layer 2/3 devices that are used to connect segments of a LAN (local area network) or multiple LANs and to filter and forward packets among them.

1.3.4.1 Campus LAN – Access Switches — Provides initial connectivity for devices to the network and controls user and workgroup access to internetwork resources. The following are some of the features a campus LAN access switch should support:

1. Security
    a. SSHv2 (Secure Shell Version 2)
    b. 802.1X (Port Based Network Access Control)
    c. Port Security
    d. DHCP (Dynamic Host Configuration Protocol) Snooping
2. VLANs
3. Fast Ethernet/Gigabit Ethernet
4. PoE (Power over Ethernet)
5. link aggregation
6. 10 Gb support
7. Port mirroring
8. Span Taps
9. Support of IPv6 and IPv4
10. Standards-based rapid spanning tree
11. NetFlow Support (Optional).

1.3.4.2 Campus LAN – Core Switches — Campus core switches are generally used for the campus backbone and are responsible for transporting large amounts of traffic both reliably and quickly. Core switches should provide:

- High bandwidth
- Low latency
- Hot swappable power supplies and fans
- Security
    - SSHv2
    - MacSec encryption
    - Role-Based Access Control Lists (ACL)
- Support of IPv6 and IPv4
- 1/10/40/100 Gbps support
- IGP (Interior Gateway Protocol) routing
- EGP (Exterior Gateway Protocol) routing
- VPLS (Virtual Private LAN Service) Support
- VRRP (Virtual Router Redundancy Protocol) Support
- NetFlow Support.

1.3.4.3 Campus Distribution Switches — Collect the data from all the access layer switches and forward it to the core layer switches. Traffic that is generated at Layer 2 on a switched network needs to be managed, or segmented into Virtual Local Area Networks (VLANs), Distribution layer switches provides the inter-VLAN routing functions so that one VLAN can communicate with another on the network. Distribution layer switches provides advanced security policies that can be applied to network traffic using Access Control Lists (ACLs).

- High bandwidth
- Low latency
- Hot swappable power supplies and fans
- Security (SSHv2 and/or 802.1X)
- Support of IPv6 and IPv4
- Jumbo Frames Support
- Dynamic Trunking Protocol (DTP)
- Per-VLAN Rapid Spanning Tree (PVRST+)
- Switch-port auto recovery
- NetFlow Support or equivalent

1.3.4.4 Data Center Switches — Data center switches, or Layer 2/3 switches, switch all packets in the data center by switching or routing good ones to their final destinations, and discard unwanted traffic using Access Control Lists (ACLs) a minimum of 10 Gigabit speeds. High availability and modularity differentiates a typical Layer 2/3 switch from a data center switch. Capabilities should include:

- High bandwidth
- Low latency
- Hot swappable power supplies and fans
- Ultra-low latency through wire-speed ports with nanosecond port-to-port latency and hardware-based Inter-Switch Link (ISL) trunking
- Load Balancing across Trunk group able to use packet based load balancing scheme
- Bridging of Fibre Channel SANs and Ethernet fabrics
- Jumbo Frame Support

- Plug and Play Fabric formation that allows a new switch that joins the fabric to automatically become a member
- Ability to remotely disable and enable individual ports
- Support NetFlow or equivalent

1.3.4.5 Software Defined Networks (SDN) — An application in SDN that manages flow control to enable intelligent networking.

1.3.4.6 Software Defined Networks (SDN) - Virtualized Switches and Routers — Technology utilized to support software manipulation of hardware for specific use cases.

1.3.4.7 Software Defined Networks (SDN) — **Controllers** - is an application in software-defined networking (SDN) that manages flow control to enable intelligent networking. SDN controllers are based on protocols, such as OpenFlow, that allow servers to tell switches where to send packets. The SDN controller lies between network devices at one end and applications at the other end. Any communications between applications and devices have to go through the controller. The controller uses multiple routing protocols including OpenFlow to configure network devices and choose the optimal network path for application traffic.

1.3.4.8 Carrier Aggregation Switches — Carrier aggregation switches route traffic in addition to bridging (transmitted) Layer 2/Ethernet traffic. Carrier aggregation switches' major characteristics are:

- Designed for Metro Ethernet networks
- Designed for video and other high bandwidth applications
- Supports a variety of interface types, especially those commonly used by Service Providers

Capabilities should include:

- Redundant Processors
- Redundant Power
- IPv4 and IPv6 unicast and multicast
- High bandwidth
- Low latency
- Hot swappable power supplies and fans
- MPLS (Multiprotocol Label Switching)
- BGP (Border Gateway Protocol)
- Software router virtualization and/or multiple routing tables
- Policy based routing
- Layer 2 functionality
    - Per VLAN Spanning Tree
    - Rapid Spanning Tree
    - VLAN IDs up to 4096
    - Layer 2 Class of Service (IEEE 802.1p)
    - Link Aggregation Control Protocol (LACP)
    - QinQ (IEEE 802.1ad)

1.3.4.9 Carrier Ethernet Access Switches — A carrier Ethernet access switch can connect directly to the customer or be utilized as a network interface on the service side to provide layer 2 services.

- Hot-swappable and field-replaceable integrated power supply and fan tray
- AC or DC power supply with minimum DC input ranging from 18V to 32 VDC and 36V to 72 VDC
- Ethernet and console port for manageability

- SD flash card slot for additional external storage
- Stratum 3 network clock
- Line-rate performance with a minimum of 62-million packets per second (MPPS) forwarding rate
- Support for dying gasp on loss of power
- Support for a variety of small form factor pluggable transceiver (SFP and SFP+) with support for Device Object Model (DOM)
- Timing services for a converged access network to support mobile solutions, including Radio Access Network (RAN) applications
- Support for Synchronous Ethernet (SyncE) services
- Supports Hierarchical Quality of Service (H-QoS) to provide granular traffic-shaping policies
- Supports Resilient Ethernet Protocol REP/G.8032 for rapid layer-two convergence

Category 1.4: WIRELESS.

Provides connectivity to wireless devices within a limited geographic area. System capabilities should include:

- Redundancy and automatic failover
- IPv6 compatibility
- NTP Support

1.4.1 Access Points — A wireless Access Point (AP) is a device that allows wireless devices to connect to a wired network using Wi-Fi, or related standards. Capabilities should include:

- 802.11a/b/g/n
- 802.11n
- 802.11ac
- Capable of controller discovery method via DHCP (onsite controller or offsite through Cloud Architecture)
- UL2043 plenum rated for safe mounting in a variety of indoor environments
- Support AES-CCMP (128-bit)
- Provides real-time wireless intrusion monitoring and detection

1.4.2 Outdoor Wireless Access Points — Outdoor APs are rugged, with a metal cover and a DIN rail or other type of mount. During operations they can tolerate a wide temperature range, high humidity and exposure to water, dust, and oil. Capabilities should include:

- Flexible Deployment Options
- Provides real-time wireless intrusion monitoring and detection
- Capable of controller discovery method via DHCP (onsite controller or offsite through Cloud Architecture)

1.4.3 Wireless LAN Controllers — An onsite or offsite solution utilized to manage Light-weight access points in large quantities by the network administrator or network operations center. The WLAN controller automatically handles the configuration of wireless access-points. Capabilities should include:

- Ability to monitor and mitigate RF interference/self-heal
- Support seamless roaming from AP to AP without requiring re-authentication
- Support configurable access control lists to filter traffic and denying wireless peer to peer traffic
- System encrypts all management layer traffic and passes it through a secure tunnel

- Policy management of users and devices provides ability to de-authorize or deny devices without denying the credentials of the user, nor disrupting other AP traffic
- Support configurable access control lists to filter traffic and denying wireless peer to peer traffic

1.4.4 Wireless LAN Network Services and Management — Enables network administrators to quickly plan, configure and deploy a wireless network, as well as provide additional WLAN services. Some examples include wireless security, asset tracking, and location services. Capabilities should include:

- Provide for redundancy and automatic failover
- Historical trend and real time performance reporting is supported
- Management access to wireless network components is secured
- SNMPv3 enabled
- RFC 1213 compliant
- Automatically discover wireless network components
- Capability to alert for outages and utilization threshold exceptions
- Capability to support Apple's Bonjour Protocol / mDNS
- QoS / Application identification capability

1.4.5 Cloud-based services for Access Points — Cloud-based management of campus-wide WiFi deployments and distributed multi-site networks. Capabilities include:

- Zero-touch access point provisioning
- Network-wide visibility and control
- RF optimization,
- Firmware updates

1.4.6 Mobile Device Management (MDM) — MDM technology utilized to allow employees to bring personally owned mobile devices (laptops, tablets, and smart phones) to their workplace, and use those devices to access privileged government information and applications in a secure manner. Capabilities should include:

- Ability to apply corporate policy to new devices accessing the network resources, whether wired or wireless
- Provide user and devices authentication to the network
- Provide secure remote access capability
- Support 802.1x
- Network optimization for performance, scalability, and user experience

Category 1.5: FACILITY MANAGEMENT, MONITORING, AND CONTROL.

Technology utilized in the management, monitoring and control of facilities. Technologies include:

a. Access control systems
b. Detection/Identification systems, such as surveillance systems, closed circuit television cameras, or IP camera networks and the associated monitoring systems.
c. Response systems such as alert systems, desktop monitoring systems, radios, and digital signage.
d. Building and energy controls

II. Value Added Services

For each Award Category above, the following valued services should also be available for procurement at the time of product purchase or anytime afterwards. This provided list of value added services is not intended to be exhaustive, and may be updated pursuant to the terms of the resulting Master Agreement

2.1 Maintenance Services — Capability to provide technical support, software maintenance, flexible hardware coverage, and smart, proactive device diagnostics for hardware.

2.2 Professional Services

a. Deployment Services
   i. Survey/ Design Services — Includes, but not limited to, discovery, design, architecture review/validation, and readiness assessment.
   ii. Implementation Services — Includes, but not limited to, basic installation and configuration or end-to-end integration and deployment.
   iii. Optimization — Includes, but not limited to, assessing operational environment readiness, identify ways to increase efficiencies throughout the network, and optimize Customer's infrastructure, applications and service management.
b. Remote Management Services — Includes, but not limited to, continuous monitoring, incident management, problem management, change management, and utilization and performance reporting that may be on a subscription basis.
c. Consulting/Advisory Services — Includes, but not limited to, assessing the availability, reliability, security and performance of Customer's existing solutions.
d. Data Communications Architectural Design Services — Developing architectural strategies and roadmaps for transforming Customer's existing network architecture and operations management.
e. Statement of Work (SOW) Services — Customer-specific tasks to be accomplished and/or services to be delivered based on Customer's business and technical requirements.
f. Testing Services – Includes, but not limited to, testing the availability, reliability, security and performance of Customer's existing solutions

2.3 Fulfillment Partner's Services — Provided by Contractor's Fulfillment Partners.

a. Subject to Contractor's approval and the certifications held by its Fulfillment Partner, many Fulfillment Partners can also offer and provide some or all of the Services as listed above at competitive pricing, along with local presence and support. Contractor, as the prime, has sole discretion to determine what Services as listed above may be provided by the Fulfillment Partners. As the primary Contractor (OEM), Contractor is ultimately responsible for the service and performance of its Fulfillment Partners. Customers may have the option to purchase the Services to be directly delivered by Contractor (OEM) or its certified Fulfillment Partners.

2.4 Training — Learning offerings for IT professionals on networking technologies, including but not limited to designing, implementing, operating, configuring, and troubleshooting network systems pertaining to items provided under the master agreement.

Attachment C - Pricing Discounts & Value Added Services

Contractor ***Cisco Systems, Inc.***

Section 1: Pricing Notes

1. % discounts are based on minimum discounts off Contractor's commercially published pricelists versus fixed pricing. Nonetheless, Orders will be fixed-price or fixed-rate and not cost reimbursable contracts. Contractor has the ability to update and refresh its respective price catalog, as long as the agreed-upon discounts are fixed.

2. Minimum guaranteed contract discounts do not preclude Contractor and/or its Fulfillment Partners from providing deeper or additional, incremental discounts at their sole discretion.

3. Purchasing Entities shall benefit from any promotional pricing offered by Contractor to similar customers. Promotional pricing shall not be cause for a permanent price change.

4. Contractor's price catalog shall only include offers that are in contract scope and within the awarded categories. Quotes to eligible Purchasing Entities shall be based on the then-current approved price catalog as posted on the NASPO ValuePoint's website as well as the Contractor's mandatory contract webpage.

Section 2: Minimum Discount % off List	
Category 1.1 Unified Communications (UC)	
Hardware and Software (on premise)	35.00%
Cloud Services	10.00%
Service Packages (i.e., Maintenance, etc.)	10.00%
Category 1.2 Networking	
Hardware and Software (on premise)	35.00%
Cloud Services	10.00%
Service Packages (i.e., Maintenance, etc.)	10.00%
Category 1.3 Routers, Switches, Secuirty, and Networking Storage	
Hardware and Software (on premise)	35.00%
Cloud Services	10.00%
Service Packages (i.e., Maintenance, etc.)	10.00%
Category 1.4 Wireless	
Hardware and Software (on premise)	35.00%
Cloud Services	10.00%
Service Packages (i.e., Maintenance, etc.)	10.00%
Category 1.5 Facility Management, Monitoring, and Control	
Hardware and Software (on premise)	35.00%
Cloud Services	10.00%
Service Packages (i.e., Maintenance, etc.)	10.00%

Section 3: Value Added Services

		Hourly Rates					
		Weekday		Weekend		State Holiday	
Title	**Job Description**	**Onsite**	**Remote**	**Onsite**	**Remote**	**Onsite**	**Remote**
Maintenance Services	Non-Packaged (i.e. not SMART Total Care); Not-To-Exceed (NTE) Rates	$600.00	$525.00	$600.00	$525.00	$600.00	$525.00
Professional Services	i.e. Cisco Advanced Services, IoT, NTE	$743.17	$661.17	$743.17	$661.17	$743.17	$661.17
Deployment Services	i.e. Cisco Implementation Services, IoT, NTE	$743.17	$661.17	$743.17	$661.17	$743.17	$661.17
Consulting Advisory Services	i.e. Cisco Advisory Services, IoT, NTE	$743.17	$661.17	$743.17	$661.17	$743.17	$661.17
Architectural Design Services	i.e. Cisco Advanced Services, IoT, NTE	$743.17	$661.17	$743.17	$661.17	$743.17	$661.17
Statement of Work Services	i.e. Cisco Advanced Services, IoT, NTE	$743.17	$661.17	$743.17	$661.17	$743.17	$661.17
Partner Services	Basic Install & Config Only (i.e. rack & stack, cabling, etc.), IoT, NTE	$600.00	$525.00	$600.00	$525.00	$600.00	$525.00
Training Deployment Services	i.e. Software Adoption, Cisco Training Services, NTE	$600.00	$525.00	$600.00	$525.00	$600.00	$525.00

Att

STATE OF UTAH COOPERATIVE CONTRACT AMENDMENT

AMENDMENT # 1

CONTRACT # AR3227

Original Starting Date: October 1, 2019

Expiration Date: September 30, 2024

TO BE ATTACHED AND MADE PART OF the specified contract by and between the State of Utah Division of Purchasing and

Cisco Systems, Inc.

(Referred to as CONTRACTOR or CISCO)

BOTH PARTIES AGREE TO AMEND THE CONTRACT AS FOLLOWS:

Effective Date of Amendment: As of the last signature date below.

The parties hereto agree to amend the Master Agreement as follows:

1. Delete the below language in Master Agreement, Attachment A, Section 6.a Administrative Fees:

   "The Contractor shall pay to NASPO ValuePoint, or its assignee, a NASPO ValuePoint Administrative Fee of one-quarter of one percent (0.25% or 0.0025) no later than sixty (60) days following the end of each calendar quarter."

   and replace with the following:

   "The Contractor shall pay to NASPO ValuePoint, or its assignee, a NASPO ValuePoint Administrative Fee of one-quarter of one percent (0.25% or 0.0025) no later than **seventy-five (75)** days following the end of each calendar quarter."

2. Delete the below language in Master Agreement, Attachment A, Section 7.b NASPO ValuePoint Summary and Detailed Usage Reports Detailed Sales Data.

   "Reports are due on a quarterly basis and must be received by the Lead State and NASPO ValuePoint Cooperative Development Team no later than thirty (30) days after the end of the reporting period."

   and replace with the following:

   "Reports are due on a quarterly basis and must be received by the Lead State and NASPO ValuePoint Cooperative Development Team no later than **sixty (60)** days after the end of the reporting period."

All other terms and conditions of the contract, including those previously modified, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties sign and cause this contract to be executed.

CONTRACTOR

Jennifer Pate — April 1, 2020

Contractor's Signature — Date

Cisco Systems, Inc. — Jenn Pate

Contractor's Name (Print) — Authorized Signatory

Title (Print)

APPROVED BY LEGAL

STATE OF UTAH

Apr 1, 2020

State of Utah Division of Purchasing — Date

AMENDMENT REVIEWED BY:

Purchasing Agent	Phone #	e-mail	Fax #	Contract #
Solomon Kingston	801-957-7142	skingston@utah.gov	N/A	AR3227

PARTICIPATING ADDENDUM
NASPO ValuePoint
NASPO VALUEPOINT DATA COMMUNICATIONS PRODUCTS AND SERVICES
Administered by the State of Utah (hereinafter "Lead State")

MASTER AGREEMENT
Cisco Systems, Inc.
Master Agreement No: AR3227
(hereinafter "Contractor")

And

State of Nevada/99SWC-NV20-4447
(hereinafter "Participating State/Entity")

1. **Scope:** This Participating Addendum covers the Data Communications Products & Services Contract led by the State of Utah for use by state agencies and other entities located in the Participating State of Nevada authorized by that State's statutes to utilize State contracts with the prior approval of the State's Chief Procurement Official.

2. **Participation:** This NASPO ValuePoint Master Agreement may be used by all state agencies, institutions of higher education, political subdivisions and other entities authorized to use statewide contracts in the State of *Nevada.* Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.

3. **Participating State/Entity Modifications or Additions to Master Agreement:**
(These modifications or additions apply only to actions and relationships within the Participating Entity.)

Participating State/Entity to check one box.

[__] No changes to the terms and conditions of the Master Agreement are required

[XX] The following changes are modifying or supplementing the Master Agreement terms and conditions.

3.1 LOCAL GOVERNMENTS: Local governments (as defined in NRS §332.015) may join or use this or any contract resulting from the underlying RFP subject to all terms and conditions thereof pursuant to NRS §332.195. The State is not liable for the obligations of any local government which joins or uses this or any contract resulting from this Participating Addendum.

3.2 CUSTOMER FRIENDLY CATALOG: Contractor must develop, provide and maintain information to allow for online ordering capability through NevadaEPro. The Nevada Purchasing Division will work with the Contractor to determine whether a hosted or punchout platform is appropriate.

3.3 ADMINISTRATIVE FEE:

a. Contractor shall pay a quarterly administrative fee payable to the "State of Nevada Purchasing Division." The administrative fee is one percent (1%) and applies to all payments (net of returns, credits, or adjustments) received by the Contractor for all products and services provided in Nevada under the Master Agreement during the quarter beginning the date of execution of this Participating Addendum.

b. Applicable administrative fees shall not be included on the invoice as an individual line item.

c. All administrative fee payments shall include the contract number on any transmittal document. However, only one contract number must be entered on a transmittal document. If submitting an administrative fee payment for more than one contract, then a separate electronic payment and associated transmittal document must be submitted by the Contractor for each contract.

d. The State will not issue an invoice for the administrative fee owed to the State. It is the responsibility of the Contractor to pay the administrative fee with no prompting from the State. Contractor shall pay the quarterly administrative fee within forty five (45) days of quarter end (refer to section below).

e. Templates for the required quarterly reports listed below may be downloaded from the Purchasing Division website http://purchasing.nv.gov/vendors/DBINV/. Reports must be submitted via email to: NVQtlyReport@admin.nv.gov

f. Nevada Purchasing Division Statewide Contract Quarterly Administrative Fee Report:

Contractor shall complete the Statewide Contract Quarterly Administrative Fee Report. The report shall identify total payments (minus returns and credits) received by the Contractor from state agencies, the university and community college system, the Legislative Counsel Bureau, political subdivisions, and other authorized entities that were made pursuant to the contract.

g. Nevada Purchasing Division Statewide Contract Quarterly Usage Report:

Contractor shall complete the Statewide Contract Quarterly Usage Report to include at a minimum the data element information listed below:

Data Element	Description
Customer Name	Name of entity making the purchase—if customer has multiple locations, please use the main entity name.
Customer Type	Indicate the type of entity making the purchase: S=State Agency E=University and Community College P=Political Subdivision O=Other Entity
PO # or Other Authorization Type	Number provided by the customer to authorize the purchase. If purchase was made with a credit card enter P-Card.
Purchase Description	Description of the product or service purchased
Quantity	Quantities (excluding returns) of products delivered—enter a quantity of one (1) for a service.

Unit Price	Unit price charged (excluding credits) for the product or service purchased.
Total Cost	Total cost of the purchase—quantity delivered x unit price charged.

h. Fee Payment and Report Schedule:

Contractor shall pay the administrative fee quarterly, if owed, and provide the Quarterly Administrative Fee & Usage Report to the Purchasing Division even if no payments are made in a quarter in accordance with the following schedule:

Period End	**Report Due**
March 31	May 15
June 30	August 14
September 30	November 14
December 31	February 14

i. Report Modifications:

The Purchasing Division reserves the right to request modifications of the format and contents of the Quarterly Administrative Fee & Usage Report by providing thirty (30) calendar days written notice to the Contractor. In the event that Purchasing Division wishes to change the format, content and/or due date of the Quarterly Administrative Fee & Usage Report, Purchasing Division shall provide written notice of its desire for the modification(s) and shall work with Contractor to develop a mutually acceptable, modified schedule. Both parties shall formalize the agreement via an amendment to this Participating Addendum.

j. Timely Reports and Fees:

If the quarterly administrative fee is not paid and quarterly report is not received by forty-five (45) calendar days of quarter end, then the Contractor will be in material breach of this contract, unless Purchasing Division has provided an extension to Contractor

3.4 **Orders:** Any Order placed by a Participating Entity or Purchasing Entity for Products and Services from this Master Agreement shall be deemed to be a sale under (and governed by the prices and other terms and conditions) of the Master Agreement unless the parties to the Order agree in writing that another contract or agreement applies to such Order.

PARTICIPATING ADDENDUM
NASPO ValuePoint
NASPO VALUEPOINT DATA COMMUNICATIONS PRODUCTS AND SERVICES
Administered by the State of Utah (hereinafter "Lead State")

MASTER AGREEMENT
Cisco Systems, Inc.
Master Agreement No: AR3227
(hereinafter "Contractor")
And
State of Nevada/99SWC-NV20-4447
(hereinafter "Participating State/Entity")

Purchasers may place orders directly only through Contractor's approved Fulfillment Partners or through Contractor for Products and Services as authorized under this Participating Addendum. Only those Fulfillment Partners approved and listed during the term of Participating Addendum at Contractor's website are authorized to directly provide quotes, receive purchase orders, invoice Customers, and receive payment from purchasers on Contractor's behalf.

Except as otherwise set forth in the qualifying criteria, Contractor will not, directly or indirectly, restrict any Fulfillment Partner's participation or ability to quote pricing for a Customer. The approved Fulfillment Partners will not offer less favorable pricing discounts than the contract discounts established by Contractor under the Master Agreement. However, the Fulfillment Partner may offer any additional incremental discounts to Participating State/Entity, and such additional discounts if offered, may be provided in the discretion and as the sole legal obligation of the approved Fulfillment Partner to the Participating State/Entity.

The Master Agreement number AR3227 and the State Contract Number 99SWC-NV20-4447 must appear on every Purchase Order placed under this Participating Addendum.

3.5 **Product & Services Offering:** The full suite of Products and Services offerings available under Attachment B of the Master Agreement may be procured under this Participating Addendum. Products and Services offering categories as set forth in Attachment B of the Master Agreement include the following: Unified Communications (UC), Networking, Routers, Switches, Security and Networking Storage, Wireless, Facility Management, Monitoring and Control, Maintenance Services, Professional Services, Partner Services and Training.

3.6 Third party products must be purchased in conjunction with products offered under this agreement only; standalone purchases of third-party products are prohibited. Third-party products purchased under this agreement are subject to third-party licenses and warranties provided by the third party, and Cisco disclaims responsibility and liability for third-party products.

3.7 **Purchase Orders:** Orders $5,000.00 and over for Nevada State Agencies will be placed by formal purchase order issued by the Nevada State Purchasing Division. All orders will be shipped promptly in accordance with the terms of the Master Agreement and invoices shall be submitted to Nevada State Purchasing for payment. Invoices and all correspondence related to an individual order will reflect the purchase order number issued by the Nevada State Purchasing Division. Orders under $5,000.00 may be purchased direct by the using agency.

3.8 **Jurisdiction and Venue:** This Contract, its amendments and supplements thereto, shall be governed by the laws of the State of Nevada. Venue for all legal proceedings arising out of the Contract, or

breach thereof, shall be in the State or Federal Court with competent jurisdiction in Carson City, Nevada.

3.9 **Termination of the Participating Addendum:** This Participating Addendum may be canceled by the State of Nevada, Purchasing Division at any time, with or without cause, upon 30 days written notice to the contract vendor. Any such termination shall not affect the rights and obligations of orders outstanding at the time of termination, including any right of a purchaser to indemnification by the contract vendor, rights of payment for orders delivered, rights attending any warranty or default in performance in association with any order, and requirements for records administration and audit. In the event the contract vendor is in default, the contract is subject to immediate cancellation to the extent allowable by applicable law. In the event of such a cancellation, the contract vendor shall be entitled to payment, determined on a pro rata basis, for work or services satisfactorily performed and accepted. This Participating Addendum may be canceled by the contract vendor upon 60 days written notice to the State of Nevada, Purchasing Division.

3.10 **Services:** All **onsite** services such as installation, de-installation, training or ongoing maintenance, excluding warranty and break/fix support, requested by State agencies will require the implementation of an Independent Contract for Services per NRS 333, NAC 333 and SAM 0300.

3.11 **Delivery:** Contractor will use commercially reasonable efforts to ship all orders designated for shipment within 30 days for all products. Shipping terms are FOB destination, shipping and handling prepaid by the Contractor. All sales are final except as provided in Contractor's Limited Warranty. Contractor only permits the return of un-opened products due to Contractor's shipping or order processing error, or damage in transit. No other returns are authorized under the Master Agreement.

3.12 **Payment:** Payment is net thirty (30) days from invoice date. If, at any time, Purchaser is delinquent in payment, Contractor may, without prejudice to other rights, withhold shipment (including partial shipments) of any order. Any sum not paid by Purchaser when due shall bear interest until paid at a rate of 1 percent per month (12 percent per annum) or the maximum legal rate, whichever is less.

3.13 **Evaluation Equipment:** If the contractor, by mutual agreement with the Participating Entity, wishes to allow the use of equipment for the purposes of evaluation prior to purchase, these "try and buy" acquisitions must be approved in writing by the Purchasing Division **prior** to the evaluation period per SAM 1511.0 (5). Final purchases of the equipment shall comply with the terms of the Master Price Agreement and Participating Addendum.

3.14 **Lease Agreements:** Lease agreement terms and conditions have **not** been approved for use by Purchasing Entities under this Participating Addendum. Lease financing **may** be allowable separately under the terms and conditions of the Capital Leasing financing arrangement with Cisco Capital, or its

designated and/or approved financing partner, as negotiated and agreed to by the using entity, the State of Nevada Attorney General's Office and approval by the Board of Examiners, as applicable.

4. **Primary Contacts**: The primary contact individuals for this Participating Addendum are as follows (or their named successors):

Contractor

Name:	Gigi Feril
Address:	170 W. Tasman Drive, San Jose, CA 95134
Telephone:	408-424-0712
Fax:	408-608-1729
Email:	nvp-help@cisco.com

Participating Entity

Name:	Marti Marsh
Address:	515 E. Musser St., Room 300, Carson City, NV 89701
Telephone:	775-684-0180
Fax:	775-684-0188
Email:	mmarsh@admin.nv.gov

5. **Subcontractors**: All contractors, dealers, and resellers authorized for the State of *Nevada* as shown on the dedicated Contractor (cooperative contract) website, are approved to provide sales and service support to Purchasing Entities in the NASPO ValuePoint Master Agreement. The contractor's Fulfillment Partners participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement.

Subject to approval of the Participating State/Entity, and at the sole discretion of Contractor, Contractor may add Fulfillment Partners at any time during the term of this Participating Addendum. Contractor may designate a minimum or maximum number of Fulfilment Partners to provide sales and services support. Contractor, in its sole discretion, is not required to add Fulfillment Partners. Notwithstanding the foregoing, Contractor may remove, at its sole discretion, upon ten (10) business days advance written notice, any Fulfillment Partner who does not meet Contractor's established qualifying criteria, or where the addition of the Fulfillment Partner would violate any state or federal law or regulation.]

6. **Term:** The term of this Participating Addendum shall begin on the date of last signature below. The term shall continue for a period ending on the Termination Date of the Master Agreement, as amended, or when this Participating Addendum is terminated in accordance with the Master Agreement, whichever shall occur first.

PARTICIPATING ADDENDUM
NASPO ValuePoint
NASPO VALUEPOINT DATA COMMUNICATIONS PRODUCTS AND SERVICES
Administered by the State of Utah (hereinafter "Lead State")

MASTER AGREEMENT
Cisco Systems, Inc.
Master Agreement No: AR3227
(hereinafter "Contractor")
And
State of Nevada/99SWC-NV20-4447
(hereinafter "Participating State/Entity")

7. **Notices**: Notwithstanding anything contained in the Master Agreement to the contrary, all notices required or permitted under this Participating Addendum will be in writing and will be deemed given: (a) when delivered personally; (b) when sent by confirmed facsimile or electronic mail (in the case of Cisco to Agreement-notice@cisco.com); (c) three (3) days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (d) one (1) day after deposit with a commercial express courier specifying next day delivery, with written verification of receipt. All communications will be sent to the addresses set forth Section 3 of this Participating Addendum (and notices to Cisco shall be further addressed to the Office of the General Counsel, Attn: Contract Notice) or such other address as may be designated by a party by giving written notice to the other party pursuant to this paragraph, or, in the absence of such an address from Customer, to the address to which the last invoice under this Participating Addendum was sent before notice is served.

8. **Entire Agreement**: This Participating Addendum and the Master Agreement (including all amendments and attachments thereto) constitute the entire agreement between the parties concerning the subject matter of this Participating Addendum and replaces any prior oral or written communications between the parties, all of which are excluded. There are no conditions, understandings, agreements, representations or warranties, expressed or implied, that are not specified herein. This Participating Addendum may be modified only by a written document executed by the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Addendum as of the date of execution by both parties below.

Participating State: **Nevada**	Contractor: **Cisco Systems Inc.**
By: Kevin D. Doty	By: Jenn Pate
Name: **Kevin D. Doty**	Name: Jenn Pate
Title: **Administrator**	Title: Authorized Signatory
Date: 4/24/2020	Date: April 13, 2020

APPROVED BY LEGAL

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

2. Policy

In accordance with Resolutions 79-99, 105-99 and RA-4-99, 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: Cisco Systems, Inc.	
Address: 170 West Tasman Drive	**City / ST / Zip:** San Jose, CA 95134
Telephone: 408-526-4000	**EIN or DUNS :** 77-0059951
Block 2: Description / Subject Matter of Contract	
Services for: Cisco Systems Equipment and Services	**Project Number:** 210082-JL

Block 3: **Type of Business**

☐ 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: Sched 14A – Annual Proxy Statement (see page 73) (updated annually)

Date of Attached Document: filed Oct 21, 2020 Number of Pages: 138

Contracting Party Certification

I declare under penalty of perjury under the law of the State of Nevada, that the foregoing is true and correct. I further certify that I am an individual authorized to contractually bind the above named Contracting Entity.

Jenn Pate

Authorized Signatory

Signature

November 18, 2020

Date

APPROVED BY LEGAL

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

SCHEDULE 14A

Proxy Statement Pursuant to Section 14(a) of the Securities Exchange Act of 1934 (Amendment No.)

Filed by the Registrant ☒

Filed by a Party other than the Registrant ☐

Check the appropriate box:

☐ Preliminary Proxy Statement
☐ Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
☒ Definitive Proxy Statement
☐ Definitive Additional Materials
☐ Soliciting Material Pursuant to § 240.14a-12

CISCO SYSTEMS, INC.

(Name of Registrant as Specified in Its Charter)

(Name of Person(s) Filing Proxy Statement, if Other Than the Registrant)

Payment of Filing Fee (Check the appropriate box):

☒ No fee required.
☐ Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

(1) Title of each class of securities to which transaction applies:

(2) Aggregate number of securities to which transaction applies:

(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11(set forth the amount on which the filing fee is calculated and state how it was determined):

(4) Proposed maximum aggregate value of transaction:

(5) Total fee paid:

☐ Fee paid previously with preliminary materials.
☐ Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

(1) Amount previously paid:

(2) Form, Schedule or Registration Statement No.:

(3) Filing Party:

(4) Date Filed:

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Notice of
2020 Annual Meeting of Shareholders and Proxy Statement

Date and Time:	December 10, 2020 at 8:00 a.m. Pacific Time
Virtual:	Attend the annual meeting online, including submitting questions and voting, at *www.virtualshareholdermeeting.com/CSCO2020*

October 19, 2020

Dear Cisco Shareholder:

You are cordially invited to participate in the Annual Meeting of Shareholders of Cisco Systems, Inc., which will be held online on Thursday, December 10, 2020 at 8:00 a.m. Pacific Time. Details of the business to be conducted at the annual meeting are given in the Notice of Annual Meeting of Shareholders and the Proxy Statement. You will find a Proxy Summary starting on the first page of the Proxy Statement.

We are using the Internet as our primary means of furnishing proxy materials to shareholders. Consequently, most shareholders will not receive paper copies of our proxy materials. We will instead send these shareholders a notice with instructions for accessing the proxy materials and voting via the Internet. The notice also provides information on how shareholders may obtain paper copies of our proxy materials if they so choose.

We encourage shareholders to consent to online delivery of shareholder materials via the Cisco website at *investor.cisco.com* . Navigate to "Resources & FAQs" via the menu at the top left-hand corner, and then to "Personal Investing". Consent to online delivery of shareholder materials is available under the heading "Electronic Enrollment". Thank you for your support of our efforts to preserve resources by reducing mail.

Due to the public health impact of the COVID-19 pandemic and to support the health and well-being of our employees and shareholders, we are pleased to provide shareholders with the opportunity to participate in the annual meeting online via the Internet to facilitate shareholder attendance and provide a consistent experience to all shareholders regardless of location. We will provide a live webcast of the annual meeting at *www.virtualshareholdermeeting.com/CSCO2020,* where you will also be able to submit questions and vote online.

Charles H. Robbins
Chairman and Chief Executive Officer

San Jose, California

Your Vote is Important

Whether or not you participate in the Annual Meeting, it is important that your shares be part of the voting process. See the section entitled "Information about the Meeting — Voting via the Internet, by Telephone or by Mail" on page 82 of the Proxy Statement for detailed information regarding voting instructions.

Notice of Annual Meeting of Shareholders

Date December 10, 2020

Time 8:00 a.m. Pacific Time

Virtual Attend the annual meeting online, including voting and submitting questions, at *www.virtualshareholdermeeting.com/CSCO2020*

Record date October 12, 2020

Items of business

- To elect to Cisco's Board of Directors the following ten nominees presented by the Board of Directors: M. Michele Burns, Wesley G. Bush, Michael D. Capellas, Mark Garrett, Dr. Kristina M. Johnson, Roderick C. McGeary, Charles H. Robbins, Arun Sarin, Brenton L. Saunders and Dr. Lisa T. Su
- To vote upon a proposal to approve the reincorporation of Cisco from California to Delaware by means of a merger with and into a wholly-owned Delaware subsidiary
- To approve the amendment and restatement of the Cisco Systems, Inc. 2005 Stock Incentive Plan ("2005 Stock Incentive Plan")
- To vote on a non-binding advisory resolution to approve executive compensation
- To ratify the appointment of PricewaterhouseCoopers LLP as Cisco's independent registered public accounting firm for the fiscal year ending July 31, 2021
- To vote upon a proposal submitted by a shareholder, if properly presented at the annual meeting
- To act upon such other matters as may properly come before the annual meeting or any adjournments or postponements thereof

Proxy voting Whether or not you plan to participate in the annual meeting, please vote as soon as possible. Please refer to the section entitled "Information about the Meeting — Voting via the Internet, by Telephone or by Mail" on page 82 of the Proxy Statement for a description of how to vote in advance of the meeting.

By Order of the Board of Directors

Evan Sloves
Secretary

San Jose, California
October 19, 2020

Proxy Statement for 2020 Annual Meeting of Shareholders

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PROXY SUMMARY

These proxy materials are provided in connection with the solicitation of proxies by the Board of Directors of Cisco Systems, Inc., a California corporation, for the Annual Meeting of Shareholders to be held on December 10, 2020, and at any adjournments or postponements of the annual meeting. These proxy materials were first sent on or about October 21, 2020 to shareholders entitled to vote at the annual meeting.

This summary highlights selected information about the items to be voted on at the annual meeting and information contained elsewhere in this Proxy Statement. This summary does not contain all of the information that you should consider in deciding how to vote, and you should read the entire Proxy Statement carefully before voting. For more complete information about these topics, please review our Annual Report on Form 10-K and the entire Proxy Statement. The information contained on cisco.com or any other website referred to herein is provided for reference only and is not incorporated by reference into this Proxy Statement.

Participating in the Annual Meeting

Date and Time

Thursday, December 10, 2020
8:00 a.m. Pacific Time

Online check-in starts at 7:45 a.m. Pacific Time

Participating online via the Internet

Attend the annual meeting online at
www.virtualshareholdermeeting.com/CSCO2020

Shareholders may vote and submit questions while attending the meeting online via the Internet. For a description of how to participate online via the Internet, see the section entitled "Information about the Meeting — Participating in the Meeting"

Annual Meeting Proposals

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1 — Election of Directors	FOR each of the nominees	7
2 — Approval of the Reincorporation of Cisco from California to Delaware	FOR	20
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4 — Advisory Vote to Approve Executive Compensation	FOR	40
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Corporate Governance Highlights

Cisco's Board of Directors is composed of skilled and diverse directors and has established robust corporate governance practices and policies. The Board believes strongly in the value of an independent board of directors. Cisco has established a Lead Independent Director role with broad authority and responsibility, which is currently filled by Mr. Capellas. See the "Corporate Governance" section for more information on the following:

- Our corporate governance policies and practices and where you can find key information regarding our corporate governance initiatives
- Our balanced Board leadership structure and qualifications, including a Lead Independent Director, with currently 90% of the members being independent
- Our shareholder engagement during fiscal 2020, during which we engaged with shareholders representing approximately 27% of our outstanding shares, including 65% of our top 30 shareholders on a variety of topics, including our business and long-term strategy, corporate governance and risk management practices, board leadership and refreshment, diversity, corporate social responsibility initiatives (including environmental, social, and governance matters), our executive compensation program, and other matters of shareholder interest

Business Overview

As our customers add billions of new connections to their enterprises, and as more applications move to a multicloud environment, the network becomes even more critical. Our customers are navigating change at an unprecedented pace and our mission is to inspire new possibilities for them by helping transform their infrastructure, expand applications and analytics, address their security needs, and empower their teams. We believe that our customers are looking for intent-based networks that provide meaningful business value through automation, security, and analytics across private, hybrid, and multicloud environments. Our vision is to deliver highly secure, software-defined, automated and intelligent platforms for our customers.

We are expanding our research and development (R&D) investments in certain product areas including cloud security, cloud collaboration, and application insights and analytics. We are investing to optimize our product offerings for application to education, healthcare and other specific industries. We are also making investments to enable us to increase automation and support the customer as the workplace changes. In addition, we continue to remain focused on investments around Software-Defined Wide Area Networking, multicloud environments, 5G and WiFi-6, 400G speeds, optical networking, next generation silicon and artificial intelligence (AI). We are also accelerating our efforts to enable the delivery of network functionality as a service.

Executive Compensation Highlights

Our pay practices align with our pay-for-performance philosophy and underscore our commitment to sound compensation and governance practices.

Our executive compensation program rewards performance	Compensation philosophy designed to attract and retain, motivate performance, and reward achievement
	Performance measures aligned with shareholder interests
	Majority of annual total direct compensation is performance-based
	No dividends paid on unvested awards
We apply leading executive compensation practices	Independent compensation committee
	Independent compensation consultant
	Comprehensive annual compensation program risk assessment
	Caps on incentive compensation
	None of our executive officers have employment, severance or change in control agreements
	Stock ownership guidelines
	Recoupment policy
	No single-trigger vesting of equity award grants
	No stock option repricing or cash-out of underwater equity awards
	“No perks” policy with limited exceptions
	No supplemental executive retirement plan or executive defined benefit pension plan
	No golden parachute tax gross-ups
	Broad anti-pledging and anti-hedging policies

CORPORATE GOVERNANCE

Corporate Governance Policies and Practices

Cisco is committed to shareholder-friendly corporate governance and the Board of Directors has adopted clear corporate policies that promote excellence in corporate governance. We have adopted policies and practices that are consistent with our commitment to transparency and best-in-class practices, as well as to ensure compliance with the rules and regulations of the Securities and Exchange Commission, the listing requirements of Nasdaq, and applicable corporate governance requirements. Key corporate governance policies and practices include:

- The Board of Directors has held annual elections of directors since Cisco's initial public offering
- The Board of Directors has adopted majority voting for uncontested elections of directors
- A majority of the Board of Directors is independent of Cisco and its management
- The Board of Directors has a robust Lead Independent Director role
- The independent members of the Board of Directors meet regularly without the presence of management
- Shareholders may recommend a director nominee to Cisco's Nomination and Governance Committee
- Shareholders that meet eligibility requirements may submit director candidates for election in Cisco's proxy statement through its proxy access bylaw provision
- Shareholders have the right to take action by written consent
- Shareholders have the right to call a special meeting
- No poison pill
- All members of the key committees of the Board of Directors — the Audit Committee, the Compensation Committee, and the Nomination and Governance Committee — are independent
- The charters of the committees of the Board of Directors clearly establish the committees' respective roles and responsibilities
- Cisco has a clear Code of Business Conduct ("COBC") that is monitored by Cisco's ethics office and is annually affirmed by its employees
- Cisco's ethics office has a hotline available to all employees, and Cisco's Audit Committee has procedures in place for the anonymous submission of employee complaints on accounting, internal accounting controls, or auditing matters
- Cisco has adopted a code of ethics that applies to its principal executive officer and all members of its finance department, including the principal financial officer and principal accounting officer
- Cisco's internal audit function maintains critical oversight over the key areas of its business and financial processes and controls, and reports directly to Cisco's Audit Committee
- Cisco has adopted a compensation recoupment policy that applies to its executive officers
- Cisco has stock ownership guidelines for its non-employee directors and executive officers

Key information regarding Cisco's corporate governance initiatives can be found on its website, including Cisco's corporate governance policies, Cisco's COBC and the charter for each committee of the Board of Directors. The corporate governance page can be found in the Governance section of Cisco's Investor Relations website at *investor.cisco.com*.

Board Leadership Structure

Cisco's Board of Directors believes strongly in the value of an independent board of directors. Independent board members have consistently comprised over 75% of the members of Cisco's Board of Directors. All members of the key board committees — the Audit Committee, the Compensation Committee, and the Nomination and Governance Committee — are independent. Cisco has established a Lead Independent Director role with broad authority and responsibility, as described further below. The independent members of the Board of Directors also meet regularly without management; the Lead Independent Director chairs those meetings. Mr. Capellas currently serves as Lead Independent Director, and Mr. Robbins currently serves as Cisco's Board chair and CEO.

The Board of Directors believes that it should maintain flexibility to select Cisco's board leadership structure from time to time. Our policies do not preclude the CEO from also serving as Board chair. Mr. Robbins, our CEO, also serves as Board chair. The Board of Directors believes that this leadership structure with a strong Lead Independent Director provides balance and currently is in the best interest of Cisco and its shareholders. The role given to the Lead Independent Director helps ensure a strong independent and active Board, while Mr. Robbins' demonstrated leadership during his tenure at Cisco, and his ability to speak as Board chair and CEO provides strong unified leadership for Cisco. In connection with Mr. Capellas' appointment as Lead Independent Director, the Board of Directors considered Mr. Capellas' demonstrated leadership during his tenure as a member of the Board of Directors, and also his leadership during his tenure as chair of both the Finance and Acquisition Committees, and believes that Mr. Capellas' ability to act as a strong Lead Independent Director provides balance in Cisco's leadership structure and will be in the best interest of Cisco and its shareholders.

The Lead Independent Director is elected by and from the independent directors. Each term of service in the Lead Independent Director position is one year, and the Lead Independent Director has the following responsibilities:

- authority to call meetings of the independent directors
- presiding at all meetings of the Board of Directors at which the Chairman is not present, including executive sessions of the independent directors (during which Cisco's strategy is reviewed and other topics are discussed)
- serving as principal liaison between the independent directors and the Chairman and CEO
- communicating from time to time with the Chairman and CEO and disseminating information to the rest of the Board of Directors as appropriate
- providing leadership to the Board of Directors if circumstances arise in which the role of the Board chair may be, or may be perceived to be, in conflict
- reviewing and approving agendas, meeting schedules to assure that there is sufficient time for discussion of all agenda items, and information provided to the Board (including the quality, quantity, and timeliness of such information)
- being available, as appropriate, for consultation and direct communication with major shareholders
- presiding over the annual performance evaluation of the Board of Directors, including the performance evaluation of each Board committee and individual Board members
- facilitating the Board of Directors' performance evaluation of the CEO in conjunction with the Compensation Committee

Board Performance Evaluation Process

The Board of Directors recognizes that a robust and constructive performance evaluation process is an essential component of Board effectiveness. As such, the Board of Directors conducts an annual Board performance evaluation that is intended to determine whether the Board, each of its committees, and individual Board members are functioning effectively, and to provide them with an opportunity to reflect upon and improve processes and effectiveness. The Nomination and Governance Committee oversees this process, which is led by the Lead Independent Director. The Lead Independent Director, along with outside counsel, conducts one-on-one discussions with each board member and certain members of management to obtain their assessment of the effectiveness and performance of the Board, its committees, and individual Board members. A summary of the results is presented to the Nomination and Governance Committee identifying any themes or issues that have emerged. The results are then reported to the full Board of Directors which considers the results and ways in which Board processes and effectiveness may be enhanced.

Board Refreshment

Cisco regularly evaluates the need for board refreshment. The Nomination and Governance Committee, and the Board of Directors, are focused on identifying individuals whose skills and experiences will enable them to make meaningful contributions to the shaping of Cisco's business strategy. During fiscal 2020, the Board of Directors appointed Dr. Lisa T. Su to the Board upon the recommendation of the Nomination and Governance Committee. For more information on the skills and experience of Dr. Su, see "Board of Directors — Proposal No. 1 — Election of Directors".

As part of its consideration of director succession, the Nomination and Governance Committee from time to time reviews the appropriate skills and characteristics required of board members such as diversity of business experience, viewpoints and personal background, and diversity of skills in technology, finance, marketing, international business, financial reporting and other areas that are expected to contribute to an effective Board of Directors. Additionally, due to the global and complex nature of our business, the Board believes it is important that the Board include individuals with diversity of race, ethnicity, gender, sexual orientation, age, education, cultural background, and professional experiences, and those factors are considered in evaluating board candidates in order to provide practical insights and diverse perspectives.

The Nomination and Governance Committee and the Board will regularly evaluate the key qualifications, skills and attributes required in order to effectively refresh the Board with engaged and dynamic leaders with a proven business track record who will bring fresh perspectives to the Board while maintaining the productive working dynamics and collegiality of the Board. The graph below summarizes key qualifications, skills and attributes that we believe are most relevant to the decision to nominate candidates to serve on the Board of Directors and the prevalence of those characteristics on Cisco's current Board.

1 Categories covered under California law AB 979.

See the "Board of Directors — Proposal No. 1 — Election of Directors — Board Meetings and Committees — Nomination and Governance Committee" section in this Proxy Statement for more information on the process and procedures related to the Board nomination process.

Shareholder Engagement

At Cisco, we recognize the importance of regular and transparent communication with our shareholders. Each year, we continually engage with a significant portion of shareholders that include our top institutional investors. In fiscal 2020, our Chairman and CEO, Secretary, and Investor Relations team held meetings and conference calls with investors representing approximately 27% of our outstanding shares, including 65% of our top 30 shareholders. We engaged with these shareholders on a variety of topics, including our business and long-term strategy, corporate governance and risk management practices, board leadership and refreshment, diversity, corporate social responsibility initiatives (including environmental, social, and governance matters), our executive compensation program, and other matters of shareholder interest.

Corporate Social Responsibility

Cisco's Corporate Social Responsibility (CSR) efforts are organized into several areas that guide our work to power an inclusive future for all: trust and responsibility, leading a conscious culture, energy and greenhouse gas (GHG) emissions, circular economy, supply chain excellence, and technology for good. For fiscal 2020, we have adjusted our CSR pillars to describe our commitments, goals, and impacts more specifically and to focus on the environmental, social and governance (ESG) topics that are significant to Cisco. During fiscal 2020, we also engaged with shareholders on our CSR and sustainability initiatives.

Cisco Corporate Affairs leads our social investment programs and champions our commitment to CSR performance and transparency. This team engages with internal and external stakeholders and leads CSR assessment and reporting activities, which are aligned with standards set by the Global Reporting Initiative (GRI). Cisco supports the United Nations' Sustainable Development Goals and aligns its ESG work with them.

The team works cross-functionally to assess and monitor CSR priorities, drive process for CSR management, and provide reporting guidance and coordination across business functions. CSR priorities are owned by business functions and are integrated into ongoing business strategy and planning. Business functions set CSR goals, implement plans, and measure performance. Where a cross-functional approach is needed, teams are established to implement our commitments. The Nomination and Governance Committee of the Board reviews Cisco's policies and programs concerning corporate social responsibility, including ESG matters.

Cisco has signed the CEO Action for Diversity and Inclusion Pledge. We are delivering on our vision of accelerating full-spectrum diversity — including gender, age, race, ethnicity, orientation, ability, nationality, religion, veteran status, background, culture, experience, strengths and perspectives. It starts at the top in that 40% of our Executive Leadership Team (ELT) are women and 53% are diverse in terms of gender and ethnicity.

For more information about our programs concerning Cisco's CSR, including ESG matters, see our CSR website at *csr.cisco.com*. Our 2020 CSR Impact Report and Environmental Technical Review are expected to be published in December 2020.

Public Policy Engagements

Information about Cisco's public policy engagement approach, including its policy priorities, the limitations it imposes on itself relating to public policy-related activities, and the manner in which it discloses its public policy efforts, is disclosed on Cisco's public website on a webpage entitled "Government Affairs": *https://www.cisco.com/c/en/us/about/government-affairs.html*. In part as a result of proactive engagement with its shareholders, Cisco regularly reviews and updates this webpage. For example, in fiscal 2019 Cisco expanded disclosure to now include its annual payments to trade associations and political action committee contributions.

Proxy Access

Following a robust review of shareholder feedback, corporate governance best practices and trends, and Cisco's particular facts and circumstances, in July 2016, the Board of Directors adopted amendments to Cisco's bylaws to allow a shareholder, or a group of up to 20 shareholders, owning continuously for at least three years a number of Cisco shares that constitutes at least 3% of Cisco's outstanding shares, to nominate and include in Cisco's proxy materials director nominees constituting up to the greater of two individuals or 20% of the Board of Directors. The amended bylaws specifically allow funds under common management to be treated as a single shareholder, and permit share lending with a five day recall. They do not contain any post-meeting holding requirements, do not have any limits on resubmission of failed nominees, and do not contain restrictions on third-party compensation.

Shareholder Communications with the Board of Directors

Shareholders may communicate with Cisco's Board of Directors through Cisco's Secretary by sending an email to bod@cisco.com, or by writing to the following address: Board of Directors, c/o Secretary, Cisco Systems, Inc., 170 West Tasman Drive, San Jose, California 95134. Shareholders also may communicate with Cisco's Compensation Committee through Cisco's Secretary by sending an email to compensationcommittee@cisco.com, or by writing to the following address: Compensation and Management Development Committee, c/o Secretary, Cisco Systems, Inc., 170 West Tasman Drive, San Jose, California 95134. Cisco's Secretary will forward all correspondence to the Board of Directors or the Compensation Committee, except for spam, junk mail, mass mailings, product or service complaints or inquiries, job inquiries, surveys, business solicitations or advertisements, or patently offensive or otherwise inappropriate material. Cisco's Secretary may forward certain correspondence, such as product-related inquiries, elsewhere within Cisco for review and possible response.

BOARD OF DIRECTORS

Proposal No. 1 — Election of Directors

The names of persons who are nominees for director and their current positions and offices with Cisco are set forth in the table below. The proxy holders intend to vote all proxies received by them for the nominees listed below unless otherwise instructed. Each of the current directors has been nominated for election by the Board of Directors upon recommendation by the Nomination and Governance Committee and has decided to stand for election. The authorized number of directors is ten.

The Board of Directors appointed Dr. Lisa T. Su to the Board in January 2020 upon the recommendation of the Nomination and Governance Committee. Dr. Su was brought to the attention of the Nomination and Governance Committee as a potential candidate by a third-party search firm.

Director Nominees	Positions and Offices Held with Cisco	Age	Director Since	Other Public Company Boards
M. Michele Burns	Director	62	2003	3
Wesley G. Bush	Director	59	2019	2
Michael D. Capellas	Director	66	2006	2
Mark Garrett	Director	62	2018	3
Dr. Kristina M. Johnson	Director	63	2012	—
Roderick C. McGeary	Director	70	2003	2
Charles H. Robbins	Chairman and CEO	54	2015	1
Arun Sarin	Director	65	2009	3
Brenton L. Saunders	Director	50	2017	2
Dr. Lisa T. Su	Director	50	2020	1

Business Experience and Qualifications of Nominees

Ms. Burns, 62, has been a member of the Board of Directors since November 2003. She has served on the Advisory Board of the Center on Longevity at Stanford University since October 2019 and previously served as the Center Fellow and Strategic Advisor from August 2012 to October 2019. She served as the Chief Executive Officer of the Retirement Policy Center sponsored by Marsh & McLennan Companies, Inc. from October 2011 to February 2014. From September 2006 to October 2011, Ms. Burns served as Chairman and Chief Executive Officer of Mercer LLC, a global leader for human resources and related financial advice and services. She assumed that role after joining Marsh & McLennan Companies, Inc. in March 2006 as Chief Financial Officer. From May 2004 to January 2006, Ms. Burns served as Chief Financial Officer and Chief Restructuring Officer of Mirant Corporation, where she successfully helped Mirant restructure and emerge from bankruptcy. In 1999, Ms. Burns joined Delta Air Lines, Inc. assuming the role of Chief Financial Officer in 2000 and holding that position through April 2004. She began her career in 1981 at Arthur Andersen LLP and became a partner in 1991. Ms. Burns also currently serves on the boards of directors of Anheuser-Busch InBev SA/NV, Etsy, Inc. and The Goldman Sachs Group, Inc. She previously served as a director of Alexion Pharmaceuticals, Inc., ending in 2018.

Ms. Burns provides to the Board of Directors expertise in corporate finance, accounting and strategy, including experience gained as the chief financial officer of three public companies. Through her experience gained as chief executive officer of Mercer, she brings expertise in global and operational management, including a background in organizational leadership and human resources. Ms. Burns also has experience serving as a public company outside director.

Mr. Bush, 59, has been a member of the Board of Directors since May 2019. He served as Chief Executive Officer of Northrop Grumman Corporation ("Northrop Grumman") from January 2010 through December 2018 and served on its board from September 2009 to July 2019 and in the role of chairman from July 2011 to July 2019. Prior to January 2010, he served in various leadership roles, including as Northrop Grumman's President and Chief Operating Officer, Corporate Vice President and Chief Financial Officer, and President of its Space Technology sector. Mr. Bush also served in various leadership roles at TRW Inc. prior to its acquisition by Northrop Grumman in 2002. Mr. Bush is a member of the National Academy of Engineering. Mr. Bush also currently serves on the board of directors of Dow Inc. and General Motors Corporation. He previously served as a director of Norfolk Southern Corporation and Northrop Grumman Corporation, each ending in 2019.

Mr. Bush brings to the Board of Directors his extensive international business experience, including over 35 years in the aerospace and defense industry. In addition, he brings extensive financial, strategic and operational experience. Mr. Bush also has experience serving as a public company outside director.

Mr. Capellas, 66, has been a member of the Board of Directors since January 2006. He has served as founder and Chief Executive Officer of Capellas Strategic Partners since November 2012. He served as Chairman of the Board of VCE Company, LLC from January 2011 until November 2012 and as Chief Executive Officer of VCE from May 2010 to September 2011. Mr. Capellas was the Chairman and Chief Executive Officer of First Data Corporation from September 2007 to March 2010. From November 2002 to January 2006, he served as Chief Executive Officer of MCI, Inc. ("MCI"), previously WorldCom. From November 2002 to March 2004, he was also Chairman of the Board of WorldCom, and he continued to serve as a member of the board of directors of MCI until January 2006. Mr. Capellas left MCI as planned in early January 2006 upon its acquisition by Verizon Communications Inc. Previously, Mr. Capellas was President of Hewlett-Packard Company from May 2002 to November 2002. Before the merger of Hewlett-Packard and Compaq Computer Corporation in May 2002, Mr. Capellas was President and Chief Executive Officer of Compaq, a position he had held since July 1999, and Chairman of the Board of Compaq, a position he had held since September 2000. Mr. Capellas held earlier positions as Chief Information Officer and Chief Operating Officer of Compaq. Mr. Capellas also currently serves as the chairman of the board of directors of Flex Ltd. and on the board of directors of Vesper Healthcare Acquisition Corp. He previously served as lead independent director of MuleSoft, Inc., ending in 2018.

Mr. Capellas brings to the Board of Directors experience in executive roles and a background of leading global organizations in the technology industry. Through this experience, he has developed expertise in several valued areas including strategic product development, business development, sales, marketing, and finance.

Mr. Garrett, 62, has been a member of the Board of Directors since April 2018. Mr. Garrett served as Executive Vice President and Chief Financial Officer of Adobe Systems Incorporated from February 2007 to April 2018. From January 2004 to February 2007, Mr. Garrett served as Senior Vice President and Chief Financial Officer of the Software Group of EMC Corporation. From August 2002 to January 2004 and from 1997 to 1999, Mr. Garrett served as Executive Vice President and Chief Financial Officer of Documentum, Inc., including throughout its acquisition by EMC in December 2003. Mr. Garrett also currently serves on the boards of directors of GoDaddy Inc., Pure Storage, Inc. and Snowflake Inc. He previously served as a director of Informatica Corporation, ending in 2015 and Model N, Inc., ending in 2016.

Mr. Garrett brings to the Board of Directors extensive history of leadership in finance and accounting in the technology industry, including experience in product and business model transition and transformation to the cloud. Mr. Garrett also has experience serving as a public company outside director.

Dr. Johnson, 63, has been a member of the Board of Directors since August 2012. Dr. Johnson has served as the President of The Ohio State University since September 1, 2020. Previously Dr. Johnson served as the chancellor of the State University of New York from September 2017 to August 2020. From January 2014 to September 2017, Dr. Johnson served as the Chief Executive Officer of Cube Hydro Partners, LLC, a clean energy company, and a joint venture between Enduring Hydro, a company she founded in January 2011 and I Squared Capital, a private equity firm. From May 2009 to October 2010, Dr. Johnson served as Under Secretary of Energy at the U.S. Department of Energy. Prior to this, Dr. Johnson was Provost and Senior Vice President for Academic Affairs at The Johns Hopkins University from 2007 to 2009 and Dean of the Pratt School of Engineering at Duke University from 1999 to 2007. Previously, she served as a professor in the Electrical and Computer Engineering Department, University of Colorado and as director of the National Science Foundation Engineering Research Center for Optoelectronics Computing Systems at the University of Colorado, Boulder. She holds 119 U.S. and international patents and has received the John Fritz Medal, widely considered the highest award given in the engineering profession. Dr. Johnson was inducted into the National Inventors Hall of Fame in 2015 and she is also a member of the National Academy of Engineering. She previously served as a director of Boston Scientific Corporation, ending in 2017 and The AES Corporation, ending in 2019.

Dr. Johnson brings to the Board of Directors an engineering background as well as expertise in science, technology, business, education and government. In addition, she has leadership and management experience, both in an academic context as chancellor, provost and dean of nationally recognized academic institutions and in a corporate context as a board member of public technology companies.

Mr. McGeary, 70, has been a member of the Board of Directors since July 2003. He served as Chairman of Tegile Systems, Inc. from June 2010 to June 2012. From November 2004 to December 2009, he served as Chairman of the Board of BearingPoint, Inc. and also was interim Chief Executive Officer of BearingPoint from November 2004 to March 2005. Mr. McGeary served as Chief Executive Officer of Brience, Inc. from July 2000 to July 2002. From April 2000 to June 2000, he served as a Managing Director of KPMG Consulting LLC, a wholly owned subsidiary of BearingPoint, Inc. (formerly KPMG Consulting, Inc.). From August 1999 to April 2000, he served as Co-President and Co-Chief Executive Officer of BearingPoint, Inc. From January 1997 to August 1999, he was employed by KPMG LLP as its Co-Vice Chairman of Consulting. Prior to 1997, he served in several capacities with KPMG LLP, including audit partner for technology clients. Mr. McGeary is a Certified Public Accountant and holds a B.S. degree in Accounting from Lehigh University. Mr. McGeary also currently serves on the boards of directors of PACCAR Inc. and Raymond James Financial, Inc.

Mr. McGeary brings to the Board of Directors a combination of executive experience in management and technology consulting. He also has expertise in leading talented teams as well as skills in finance, accounting and auditing with technology industry experience.

Mr. Robbins, 54, has served as Chief Executive Officer since July 2015, as a member of the Board of Directors since May 2015 and as Chairman of the Board since December 2017. He joined Cisco in December 1997, from which time until March 2002 he held a number of managerial positions within Cisco's sales organization. Mr. Robbins was promoted to Vice President in March 2002, assuming leadership of Cisco's U.S. channel sales organization. Additionally, in July 2005 he assumed leadership of Cisco's Canada channel sales organization. In December 2007, Mr. Robbins was promoted to Senior Vice President, U.S. Commercial, and in August 2009 he was appointed Senior Vice President, U.S. Enterprise, Commercial and Canada. In July 2011, Mr. Robbins was named Senior Vice President, Americas. In October 2012, Mr. Robbins was promoted to Senior Vice President, Worldwide Field Operations, in which position he served until assuming the role of CEO. Mr. Robbins also currently serves on the board of directors of BlackRock, Inc.

Mr. Robbins brings to the Board of Directors extensive industry, company and operational experience acquired from having served as Cisco's CEO since 2015, and prior to that from having led Cisco's global sales and partner teams. He has a thorough knowledge of Cisco's segments, technology areas, geographies and competition. He has a proven track record of driving results and played a key role in leading and executing many of Cisco's investments and strategy shifts to meet its growth initiatives.

Mr. Sarin, 65, has been a member of the Board of Directors since September 2009 and previously served on the Board of Directors from September 1998 to July 2003. In April 2003, he became CEO designate of Vodafone Group Plc and served as its Chief Executive Officer from July 2003 to July 2008. He also served as a member of the board of directors of that company from 1999 to 2008. From July 2001 to January 2003, he was Chief Executive Officer of Accel-KKR Telecom. He was the Chief Executive Officer of InfoSpace, Inc., and a member of its board of directors from April 2000 to January 2001. He was the Chief Executive Officer of the USA/Asia Pacific Region for Vodafone AirTouch Plc from July 1999 to April 2000. From February 1997 to July 1999, he was the President of AirTouch Communications, Inc. Prior to that, from April 1994 to February 1997, he served as President and Chief Executive Officer of AirTouch International. Mr. Sarin joined AirTouch Communications, Inc. in 1994 as Senior Vice President Corporate Strategy and Development upon its demerger from Pacific Telesis Group, which he joined in 1984. Mr. Sarin also currently serves on the boards of directors of Accenture plc, Cerence Inc. and The Charles Schwab Corporation. Mr. Sarin served as a Senior Advisor at Kohlberg Kravis Roberts & Co. from October 2009 to October 2014. He previously served as a director of Safeway, Inc., ending in 2015 and Blackhawk Network Holdings, Inc., ending in 2018. In 2010, Mr. Sarin was named an Honorary Knight of the British Empire for services to the communications industry.

Mr. Sarin provides to the Board of Directors a telecommunications industry and technology background, as well as leadership skills, including his global chief executive experience at Vodafone Group Plc. He also provides an international perspective as well as expertise in general management, finance, marketing and operations. In addition, Mr. Sarin has experience as a director, including service as an outside board member of companies in the information technology, banking, financial services, and retail industries.

Mr. Saunders, 50, has been a member of the Board of Directors since March 2017. Mr. Saunders has served as President, Chief Executive Officer and Chairman of the Board of Directors of Vesper Healthcare Acquisition Corp. since July 2020. Previously he served as CEO and President of Allergan plc ("Allergan") from July 2014

to May 2020 when Allergan was acquired by AbbVie, Inc. He was a board member of Allergan from July 2014 to May 2020 and served as its Chairman from October 2016 to May 2020. He previously served as Chief Executive Officer and President of Forest Laboratories, Inc. from October 2013 until July 2014 and had served as a board member of Forest Laboratories, Inc. beginning in 2011. In addition, Mr. Saunders served as Chief Executive Officer of Bausch + Lomb Incorporated, a leading global eye health company, from March 2010 until August 2013. From 2003 to 2010 Mr. Saunders also held a number of leadership positions at Schering-Plough, including the position of President of Global Consumer Health Care and was named head of integration for Schering-Plough's merger with Merck & Co. and for its acquisition of Organon BioSciences. Before joining Schering-Plough, Mr. Saunders was a Partner and Head of Compliance Business Advisory Group at PricewaterhouseCoopers LLP from 2000 to 2003. Prior to that, he was Chief Risk Officer at Coventry Health Care, Inc. and Senior Vice President, Compliance, Legal and Regulatory at Home Care Corporation of America. Mr. Saunders began his career as Chief Compliance Officer for the Thomas Jefferson University Health System. Mr. Saunders also currently serves on the board of directors of BridgeBio Pharma, Inc.

Mr. Saunders brings to the Board of Directors his extensive leadership experience, including his role as chief executive officer of two global healthcare companies, as well as his financial, strategic and operational experience. He is a natural innovator and leader with a deep understanding of business transformation.

Dr. Su, 50, has been a member of the Board of Directors since January 2020. Dr. Su joined Advanced Micro Devices, Inc. ("AMD") in 2012 and has held the position of President and Chief Executive Officer since October 2014. She also serves on AMD's Board of Directors. Previously, Dr. Su served as Senior Vice President and General Manager, Networking and Multimedia at Freescale Semiconductor, Inc., and was responsible for global strategy, marketing and engineering for the company's embedded communications and applications processor business. Dr. Su joined Freescale in 2007 as Chief Technology Officer, where she led the company's technology roadmap and research and development efforts. Dr. Su spent the previous 13 years at IBM in various engineering and business leadership positions, including Vice President of the Semiconductor Research and Development Center responsible for the strategic direction of IBM's silicon technologies, joint development alliances and semiconductor R&D operations. Prior to IBM, she was a member of the technical staff at Texas Instruments Incorporated from 1994 to 1995. Dr. Su has a Bachelor of Science, Master of Science and Doctorate degrees in Electrical Engineering from the Massachusetts Institute of Technology (MIT). Dr. Su previously served as a director of Analog Devices, Inc., ending in 2020.

Dr. Su brings to the Board of Directors her extensive business leadership experience, including her role as president and chief executive officer of a global semiconductor company, as well as her technology and semiconductor expertise. Dr. Su also provides expertise in global strategy, marketing and engineering, and has experience serving as a public company outside director.

The table below summarizes key qualifications, skills and attributes most relevant to the decision to nominate the candidates to serve on the Board of Directors. A mark indicates a specific area of focus or experience on which the Board relies most. The lack of a mark does not mean the director nominee does not possess that qualification or skill. Each director nominee biography above in this section describes each nominee's qualifications and relevant experience in more detail.

Director Nominees	Leadership	Technology	Financial Experience	Global Business	Gender/ Ethnic/ Racial/Sexual Orientation Diversity[1]	Sales and Marketing	Academia	Public Company Board Experience
M. Michele Burns	✔		✔	✔	✔			✔
Wesley G. Bush	✔	✔	✔	✔				✔
Michael D. Capellas	✔	✔	✔	✔		✔		✔
Mark Garrett	✔	✔	✔	✔				✔
Dr. Kristina M. Johnson	✔	✔			✔		✔	✔
Roderick C. McGeary	✔	✔	✔	✔				✔
Charles H. Robbins	✔	✔		✔		✔		✔
Arun Sarin	✔	✔	✔	✔	✔	✔		✔
Brenton L. Saunders	✔		✔	✔		✔		✔
Dr. Lisa T. Su	✔	✔		✔	✔	✔		✔

1 Categories covered under California law AB 979.

Cisco policy also provides that the Board will take into consideration the age of any current or prospective Board member whose age would be 72 or older when elected, re-elected or appointed to the Board and, before nominating or appointing such Board member, the Board will make an affirmative determination that it is in the best interests of Cisco and its shareholders for that individual to serve on the Board. The average tenure of the director nominees is approximately 7.8 years.

Independent Directors

Upon recommendation of the Nomination and Governance Committee, the Board of Directors has affirmatively determined that each member of the Board of Directors other than Mr. Robbins is independent under the criteria established by Nasdaq for director independence. All members of each of Cisco's Audit, Compensation and Management Development, and Nomination and Governance committees are independent directors. In addition, upon recommendation of the Nomination and Governance Committee, the Board of Directors has determined that the members of the Audit Committee and the members of the Compensation Committee meet the additional independence criteria required for membership on those committees under applicable Nasdaq listing standards.

The Nasdaq criteria include a subjective test and various objective standards, such as that the director is not an employee of Cisco. Mr. Robbins is not deemed independent because he is a Cisco employee. The subjective test under Nasdaq criteria for director independence requires that each independent director not have a relationship that, in the opinion of the Board of Directors, would interfere with the exercise of independent judgment in carrying out the responsibilities of a director. The subjective evaluation of director independence by the Board of Directors was made in the context of the objective standards referenced above. In making its independence determinations, the Board of Directors generally considers commercial, financial services, charitable, and other transactions and other relationships between Cisco and each director or nominee and his or her family members and affiliated entities. For example, the Nomination and Governance Committee reviewed, for each independent director and nominee, the amount of all transactions between Cisco and other organizations where such directors serve as executive officers or directors, none of which exceeded 1% of the recipient's annual revenues during the relevant periods, except as described below.

For each of the independent directors, the Board of Directors determined based on the recommendation of the Nomination and Governance Committee that none of the transactions or other relationships exceeded Nasdaq objective standards and none would otherwise interfere with the exercise of independent judgment in carrying out the responsibilities of a director. In making this determination, the Board of Directors considered certain relationships that did not exceed Nasdaq objective standards but were identified by the Nomination and Governance Committee for further consideration under the subjective test. The Board of Directors determined that none of these relationships would interfere with the exercise of independent judgment by the director in carrying out is responsibilities as a director.

The following is a description of the two relationships in which a director serves as an outside board member of other companies and in which payments by Cisco exceeded 1% of the recipient's annual revenues:

- Mr. Capellas is a member of the board of directors of Flex Ltd. Cisco has ordinary course commercial relationships with Flex Ltd., including design, manufacturing and after-market services.
- Mr. Garrett is a member of the board of directors of Snowflake Inc. Cisco has purchased cloud data warehouse platform services from Snowflake Inc.

The Role of the Board of Directors in Strategy

One of the Board's key responsibilities is overseeing management's formulation and execution of Cisco's strategy. Throughout the year, our CEO, the executive leadership team, and other leaders from across the company provide detailed business and strategy updates to the Board. During these reviews, the Board engages

with the executive leadership team and other business leaders regarding various topics, including business strategy and initiatives, capital allocation, portfolio updates, the competitive landscape, talent and culture including inclusion and diversity, ESG concerns including human rights implications of Cisco product development and sales, and regulatory developments. Additionally, on an annual basis, the Board reviews and approves Cisco's financial plan. The Lead Independent Director also chairs regularly scheduled executive sessions of the independent directors, without Cisco management present, during which Cisco's strategy is reviewed and other topics are discussed.

The Role of the Board of Directors in Risk Oversight

We believe that risk is inherent in innovation and the pursuit of long-term growth opportunities. Cisco's management is responsible for day-to-day risk management activities. The Board of Directors, acting directly and through its committees, is responsible for the oversight of Cisco's risk management. With the oversight of the Board of Directors, Cisco has implemented practices, processes and programs designed to help manage the risks to which we are exposed in our business and to align risk-taking appropriately with our efforts to increase shareholder value.

Cisco's management has implemented an enterprise risk management ("ERM") program, managed by Cisco's internal audit function, that is designed to work across the business to identify, assess, govern and manage risks and Cisco's response to those risks. Cisco's internal audit function performs an annual risk assessment which is utilized by the ERM program. The structure of the ERM program includes both an ERM operating committee that focuses on risk management-related topics, as well as, an ERM executive committee consisting of members of executive management. The ERM operating committee conducts global risk reviews and provides regular updates to the ERM executive committee.

The Audit Committee, which oversees our financial and risk management policies, including data protection (comprising both privacy and security), receives regular reports on ERM from the chair of the ERM operating committee and regular reports on cybersecurity from Cisco's Chief Security and Trust Officer. As part of its responsibilities and duties, the Audit Committee reviews Cisco's policies and programs for addressing data protection, including both privacy and security, including with respect to (a) Cisco's products and services, (b) Cisco's servers, data centers and cloud based solutions on which Cisco's data, and data of its customers, suppliers and business partners are stored and/or processed, and (c) the cloud-based services provided by or enabled by Cisco. The Committee provides updates to the Board of Directors, at least annually, on such review.

As part of the overall risk oversight framework, other committees of the Board of Directors also oversee certain categories of risk associated with their respective areas of responsibility. For example, the Finance Committee oversees matters related to risk management policies and programs addressing currency, interest rate, equity, and insurance risk, as well as Cisco's customer and channel partner financing activities, investment policy and certain risk management activities of Cisco's treasury function. The Compensation Committee oversees compensation-related risk management, as discussed in the "Board of Directors — Proposal No. 1 — Election of Directors — Board Meetings and Committees — Compensation and Management Development Committee" and "Compensation Committee Matters — Compensation Discussion and Analysis" ("CD&A") sections in this Proxy Statement.

Each committee reports regularly to the full Board of Directors on its activities. In addition, the Board of Directors participates in regular discussions with Cisco's executive management on many core subjects, including strategy, operations, information systems, finance, legal and public policy matters, in which risk oversight is an inherent element. The Board of Directors believes that the leadership structure described above in the "Corporate Governance — Board Leadership Structure" section facilitates the Board's oversight of risk management because it allows the Board, with leadership from the Lead Independent Director and working through its committees, including the independent Audit Committee, to participate actively in the oversight of management's actions.

Board Meetings and Committees

During fiscal 2020, the Board of Directors held 10 meetings. During this period, all of the incumbent directors attended at least 75% of the aggregate of the total number of meetings of the Board of Directors and the total number of meetings held by all committees of the Board of Directors on which each such director served, during the period for which each such director served. Cisco's directors are strongly encouraged to attend the annual meeting of shareholders. Seven of Cisco's directors who were then serving on the Board of Directors attended last year's annual meeting.

Cisco has five standing committees: the Audit Committee, the Compensation Committee, the Nomination and Governance Committee, the Acquisition Committee, and the Finance Committee. Each of these committees has a written charter approved by the Board of Directors. A copy of each charter can be found on the "Committees" page, which is located in the Governance section of Cisco's Investor Relations website at *investor.cisco.com.*

The members of the committees and their independence status, as of the date of this Proxy Statement, and the number of committee meetings during fiscal 2020 are identified in the following table.

Directors	Independent (1)	Audit Committee	Compensation Committee	Nomination and Governance Committee	Acquisition Committee	Finance Committee
M. Michele Burns	✔	✔				Chair
Wesley G. Bush	✔		✔			✔
Michael D. Capellas	✔			Chair	Chair	
Mark Garrett	✔	Chair		✔		
Dr. Kristina M. Johnson	✔		✔			✔
Roderick C. McGeary	✔	✔	Chair	✔		
Charles H. Robbins						
Arun Sarin	✔		✔		✔	
Brenton L. Saunders	✔		✔		✔	
Dr. Lisa T. Su	✔				✔	
Number of Committee Meetings		15	7	6	11	10

(1) Mr. Capellas currently serves as Lead Independent Director.

Audit Committee

The Audit Committee is directly responsible for the appointment, retention and oversight of the independent accountants. The Audit Committee is also responsible for reviewing the financial information which will be provided to shareholders and others, including the quarterly and year-end financial results, reviewing the system of internal controls which management and the Board of Directors have established, reviewing Cisco's financial and risk management policies, including data protection (comprising both privacy and security), appointing, retaining and overseeing the performance of the independent registered public accounting firm, overseeing Cisco's accounting and financial reporting processes and the audits of Cisco's financial statements, pre-approving audit and permissible non-audit services provided by the independent registered public accounting firm, overseeing and reviewing related party transactions, and establishing procedures for the receipt, retention, and treatment of complaints received by Cisco regarding accounting, internal accounting controls, or auditing matters, and the confidential, anonymous submission by employees of concerns regarding questionable accounting or auditing matters.

The Audit Committee reviews the responsibilities and activities of each of the Governance, Risk and Controls Department, and the Compliance Office. The Audit Committee also meets separately in periodic executive sessions with each of management, the head of Cisco's internal audit function, and the independent registered public accounting firm. The Board of Directors has determined that each of Ms. Burns, Mr. Garrett and Mr. McGeary is an "audit committee financial expert" as defined in Item 407(d) of Regulation S-K. Each member of this committee is an independent director and meets each of the other requirements for audit committee members under applicable Nasdaq listing standards.

Compensation and Management Development Committee

The Compensation Committee's responsibility is to review the performance and development of Cisco's management in achieving corporate goals and objectives and to assure that Cisco's executive officers are compensated effectively in a manner consistent with Cisco's strategy, competitive practice, sound corporate governance principles and shareholder interests. Toward that end, this committee reviews and approves Cisco's

compensation to executive officers. The Compensation Committee also reviews matters related to succession planning, including review and approval of CEO succession planning. Each member of this committee is an independent director under applicable Nasdaq listing standards, including the additional independence requirements specific to compensation committee membership, an "outside director" as defined in Section 162(m) of the Internal Revenue Code of 1986, as amended (the "Code"), and a "non-employee director" as defined in Rule 16b-3 under the Securities Exchange Act of 1934, as amended (the "Exchange Act").

The Compensation Committee's responsibilities and duties include an annual review and approval of Cisco's compensation strategy to help ensure that it promotes shareholder interests and supports Cisco's strategic and tactical objectives, and that it provides appropriate rewards and incentives for management and employees, including review of compensation-related risk management. For fiscal 2020, the Compensation Committee performed these oversight responsibilities and duties by, among other things, conducting an evaluation of the design of our executive compensation program, in light of our risk management policies and programs. For additional information regarding the Compensation Committee's risk management review, see the "Executive Compensation Governance Components" section of the CD&A.

The Compensation Committee has the exclusive authority and responsibility to determine all aspects of executive compensation packages for executive officers. The Compensation Committee has retained Frederic W. Cook & Co., Inc. ("FWC") as its independent compensation consultant to help the Compensation Committee establish and implement its compensation philosophy, to evaluate compensation proposals recommended by management, and to provide advice and recommendations on competitive market practices and specific compensation decisions for executive officers. The Compensation Committee retains and does not delegate any of its exclusive power to determine all matters of executive compensation and benefits, although the CEO and the People and Communities Department present compensation and benefit proposals to the Compensation Committee. FWC works directly with the Compensation Committee (and not on behalf of management) to assist the Compensation Committee in satisfying its responsibilities and will undertake no projects for management except at the request of the Compensation Committee chair and in the capacity of the Compensation Committee's agent. FWC performs no other consulting or other services for Cisco management and, to date, has not undertaken any projects for management. For additional description of the Compensation Committee's processes and procedures for consideration and determination of executive officer compensation, see the CD&A.

Nomination and Governance Committee

The Nomination and Governance Committee is responsible for overseeing, reviewing and making periodic recommendations concerning Cisco's corporate governance policies, for reviewing Cisco's policies and programs concerning CSR (including ESG matters), for reviewing and assessing director independence, for making recommendations regarding the size, structure and composition of the Board and its committees, for overseeing the annual Board evaluation process, for recommending to the full Board of Directors candidates for election to the Board of Directors, and for reviewing and recommending compensation for non-employee members of the Board. Each member of this committee is an independent director under applicable Nasdaq listing standards.

In connection with reviewing and recommending compensation for non-employee directors, the Nomination and Governance Committee has retained FWC as its independent compensation consultant. The Nomination and Governance Committee makes recommendations to the Board of Directors regarding compensation for non-employee directors using a process similar to the one used by the Compensation Committee for determining compensation for Cisco's executive officers. Generally, the Nomination and Governance Committee annually reviews the market practice for non-employee director compensation for companies in Cisco's Peer Group (as defined in the CD&A) in consultation with FWC and assesses whether Cisco's non-employee director compensation program continues to be competitive with the market for qualified directors, incorporates best practices and aligns the interests of our non-employee directors with the long-term interests of our shareholders.

As part of its consideration of director succession, the Nomination and Governance Committee from time to time reviews, including when considering potential candidates, the appropriate skills and characteristics required of board members, including factors that it seeks in board members such as diversity of business experience, viewpoints and personal background, and diversity of skills in technology, finance, marketing, international business, financial reporting and other areas that are expected to contribute to an effective Board of Directors. In evaluating potential candidates for the Board of Directors, the Nomination and Governance Committee considers

these factors in the light of the specific needs of the Board of Directors at that time. Additionally, due to the global and complex nature of our business, the Board believes it is important to consider diversity of race, ethnicity, gender, sexual orientation, age, education, cultural background, and professional experiences in evaluating board candidates in order to provide practical insights and diverse perspectives. The brief biographical description of each nominee and the matrix set forth in the "Board of Directors — Proposal No. 1 — Election of Directors — Business Experience and Qualifications of Nominees" section includes the primary individual experience, qualifications, attributes and skills of each of our directors that led to the conclusion that each director should serve as a member of the Board of Directors at this time.

Shareholders may recommend a director nominee to Cisco's Nomination and Governance Committee. In recommending candidates for election to the Board of Directors, the Nomination and Governance Committee considers nominees recommended by directors, officers, employees, shareholders and others, using the same criteria to evaluate all candidates. The Nomination and Governance Committee reviews each candidate's qualifications, including whether a candidate possesses any of the specific qualities and skills desirable in certain members of the Board of Directors. Evaluations of candidates generally involve a review of background materials, internal discussions and interviews with selected candidates as appropriate. Upon selection of a qualified candidate, the Nomination and Governance Committee would recommend the candidate for consideration by the full Board of Directors. The Nomination and Governance Committee may engage consultants or third-party search firms to assist in identifying and evaluating potential nominees.

To recommend a prospective nominee for the Nomination and Governance Committee's consideration, submit the candidate's name and qualifications to Cisco's Secretary in writing to the following address: Cisco Systems, Inc., Attention: Secretary, 170 West Tasman Drive, San Jose, California 95134, with a copy to Cisco Systems, Inc., Attention: General Counsel at the same address. When submitting candidates for nomination to be elected at Cisco's annual meeting of shareholders, shareholders must also follow the notice procedures and provide the information required by Cisco's bylaws. In particular, for the Nomination and Governance Committee to consider a candidate recommended by a shareholder for nomination at the 2021 Annual Meeting of Shareholders, the recommendation must be delivered or mailed to and received by Cisco's Secretary between July 23, 2021 and August 22, 2021 (or, if the 2021 annual meeting is called for a date that is not within 30 calendar days of the anniversary of the date of the 2020 Annual Meeting, within 10 calendar days after Cisco's public announcement of the date of the 2021 annual meeting). The recommendation must include the same information as is specified in Cisco's bylaws for shareholder nominees to be considered at an annual meeting, including the following:

- The shareholder's name and address and the beneficial owner, if any, on whose behalf the nomination is proposed;
- The shareholder's reason for making the nomination at the annual meeting, and the signed consent of the nominee to serve if elected;
- The number of shares owned by, and any material interest of, the record owner and the beneficial owner, if any, on whose behalf the record owner is proposing the nominee;
- A description of any arrangements or understandings between the shareholder, the nominee and any other person regarding the nomination; and
- Information regarding the nominee that would be required to be included in Cisco's proxy statement by the SEC rules, including the nominee's age, business experience for the past five years and any directorships held by the nominee, including directorships held during the past five years.

Pursuant to the proxy access provisions of Cisco's bylaws, an eligible shareholder or group of shareholders may nominate one or more director candidates to be included in Cisco's proxy materials. The nomination notice and other materials required by these provisions must be delivered or mailed to and received by Cisco's Secretary in writing between May 24, 2021 and June 23, 2021 (or, if the 2021 annual meeting is called for a date that is not within 30 calendar days of the anniversary of the date of the 2020 Annual Meeting, by the later of the close of business on the date that is 180 days prior to the date of the 2021 annual meeting or within 10 calendar days after Cisco's public announcement of the date of the 2021 annual meeting) at the following address: Cisco Systems, Inc., Attention: Secretary, 170 West Tasman Drive, San Jose, California 95134, with a copy to Cisco Systems, Inc., Attention: General Counsel at the same address. When submitting nominees for inclusion in Cisco's proxy materials pursuant to the proxy access provisions of Cisco's bylaws, shareholders must follow the

notice procedures and provide the information required by Cisco's bylaws. Notwithstanding the foregoing, if "Delaware Reincorporation — Proposal No. 2 — Approval of the Reincorporation of Cisco from California to Delaware" is approved by the shareholders at the 2020 annual meeting, Cisco's shareholders will become stockholders under Delaware law and Cisco's 2021 annual meeting shall be an Annual Meeting of Stockholders. The requirements for notice shall otherwise remain unchanged following the Reincorporation.

For more detailed information on how to recommend a prospective nominee for the Nomination and Governance Committee's consideration or to submit a nominee for inclusion in Cisco's proxy materials pursuant to the proxy access provisions of Cisco's bylaws, see the "Information About the Meeting — Shareholder Proposals and Nominations for 2021 Annual Meeting of Shareholders" section.

Acquisition Committee

The Acquisition Committee reviews acquisition strategies and opportunities with management. The Acquisition Committee also approves certain acquisitions and investment transactions, and makes recommendations to the Board of Directors.

Finance Committee

The Finance Committee reviews and approves Cisco's global investment policy; oversees Cisco's stock repurchase programs; and reviews minority investments, fixed income assets, insurance risk management policies and programs, tax programs, currency, interest rate and equity risk management policies and programs, and capital structure and capital allocation strategy. This committee is also authorized to approve the issuance of debt securities, certain real estate acquisitions and leases, and charitable contributions made on behalf of Cisco.

Director Compensation

This section provides information regarding the compensation policies for non-employee directors and amounts paid and equity awards granted to these directors in fiscal 2020. Non-employee directors typically do not receive forms of remuneration or benefits other than those described below, but are reimbursed for their expenses in attending meetings. Cisco's non-employee director compensation policy is designed to provide the appropriate amount and form of compensation to our non-employee directors.

Director Compensation Highlights

- Meeting fees for committee service to differentiate individual pay based on workload.
- Emphasis on equity in the overall compensation mix.
- Full-value equity grants under a fixed-value annual grant policy with immediate vesting.
- A robust stock ownership guideline set at five times the annual cash retainer to support shareholder alignment.
- Flexible deferral provisions to facilitate stock ownership.
- Governance limit of $800,000 on the total value of cash and equity compensation that may be paid or granted to a non-employee director each fiscal year, which allows Cisco to stay within reasonable bands of what the market requires.
- Each non-employee director is eligible to participate in Cisco's charitable matching gifts program to the same extent as all Cisco employees. For calendar year 2019, the maximum match amount under this program was $10,000, and during April 2020, the maximum match amount was increased to $25,000. Additional $10,000 matches may be available for disaster relief campaigns.

Fiscal 2020 Cash Compensation

Our non-employee director cash compensation program during fiscal 2020 consisted of the following:

- Annual retainer of $80,000 for each non-employee director;
- Additional annual retainer fee of $50,000 for serving as Lead Independent Director;
- Additional annual retainer fee of $25,000 for serving as chair of the Audit Committee;

- Additional annual retainer fee of $20,000 for serving as chair of the Compensation Committee;
- Additional annual retainer fee of $15,000 for serving as chair of the Nomination and Governance Committee, as chair of the Acquisition Committee or as chair of the Finance Committee; and
- Additional fee of $2,000 to each committee member for each standing committee meeting attended.

A non-employee director may instead elect to receive his or her regular annual cash retainer in fully vested shares of Cisco common stock, fully vested deferred stock units or a deferred cash payment under the Cisco Systems, Inc. Deferred Compensation Plan (the "Deferred Compensation Plan"). Dividend equivalents accrue on fully vested deferred stock units and are subject to the same conditions and restrictions as the deferred stock units to which they attach and will settle in shares after the non-employee director leaves the board. The annual retainers are pro-rated for non-employee directors who are appointed after an annual meeting.

Fiscal 2020 Equity Compensation

Non-employee directors receive annual grants under the 2005 Stock Incentive Plan pursuant to an equity grant policy. The 2005 Stock Incentive Plan currently provides that grants to any non-employee director may not exceed 50,000 shares for any fiscal year.

The Board of Directors' policy regarding initial equity grants for new non-employee directors and annual equity grants for elected non-employee directors provides for the following:

- An initial equity grant for non-employee directors consisting of fully vested shares of Cisco common stock with a fair value equal to a pro rata portion of $230,000 based on the portion of the year of the new non-employee director's board service.
- An annual equity grant for elected non-employee directors consisting of fully vested shares of Cisco common stock with a fair value equal to $230,000.

A non-employee director may elect to receive his or her initial and annual grants in the form of fully vested deferred stock units that are settled in shares after the non-employee director leaves the board. Dividend equivalents accrue on the fully vested deferred stock units and are subject to the same conditions and restrictions as the deferred stock units to which they attach and will settle in shares after the non-employee director leaves the board.

Fiscal 2020 Total Director Compensation

The following table provides information as to compensation earned by the non-employee directors during fiscal 2020.

Director Compensation

Name	Fees Earned or Paid in Cash ($)	Stock Awards ($) (1)	All Other Compensation ($)	Total ($)
M. Michele Burns	$ 145,000	$ 229,982	$ 9,792(2)	$ 384,774
Wesley G. Bush	$ 96,000(3)	$ 229,982	$ —	$ 325,982
Michael D. Capellas	$ 194,000	$ 229,982	$ —	$ 423,982
Mark Garrett	$ 147,000	$ 229,982	$ —	$ 376,982
Dr. Kristina M. Johnson	$ 114,000	$ 229,982	$ 10,000(2)	$ 353,982
Roderick C. McGeary	$ 156,000	$ 229,982	$ —	$ 385,982
Arun Sarin	$ 114,000	$ 229,982	$ 10,000(2)	$ 353,982
Brenton L. Saunders	$ 116,000	$ 229,982	$ —	$ 345,982
Dr. Lisa T. Su	$ 69,508(3)	$ 199,801	$ —	$ 269,309
Carol B. Tomé (4)	$ 86,000	$ 229,982	$ —	$ 315,982
Steven M. West (4)	$ 28,000	$ —	$ —	$ 28,000

(1) The amounts in the Stock Awards column represent the aggregate grant date fair values, computed in accordance with Financial Accounting Standards Board Accounting Standards Codification Topic 718, *Compensation — Stock Compensation* ("FASB ASC Topic 718"), of the shares issued pursuant to the 2005 Stock Incentive Plan.

Each non-employee director who had served as a non-employee director prior to the 2020 annual meeting or who was elected at the 2020 annual meeting received 5,215 fully vested shares on December 10, 2019. Mr. Bush, Dr. Johnson, Mr. Sarin, Mr. Saunders and Ms. Tomé each elected to receive their annual equity award in the form of fully vested deferred stock units.

In connection with her appointment to the board on January 27, 2020, Dr. Su received an initial equity award covering 4,209 fully vested shares in the form of deferred stock units. None of the non-employee directors held any unvested stock awards as of July 25, 2020.

No stock options were awarded to non-employee directors in fiscal 2020, and there were no outstanding stock options held by non-employee directors as of July 25, 2020.

(2) Represents the non-employee director's match under Cisco's charitable matching gifts program.

(3) Includes the value of fully vested shares of Cisco common stock received in lieu of the non-employee director's regular annual cash retainer based on the fair market value of the shares on the date the regular annual cash retainer would otherwise have been paid. Based on the prior election, Mr. Bush received 1,814 shares with a value of $79,997 based on the closing share price of Cisco common stock on December 10, 2019. In connection with her appointment to the Board on January 27, 2020, Dr. Su received 1,464 shares with a value of $69,496 based on the closing share price of Cisco common stock on January 27, 2020.

(4) Mr. West served on the Board of Directors through December 10, 2019. Ms. Tomé resigned from the Board effective March 12, 2020.

Non-Employee Director Stock Ownership

Cisco's corporate governance policies include stock ownership guidelines for non-employee directors. These guidelines call for each non-employee director to own shares of Cisco's common stock having a value equal to at least five times the non-employee director's regular annual cash retainer, with a five-year period from the date of his or her appointment to attain that ownership level. To facilitate share ownership, non-employee directors may elect to receive, in lieu of all or a specified portion of their regular annual cash, either fully vested shares of Cisco common stock or deferred stock units that would be settled in shares after the non-employee director leaves the board, based on the fair market value of the shares on the date any regular annual cash retainer would otherwise be paid. Any shares (or shares subject to deferred stock units) received in lieu of any portion of a regular annual cash retainer do not count against the limit on the total number of shares that may be granted to a non-employee director during any fiscal year. The shares issued are granted under the 2005 Stock Incentive Plan.

For information on non-employee director elections to receive fully vested shares (or shares subject to deferred stock units) in lieu of cash with respect to the fiscal 2020 annual cash retainer, please see the table above entitled "Director Compensation" and the accompanying footnotes.

Fiscal 2021 Director Compensation

For fiscal 2021, FWC conducted an independent review of Cisco's non-employee director compensation program on behalf of the Nomination and Governance Committee. FWC determined that Cisco's non-employee director compensation program continues to be competitive with the market, incorporates best practices and aligns the interests of our non-employee directors with the long-term interest of our shareholders. Based on this assessment, and the recommendation of the Nomination and Governance Committee, the Board of Directors did not make any changes to the amount or types of compensation that non-employee directors could earn for fiscal 2021. The Board, however, effective for payments related to board service on and after the date of the 2021 Annual Meeting of Shareholders, expanded the cash compensation elections for non-employee directors to allow for non-employee directors to elect to receive deferred cash, stock grants or deferred stock units in lieu of any retainer paid in connection with service on any committee of the Board or other cash fees (not limited to his or her regular annual cash retainer).

Vote Required

Cisco's bylaws and corporate governance policies provide for a majority voting standard in uncontested elections of directors. As such, in an election where the Board of Directors has determined that the number of nominees for director does not exceed the number of directors to be elected, a nominee for director will be elected to the Board of Directors to serve until the next annual meeting of shareholders, and until his or her

successor has been duly elected and qualified, if the number of shares voted for the nominee exceeds the number of shares voted against the nominee and also represents the affirmative vote of a majority of the required quorum. The required quorum for a meeting of Cisco shareholders is a majority of the outstanding shares of common stock. The majority voting standard would not apply, however, if the Board of Directors determines that the number of nominees for director exceeds the number of directors to be elected. In that case, the nominees receiving the highest number of affirmative votes of the shares entitled to vote at the meeting would be elected.

The majority voting standard will apply to the election taking place at the meeting. Consequently, in order to be elected, a nominee must receive more votes "for" than "against" and the number of votes "for" must be at least a majority of the required quorum. Proxies may not be voted for more than ten directors, and shareholders may not cumulate votes in the election of directors. In the event that any nominee is unable or declines to serve as a director at the time of the meeting, the proxies will be voted for any nominee, if any, who may be designated by the Board of Directors to fill the vacancy. As of the date of this Proxy Statement, the Board of Directors is not aware that any nominee is unable or will decline to serve as a director. If you hold shares through a bank, broker or other holder of record, you must instruct your bank, broker or other holder of record how to vote so that your vote can be counted on this proposal.

Should any of the nominees fail to receive the vote required to be elected in accordance with Cisco's bylaws, the term of his or her service as a director will end on the date that is the earlier of 90 days after the date on which the voting results are determined pursuant to California law or the date on which the Board of Directors selects a person to fill the office held by that director, unless he or she has earlier resigned.

Recommendation of the Board of Directors

The Board of Directors recommends that the shareholders vote **FOR** the election of each of the nominees listed herein.

DELAWARE REINCORPORATION

Proposal No. 2 — Approval of the Reincorporation of Cisco from California to Delaware

Overview of the Proposed Reincorporation

On October 7, 2020, the Board of Directors approved a proposal to change the state of incorporation of Cisco from California to Delaware (the "Reincorporation"), subject to the approval of Cisco's shareholders.

If approved by Cisco's shareholders, the Reincorporation will be effected through the merger of Cisco with and into a newly formed wholly-owned subsidiary of Cisco incorporated in the State of Delaware solely for the purpose of effecting the Reincorporation ("Cisco Systems Delaware"). The name of Cisco after the Reincorporation will remain Cisco Systems, Inc. For purposes of the discussion below, Cisco as it currently exists as a corporation organized under the laws of the State of California is sometimes referred to as "Cisco Systems California".

The Board of Directors considered several factors in reaching this decision, including corporate governance, Cisco's commitment to transparency and best-in-class practices, attracting and retaining board members, the differences between California and Delaware state corporate laws, and other advantages and disadvantages of Reincorporation.

The Board of Directors believes that the choice of state domicile is important because state corporate law governs the internal affairs of a corporation. Management and boards of directors of corporations look to state corporate law and judicial interpretations of state law to guide their decision-making on many key issues, including appropriate governance policies and procedures, satisfaction of fiduciary obligations to shareholders, compliance with financial and legal requirements in the corporation's business operations, and consideration of key strategic transactions for the corporation, including financings, mergers, acquisitions, and divestitures.

The Board of Directors believes that it is essential for Cisco to be able to draw upon the well-established principles of corporate governance of Delaware law in making legal and business decisions while helping to preserve the shareholder rights that our shareholders are accustomed to, in the interest of maximizing long-term shareholder value. The prominence, breadth, depth and predictability of Delaware corporate law, including its extensive body of case law, provide a reliable foundation on which Cisco's governance decisions can be based, and the Board of Directors believes that Cisco's shareholders will benefit from the responsiveness of Delaware corporate law to their needs. In addition to the benefits of being a Delaware corporation, the Board of Directors has proposed as part of the Reincorporation to preserve certain key rights that are currently held by its shareholders as a matter of California law and under the California Incorporation Documents.

The Board of Directors also recognizes that our existing shareholder-friendly governance structure has served Cisco well for years as a public company. Accordingly, the Board of Directors determined, in connection with approval of the Reincorporation, to maintain the following shareholder-friendly provisions of our governance structure even though they would not be required under Delaware law:

- ***Election of Directors***: Cisco would continue to have annual election of all members of its Board of Directors rather than have a classified or staggered board.
- ***Removal of Directors***: Stockholders would have the ability to remove directors with or without cause.
- ***Director Vacancies***: Only the stockholders and not the Board of Directors may fill a director vacancy created by a removal of a director by the stockholders.
- ***Majority Standard for Director Elections***: Require that in any uncontested director election, a candidate must receive a majority, rather than merely a plurality, of votes cast to be elected.
- ***Special Meeting of Stockholders***: Retain the ability of 10% or greater stockholders to call a special meeting of stockholders.
- ***Action by Consent***: Retain the ability of stockholders of Cisco to act by written consent with respect to any action that could otherwise be taken at a meeting of stockholders.
- ***Proxy Access***: Retain "proxy access" for certain stockholder director nominations.
- ***Amendment of Bylaws***: Retain the ability of stockholders to amend Cisco's bylaws by simple majority.

- ***Opt Out of Delaware General Corporation Law Section 203***: In the Reincorporation, Cisco would elect to not apply to Cisco Section 203 of the Delaware General Corporation Law ("DGCL"), a statute that prohibits certain business combinations with interested stockholders for a period of three years unless certain requirements are met.

Shareholders are urged to read this proposal carefully, including all of the related appendices attached to this Proxy Statement, before voting on the Reincorporation. The following discussion summarizes material provisions of the Reincorporation and is subject to and qualified in its entirety by the Merger Agreement in substantially the form attached hereto as Appendix A, the Delaware Certificate of Incorporation in substantially the form attached hereto as Appendix B; and the Delaware Bylaws in substantially the form attached hereto as Appendix C. Copies of the California Articles and California Bylaws have been filed with the SEC as exhibits to Cisco's periodic or current reports and will be sent to shareholders free of charge upon written request to Cisco Systems, Inc., Attention: Investor Relations, 170 West Tasman Drive, San Jose, California 95134.

After careful consideration of these factors, the Board of Directors believes that it is in the best interests of Cisco and its shareholders to effectuate the Reincorporation.

Mechanics and Consequences of Reincorporation

The Reincorporation will be effected by means of a merger (the "Merger") pursuant to the terms and conditions of an Agreement and Plan of Merger (the "Merger Agreement"), the form of which is attached hereto as Appendix A between Cisco and Cisco Systems Delaware, a newly formed Delaware corporation and wholly-owned subsidiary of Cisco. Under the Merger Agreement, Cisco will merge with and into Cisco Systems Delaware, Cisco will cease to exist as a separate entity and Cisco Systems Delaware will become the surviving entity following the effectiveness of the Merger (the "Effective Date"), succeeding to and assuming all of the rights and obligations of both Cisco and Cisco Systems Delaware. The existing holders of Cisco's common stock will own all of the outstanding shares of common stock of Cisco Systems Delaware, and no change in ownership will result from the Reincorporation. If the Reincorporation is approved, at the Effective Date each outstanding share of Cisco's common stock will automatically be converted into one share of common stock of Cisco Systems Delaware. Each of the equity compensation plans currently maintained by Cisco immediately prior to the Reincorporation will be assumed and continued by Cisco Systems Delaware, and each pre-Reincorporation equity award to purchase or receive shares of Cisco's common stock under such plans will convert into an equity award to purchase or receive an equivalent number of shares of Cisco Systems Delaware common stock with no other changes in the terms and conditions of such award. Cisco's other employee benefit arrangements in effect immediately prior to the Reincorporation would also be continued by Cisco Systems Delaware upon the terms and subject to the conditions of such plans in effect immediately prior to the Reincorporation.

Other than the change in corporate domicile, the Reincorporation will not result in any change in Cisco's business operations, Board of Directors composition or term, or physical location, nor will it result in any change of our current employees, including management, or in their title, responsibilities or compensation. Upon consummation of the Reincorporation, our daily business operations will continue as they are presently conducted at Cisco's current principal executive offices located at 170 West Tasman Drive, San Jose, California 95134, and our telephone number will remain (408) 526-4000. The consolidated financial condition and results of operations of Cisco Systems Delaware immediately after consummation of the Reincorporation will be substantially similar as those of Cisco immediately prior to the consummation of the Reincorporation. Cisco believes that there will be no material accounting impact as a result of the Reincorporation. If the Reincorporation is approved, at the Effective Date, Cisco Systems Delaware will be the successor-in-interest to Cisco and the shareholders of Cisco will become stockholders of Cisco Systems Delaware.

SHARE CERTIFICATES CURRENTLY ISSUED FOR CISCO'S SHARES WILL AUTOMATICALLY REPRESENT SHARES IN CISCO SYSTEMS DELAWARE UPON COMPLETION OF THE MERGER, AND SHAREHOLDERS WILL NOT BE REQUIRED TO SURRENDER OR EXCHANGE SHARE CERTIFICATES AS A RESULT OF THE REINCORPORATION.

If the Reincorporation is approved, at the Effective Date, Cisco will be governed by the Cisco Systems, Inc. Certificate of Incorporation (the "Delaware Certificate"), and the Cisco Systems, Inc. Bylaws (the "Delaware Bylaws", and together with the "Delaware Certificate," the "Delaware Incorporation Documents") which will replace the Restated Articles of Incorporation of Cisco Systems, Inc. (the "California Articles") and the

Amended and Restated Bylaws of Cisco Systems, Inc. (the "California Bylaws", and together with the California Articles, the "California Incorporation Documents").

Cisco's common stock is currently listed for trading on Nasdaq under the ticker symbol "CSCO". If the Reincorporation is approved, at the Effective Date, Cisco's registration statements on file with the SEC immediately prior to the Reincorporation will be assumed by Cisco Systems Delaware, and the shares of common stock of Cisco Systems Delaware would continue to be traded on Nasdaq without interruption, under the same symbol.

Principal Reasons for Reincorporation

The State of Delaware has been a leader in adopting a comprehensive and coherent set of corporate laws that are responsive to the evolving legal and business needs of corporations organized under Delaware law. The Board of Directors' decision to reincorporate in the State of Delaware was driven primarily by Delaware's history of comprehensiveness and flexibility of its corporate laws and its tradition of promoting stockholder-friendly corporate governance. Specifically, the Board of Directors believes that there are several benefits in the Reincorporation, as summarized below.

Predictability, Flexibility and Responsiveness of Delaware Law

Delaware courts have, over many years, established a jurisprudence that is significantly more thorough, predictable, and broadly applied with respect to principles of corporate governance than most, if not all, other jurisdictions. The DGCL is generally acknowledged to be the most advanced and flexible statutory corporation code in the United States. The Delaware legislature is particularly responsive to developments in modern corporate law and Delaware has proven sensitive to changing needs of corporations and their stockholders. The Delaware General Assembly each year considers and adopts statutory amendments in an effort to ensure that the DGCL continues to be responsive to the changing legal and business needs of corporations and their stockholders. The office of the Delaware Secretary of State is viewed as particularly user-friendly, flexible and responsive (as compared to other states) in its administration of the filings and interactions required for mergers, acquisitions and other corporate transactions, thereby reducing complications and delays that can arise in time-sensitive transactions.

Consequently, Delaware has become the preferred state of incorporation for most publicly-traded companies in the United States and, as a result of the large number of major corporations being domiciled in Delaware, Delaware courts have developed a broad and deep body of relevant case law, and are often the first and most influential to address important new issues relating to corporate governance and rights and obligations of stockholders and corporations. As a result, courts of and corporations organized under the laws of other states, including California, have often looked to Delaware law for guidance for such issues, and the DGCL and Delaware administrative practices have become comparatively well-known and widely understood. Corporations domiciled in Delaware are often at an advantage over their peers that are organized under the laws of other states, including many California corporations, in that Delaware corporations can draw upon these well-developed, firmly established and consistently interpreted principles of corporate law when making business and legal decisions. The Board of Directors therefore anticipates that the DGCL will provide greater efficiency, clarity, predictability and flexibility in Cisco's legal affairs and corporate governance decisions than is presently available under California law. In addition, Delaware case law provides a body of law defining the proper duties and decision-making processes expected of boards of directors in evaluating potential or proposed corporate transactions, which will further benefit Cisco's shareholders.

Access to Specialized Courts

Delaware's court system also provides swift and efficient resolutions in corporate litigation involving complex corporate issues. Delaware has a specialized court of equity called the Court of Chancery that hears and decides corporate law cases. The Delaware Court of Chancery operates under rules that are intended to ensure litigation of disputes in a timely and effective way, keeping in mind the timelines and constraints of business decision-making and market dynamics, and routinely handles cases involving complex corporate issues with a level of experience and a degree of sophistication and understanding unmatched by other courts in the country. The appellate process on decisions emanating from the Court of Chancery is similarly streamlined and highly responsive in cases involving complex corporate issues, and the justices of Delaware appellate courts tend to have substantial experience with corporate cases because of the relatively higher volume of these cases in the

Delaware court system. The fact that issues of corporate governance are frequently addressed first in Delaware contributes to an efficient and expert court system and bar. In contrast, California does not have a similar specialized court established to hear only corporate law cases. Rather, disputes involving questions of California corporate law are either heard by the California Superior Court, the general trial court in California that hears all manner of cases, or, if federal jurisdiction exists, a federal district court. These courts hear many different types of cases, and the cases may be heard before judges or juries with limited corporate law experience. As a result, corporate law cases brought in California may not proceed as expeditiously as cases brought in Delaware and the outcomes in such courts may be less consistent or predictable. The highly specialized nature of the Delaware court system is therefore widely believed to result in more consistent and timely rulings.

Enhanced Ability to Attract and Retain Qualified Candidates for Board of Directors and Management

We experience increasing competition in recruiting and retaining talented individuals to serve on our management team and Board of Directors. The Board of Directors believes that the comparatively stable and predictable corporate environment afforded by Delaware would enable Cisco to compete more effectively with other public companies, most of whom are domiciled in Delaware, in the recruitment and retention of talented and experienced directors and officers. Delaware law is more familiar to investors and advisors, and offers greater certainty and stability from the perspective of those who serve as corporate officers and directors in part because the parameters of director and officer liability, including protection for stockholders from possible abuses by directors and officers, are more extensively addressed in Delaware court decisions and are therefore better defined and better understood than under California law. It should also be noted that directors' personal liability is not, and cannot be, eliminated under Delaware law for intentional misconduct, bad faith conduct, unlawful dividend payments or unlawful stock purchases or redemptions, or any transaction from which the director derives an improper personal benefit. The Board of Directors therefore believes that the comparatively stable and predictable corporate environment afforded by Delaware would not only enhance its ability to recruit and retain directors and officers in the future, but also provide appropriate protection for stockholders from possible abuses by directors and officers, encouraging directors and officers to continue to make independent decisions in good faith on behalf of Cisco.

Ability to Have the Federal District Courts of the United States and Delaware Courts Serve as the Exclusive Forum for the Adjudication of Certain Legal Matters

To ensure that we get the full benefits of Delaware's corporate legal framework, the Board of Directors has provided in the proposed Delaware Bylaws that the federal district courts of the United States and Delaware courts are the exclusive forum for the adjudication of certain legal actions.

Under the exclusive forum provision contained in the Delaware Bylaws, (i) the federal district courts of the United States shall serve as the exclusive jurisdiction for any litigation arising under the Securities Act of 1933, as amended (the "Securities Act") unless we consent to an alternative forum, and (ii) the Court of Chancery in the state of Delaware will be the exclusive forum for certain actions involving Cisco unless we consent to an alternative forum. Based on the proposed language in the Delaware Bylaws, the Court of Chancery would be the exclusive forum for (a) derivative actions brought on behalf of Cisco, and (b) any action asserting a claim of breach of a fiduciary duty owed by, or other wrongdoing by, any director, officer, stockholder, employee or agent of Cisco to Cisco or Cisco's stockholders; (c) any action asserting a claim against Cisco arising pursuant to any provision of the DGCL, the Delaware Incorporation Documents or as to which the DGCL confers jurisdiction on the Court of Chancery of the State of Delaware; (d) any action to interpret, apply, enforce or determine the validity of the Delaware Incorporation Documents; or (e) any action asserting a claim against Cisco governed by the internal affairs doctrine.

We believe that the exclusive forum provision in the Delaware Bylaws will reduce the risk that we could become subject to duplicative litigation in multiple forums, as well as the risk that the outcome of cases in multiple forums could be inconsistent, even though each forum purports to follow Delaware law or federal securities law. Any of these could expose the Company to increased expenses or losses.

Although the Board of Directors believes that the designation of the Delaware Court of Chancery as the exclusive forum for intra-corporate disputes and the federal district courts of the United States for Securities Act claims serves the best interests of the Company and our shareholders as a whole, the Board of Directors also believes that we should retain the ability to consent to an alternative forum on a case-by-case basis. Specifically, where the Board of Directors determines that our interests and those of our stockholders are best served by

permitting a dispute to proceed in a forum other than the Delaware Court of Chancery or the federal district courts of the United States, the exclusive forum provision in the Delaware Bylaws permits us to consent to the selection of such alternative forum. Neither of these choice of forum provisions would affect suits brought to enforce any liability or duty created by the Exchange Act or any other claim for which the federal courts have exclusive jurisdiction.

Possible Negative Consequences of Reincorporation

Notwithstanding the belief of the Board of Directors in the benefits to Cisco's shareholders of the Reincorporation, it should be noted that Delaware law has been criticized by some commentators on the grounds that it does not afford minority shareholders the same substantive rights and protections as are available in a number of other states, including California. In addition, franchise taxes payable by Cisco in Delaware may be greater than the equivalent or other similar taxes currently payable by Cisco in California. The Board of Directors has considered the possible disadvantages of the Reincorporation and has concluded that the potential benefits outweigh the possible disadvantages.

It should also be noted that the interests of our directors and executive officers in voting on the Reincorporation proposal may be different from, or in addition to, those of shareholders generally because, for example, some substantive provisions of California and Delaware law apply only to directors and officers. See "*Interest of Cisco's Directors and Executive Officers in the Reincorporation*" below. For a comparison of shareholders' rights and the material substantive provisions that apply to the Board of Directors and executive officers under Delaware and California law, see "*Significant Differences Between the Charters and Bylaws of Cisco Systems California and Cisco Systems Delaware and Between the Corporate Laws of California and Delaware*" below. The Board of Directors has considered these interests, among other matters, in reaching its decision to approve the Reincorporation and to recommend that our shareholders vote in favor of this proposal.

Effectiveness of Reincorporation

If the shareholders approve the Reincorporation at the annual meeting, we currently intend to cause the Reincorporation to become effective as soon as reasonably practicable following the annual meeting, subject to the completion of certain legal formalities, including obtaining certain consents and approvals by third parties with respect to certain contracts to which Cisco is a party and providing certain notices to regulatory authorities. The Merger Agreement also provides that the Merger Agreement may be terminated and the Merger may be abandoned at any time before the Effective Date and for any reason by the Board of Directors of either Cisco or Cisco Systems Delaware or both, notwithstanding the approval, if obtained, of the principal terms of the Merger Agreement by the shareholders of Cisco, or the adoption of the Merger Agreement by the sole stockholder of Cisco Systems Delaware, or both. Furthermore, the Merger Agreement may be amended at any time prior to the Effective Date, either before or after the shareholders have voted to adopt this proposal, subject to applicable law. Cisco will re-solicit shareholder approval of the Reincorporation if the terms of the Merger Agreement are changed in any material respect that requires shareholder approval.

Significant Differences Between the Charters and Bylaws of Cisco Systems California and Cisco Systems Delaware and Between the Corporate Laws of California and Delaware

The following summarizes a comparison of certain key provisions between the California Incorporation Documents and Delaware Incorporation Documents, as well as certain provisions of California and Delaware corporate laws. The comparison highlights important differences, but is not intended to list all differences, and is qualified in its entirety by reference to such documents and to the respective General Corporation Laws of the States of California and Delaware. Shareholders are encouraged to read the Delaware Certificate, the Delaware Bylaws, the California Articles and the California Bylaws in their entirety. The Delaware Certificate and Delaware Bylaws are attached to this Proxy Statement, and the California Bylaws and California Articles are filed publicly as exhibits to our periodic reports with the SEC.

Provision	Current California Provision	Proposed Change for Reincorporation
Authorized Shares	20 billion shares of common stock, par value $0.001; 5 million shares of "blank check" preferred stock, including 1.2 million shares of Series A Junior Participating Preferred Stock that were previously designated for a "poison pill" rights plan.	20 billion shares of common stock, par value $0.001; 5 million shares of "blank check" preferred stock, par value $0.001, none of which are designated.
Annual Election of Directors	Under California law, at each annual meeting of shareholders, directors shall be elected to hold office until the next annual meeting and until a successor has been elected and qualified, unless the corporation permits staggered terms in the articles of incorporation or bylaws. Cisco has not opted for staggered director terms, so its directors are subject to election at each annual meeting of directors.	No change. Although Delaware law permits the staggered election of directors, the default rule is that directors are elected annually at each meeting of its stockholders. The Delaware Bylaws provide for the annual election of directors.
Number of Directors	California law requires that board size be specified in the bylaws and that the maximum number of directors may be no more than two times minus one the stated minimum number of directors. The California Bylaws provide that the number of directors will be between 8 and 15, with the exact number of directors to be fixed by the Board of Directors.	Under Delaware law, the number of directors is fixed by or in the manner provided in the bylaws, unless the certificate of incorporation fixes the number of directors. The Delaware Certificate does not fix a number of directors. The Delaware Bylaws maintain the existing 8 to 15 permitted range for the number of directors, with the exact number of directors to be fixed by the Board of Directors.
Vote Required to Elect Directors	Under California law, cumulative voting for election of directors is permitted if the shareholder provides advance notice of the intent to exercise cumulative voting. California law also permits public companies to eliminate cumulative voting by the approval of shareholders. The California Articles provide that there is no cumulative voting in director elections. The California Bylaws also provide for a majority voting standard for uncontested elections, and provide that in contested elections directors shall be elected by the plurality of the votes cast.	No change. Under Delaware law, cumulative voting is not permitted unless the corporation provides for cumulative voting rights in its certificate of incorporation. The default voting standard for the election of directors under Delaware law is a plurality vote; however, the certificate of incorporation or bylaws may specify a different standard for the election of directors, such as a majority of the votes cast. The Delaware Certificate also provides that there is no cumulative voting in director elections. The Delaware Bylaws maintain the majority voting standard for uncontested elections and the plurality voting standard for contested director elections.
Removal of Directors	Under California law, directors may be removed by the board of directors if they are of unsound mind or convicted of a felony. A majority of shareholders may remove directors without cause, provided that the removal of less than all of the directors on the board of directors requires calculating the votes against removal cumulatively. The California Bylaws allow directors to be removed by the Board of Directors if they are of unsound mind or have been convicted of a felony, and allow a majority of shareholders to remove directors without cause. The California Bylaws further provide that removal of less than all of the directors on the Board of Directors requires calculating the votes against removal cumulatively.	Under Delaware law, any director, or the entire board, may be removed, with or without cause, with the approval of a majority of the outstanding shares entitled to vote at an election of directors. The Delaware Bylaws conform to Delaware law, permitting an unclassified director to be removed at any time with or without cause. The Delaware Bylaws do not provide for cumulative voting, which is not required under Delaware law and will not be utilized in voting on director removal.
Filling a Vacancy on the Board of Directors	Consistent with California law, Board of Directors' vacancies may be filled by the majority of remaining directors, other than vacancies created by the removal of a director by the vote of the shareholders, which may only be filled by a vote of the shareholders. If an incumbent director fails to receive the required majority vote to be re-elected in an uncontested election, then unless such director has earlier resigned, his or her term will expire on the earlier of 90 days following the determination of the results or the date on which the Board selects the person to fill the office held by that director.	Under Delaware law, vacancies and newly created directorships may be filled by a majority of the directors then in office (even though less than a quorum) or by a sole remaining director, unless otherwise provided in the certificate of incorporation or bylaws. We have retained in the Delaware Bylaws that a vacancy created by the removal of a director by the vote of the stockholders may only be filled by a vote of the stockholders. The Delaware Bylaws provide that if an incumbent director fails to receive the required majority vote to be re-elected in an uncontested election, then such director shall tender his or her resignation to the Board to be effective on the earlier of 90 days following the determination of the results or the date on which the Board selects the person to fill the office held by that director.

Provision	Current California Provision	Proposed Change for Reincorporation
Lead Independent Director	Under California law, a corporation may create a position of lead independent director. The California Bylaws do not specifically provide for a lead independent director.	Under Delaware law, a corporation may create a position of lead independent director. The Delaware Bylaws provide for a lead independent director.
Proxy Access	Under California law, corporations may provide for "proxy access" for shareholders in a corporation's bylaws. The California Bylaws implement "proxy access" by permitting stockholders holding 3% or greater ownership of Cisco's common stock for three years the opportunity to elect the greater of 2 and 20% of the Board of Directors.	No change. Delaware law permits corporations to adopt "proxy access" in their bylaws. The Delaware Bylaws retain the same proxy access provisions as the California Bylaws.
Advance Notice of Stockholder Proposals and Director Nominations	Under California law, corporations may set the time period required for shareholders to provide advance notice to the corporation of director nominees and business to be put to vote at the annual meeting of shareholders. Under the California Bylaws for shareholder business or director nomination to be timely, they must be delivered to Cisco between 60 and 90 days prior to the anniversary of the mailing of the proxy statement for the prior year's annual meeting of shareholders.	No change. Delaware also permits corporations to set the advance notice time period in the corporation's bylaws for stockholder director nominations and proposals of business at the annual meeting. The Delaware Bylaws set the advance notice period for stockholder notification to the Cisco to be between 60 and 90 days prior to the anniversary of the mailing of the proxy statement for the prior year's annual meeting of stockholders.
Ability of Shareholders to Call Special Meetings	Under California law, a special meeting of shareholders may be called by the board of directors, the board chair, the president, or the holders of shares entitled to cast not less than 10% of the votes at such meeting and such persons as are authorized by the articles of incorporation or bylaws. The California Bylaws allow a special meeting to be called by the Board chair, the Chief Executive Officer, a President, the Board of Directors or by shareholders holding at least 10% of the outstanding stock.	Under Delaware law, a special meeting of stockholders may be called by the board of directors or by any person authorized in the certificate of incorporation or the bylaws. The Delaware Bylaws also allow a special meeting to be called by the Board chair, the Chief Executive Officer, the Board of Directors or by stockholders holding at least 10% of the outstanding stock.
Stockholder Action by Consent	California law provides that shareholder action by written consent is available unless otherwise provided in a company's articles of incorporation. Cisco has not opted out of this default rule, and therefore the California Articles permit shareholders may act by written consent without a meeting. Pursuant to the California Bylaws and California law, the election of directors must be by unanimous stockholder consent; provided that the shareholders may elect a director to fill a vacancy, other than a vacancy created by removal, by the consent of a majority of the outstanding shares entitled to vote.	Under Delaware law the right of stockholders to take action by consent without a meeting must be contained in the certificate of incorporation. The Delaware Certificate retains the right of stockholders to take action through consent on any action that may be taken at any meeting of the stockholders. However, the California law requirement that directors be elected by unanimous consent if action is taken without a meeting was not retained in the Delaware Bylaws.
Dividends, Repurchases and Redemption	Under California law, a corporation may not pay dividends or otherwise make other distributions to its shareholders unless either: (i) the corporation's retained earnings immediately prior to the proposed distribution equal or exceed the amount of the proposed distribution plus the preferential dividends arrears amount; or (ii) immediately after the distribution, the value of its assets equals or exceeds the sum of (a) its total liabilities plus (b) the liquidation preference of any shares which have a preference upon dissolution over the rights of shareholders receiving the distribution. These tests are applied to California corporations on a consolidated basis.	Delaware law is generally more flexible than California law with respect to payment of dividends and implementing share repurchase programs. Delaware law generally provides that a corporation may redeem or repurchase its shares out of its surplus. In addition, Delaware law generally provides that a corporation may declare and pay dividends out of surplus, or if there is no surplus, out of net profits for the fiscal year in which the dividend is declared and/or for the preceding fiscal year. Surplus is defined as the excess of a corporation's net assets (i.e., its total assets minus its total liabilities) over its statutory capital. Moreover, Delaware permits a board of directors to reduce its capital (but not below than the aggregate par value of its outstanding shares of stock) and transfer such amount to its surplus.
Amendment of Bylaws	Under California law, the board of directors may amend the California Bylaws by default. Therefore, the California Articles do not specify that the Board of Directors may amend the California Bylaws. The California Bylaws specify that they may be adopted, amended, or repealed by majority shareholder vote. The right of the Board of Directors to amend the California Bylaws is subject to the shareholder right.	Under Delaware law, the power of the board of directors to amend the Delaware Bylaws must be expressly contained in the Certificate of Incorporation. Therefore, the Delaware Certificate provides that the Board of Directors may amend the Delaware Bylaws, and the Delaware Bylaws provide that the right of the Board of Directors to amend the Delaware Bylaws is concurrent with the stockholders' right. The Delaware Bylaws maintain that they may be adopted, amended, or repealed by majority stockholder vote.

Provision	Current California Provision	Proposed Change for Reincorporation
Restrictions on Transactions with Interested Shareholders	Section 1203 of the California Corporations Code, which applies to mergers or corporate acquisition transactions with interested shareholders or their affiliates, makes it a condition to the consummation of a merger or other acquisition transaction with an interested shareholder that an affirmative opinion be obtained in writing as to the fairness of the consideration be received by the shareholders of the corporation being acquired.	Under DGCL Section 203, a Delaware corporation is prohibited from engaging in a "business combination" with an "interested stockholder" (generally as a person with 15% or more of the corporation's outstanding voting stock) for three years, unless certain conditions are met. Delaware corporations may opt out of DGCL Section 203 only by express provision in a certificate of incorporation. The Delaware Certificate includes a provision opting out from DGCL Section 203.
Stockholder Vote Required to Approve Merger or Sale of Company	Except in limited circumstances, California law requires the affirmative vote of a majority of the outstanding shares entitled to vote in order to approve a merger of the corporation or a sale of all or substantially all the assets of the corporation, including, in the case of a merger, the affirmative vote of each class of outstanding stock. The California Articles do not include any voting requirements with respect to the approval of a merger or sale.	Delaware law requires the affirmative vote of a majority in voting power of the outstanding shares entitled to vote to approve a merger of the corporation or a sale of all or substantially all the assets of the corporation, except in limited circumstances.
Restrictions on Cash Mergers	Under California law, a merger may not be consummated for cash if the purchaser owns more than 50% but less than 90% of the then outstanding shares unless either: (i) all of the shareholders consent, or (ii) the California Commissioner of Corporations approves the merger.	Delaware law does not have a provision similar to this California rule.
Exclusive Forum Provisions	Under California law, a corporation may designate certain jurisdictions as the exclusive forum for certain claims. The California Incorporation Documents do not make any exclusive forum designation.	Under Delaware law, a corporation may designate certain jurisdictions as the exclusive forum for certain claims. The Delaware Bylaws designate the federal district courts of the United States to serve as the exclusive jurisdiction for any litigation arising under the Securities Act, and designates the Chancery Court of the State of Delaware to be the exclusive forum for certain actions involving Cisco, including for (a) derivative actions brought on behalf of Cisco, and (b) any action asserting a claim of breach of a fiduciary duty owed by, or other wrongdoing by, any director, officer, stockholder, employee or agent of Cisco to Cisco or Cisco's stockholders; (c) any action asserting a claim against Cisco arising pursuant to any provision of the DGCL, the Delaware Incorporation Documents or as to which the DGCL confers jurisdiction on the Court of Chancery of the State of Delaware; (d) any action to interpret, apply, enforce or determine the validity of the Delaware Incorporation Documents; or (e) any action asserting a claim against Cisco governed by the internal affairs doctrine. Notwithstanding the foregoing, Cisco may consent to an alternative forum at its discretion. Neither of these choice of forum provisions would affect suits brought to enforce any liability or duty created by the Exchange Act or any other claim for which the federal courts have exclusive jurisdiction.

Provision	Current California Provision	Proposed Change for Reincorporation
Indemnification and Advancement of Expenses	Indemnification of corporate officers and directors is permitted by California law, provided the requisite standard of conduct is met. California law requires indemnification when the indemnitee has defended the action successfully on the merits. Indemnification is permitted under California law only for acts taken in good faith and believed to be in the best interests of the company and its shareholders. Expenses incurred by an officer or director in defending an action may be paid in advance, if the director or officer undertakes to repay such amounts if it is ultimately determined that he or she is not entitled to indemnification. California law authorizes a corporation to purchase indemnity insurance for the benefit of its officers, directors, employees and agents whether or not the corporation would have the power to indemnify against the liability covered by the policy. California law permits a corporation to provide rights to indemnification beyond those provided therein to the extent such additional indemnification is authorized in the corporation's articles of incorporation. Thus, if so authorized, rights to indemnification may be provided pursuant to agreements or bylaw provisions which make mandatory the permissive indemnification provided by California law. The California Articles and California Bylaws authorize indemnification to the fullest extent permissible under California law. The California Bylaws also specify that any expenses reasonably incurred by an agent defending a claim resulting from such person serving at Cisco's request as a director or officer of another corporation shall be paid by Cisco.	Substantially similar. Delaware law permits corporations to indemnify its directors, officers, employees and agents from expenses and losses arising out of litigation arising by reason of the person's service to the corporation or to another entity at its request, including, in certain circumstances, litigation by or in the right of the corporation so long as the person acted in good faith and in a manner reasonably believed to be in or not opposed to the best interests of the corporation and, in the case of criminal proceedings, had no reasonable cause to believe that his or her conduct was unlawful. A corporation must indemnify a person "to the extent" the person is successful on the merits or otherwise in defense of an action, suit or proceeding. Unless judicially authorized, corporations may not indemnify a person in connection with a proceeding by or in the right of the corporation in which the person was adjudged liable to the corporation. Expenses incurred by a director, officer, employee or agent in defending an action may be paid in advance, if the person undertakes to repay such amounts if it is ultimately determined that he or she is not entitled to indemnification. Delaware law authorizes a corporation to purchase indemnity insurance for the benefit of its directors, officers, employees and agents whether or not the corporation would have the power to indemnify against the liability covered by the policy. Delaware law permits a Delaware corporation to provide indemnification in excess of that provided by statute. The Delaware Certificate authorizes indemnification to the fullest extent permissible under Delaware law and the Delaware Bylaws mandate indemnification for directors and officers, as well as others that are acting, at the request of Cisco, as directors, officers, authorized signatories or trustees of other entities, in each case, to the fullest extent permissible under Delaware law. The Delaware Bylaws also mandate advancement of defense expenses for directors and officers to the fullest extent permissible under Delaware.
Elimination of Director Personal Liability for Monetary Damages	California law permits a corporation to eliminate the personal liability of directors for monetary damages, except where such liability is based on: (i) Intentional misconduct or knowing and culpable violation of law; (ii) Acts or omissions that a director believes to be contrary to the best interests of the corporation or its shareholders or that involve the absence of good faith on the part of the director; (iii) Any transaction from which a director derived an improper personal benefit; (iv) Acts or omissions that show reckless disregard for the director's duty to the corporation or its shareholders, where the director in the ordinary course of performing a director's duties is, or should be, aware of a risk of serious injury to the corporation or its shareholders; (v) Acts or omissions that constitute an unexcused pattern of inattention that amounts to an abdication of the director's duty to the corporation and its shareholders; (vi) Transactions between the corporation and a director who has a material financial interest in such transaction; or (vii) Liability for improper distributions, loans or guarantees. The California Articles eliminate the liability of directors for monetary damages to the fullest extent permissible under California law.	Substantially similar. Delaware law permits a corporation to eliminate the personal liability of directors for monetary damages, except where such liability is based on: (i) Breaches of the director's duty of loyalty to the corporation or its stockholders; (ii) Acts or omissions not in good faith or involving intentional misconduct or knowing violations of law; (iii) The payment of unlawful dividends or unlawful stock repurchases or redemption; or (iv) Transactions in which the director received an improper personal benefit. Such a limitation of liability provision also may not limit a director's liability for violation of, or otherwise relieve the company or directors from the necessity of complying with, federal or state securities laws, or affect the availability of non-monetary remedies such as injunctive relief or rescission. To the fullest extent permitted by Delaware statutory or decisional law, the Delaware Certificate eliminates the liability of directors to Cisco or its stockholders for monetary damages for breach of duty as a director.

Interest of Cisco's Directors and Executive Officers in the Reincorporation

The shareholders should be aware that Cisco's directors and executive officers in voting on the Reincorporation proposal may have interests in the transaction that are different from, or in addition to, the interests of the shareholders generally. For example, the Reincorporation may provide officers and directors of Cisco with more clarity and certainty in the reduction of their potential personal liability and strengthen the ability of directors to resist takeover bids. The Board of Directors has considered these interests, among other matters, in reaching its decision to approve the Reincorporation and to recommend that our shareholders vote in favor of this proposal.

U.S. Federal Income Tax Consequences

The following discussion summarizes certain U.S. federal income tax consequences of the Reincorporation to holders of our common stock. The discussion is based on the Code, regulations promulgated under the Code by the U.S. Treasury Department (including proposed and temporary regulations), rulings, current administrative interpretations and official pronouncements of the Internal Revenue Service (IRS), and judicial decisions, all as currently in effect and all of which are subject to differing interpretations or to change, possibly with retroactive effect. Such change could materially and adversely affect the tax consequences described below. No assurance can be given that the IRS would not assert, or that a court would not sustain, a position contrary to any of the tax consequences described herein.

This discussion is for general information only, and does not purport to discuss all aspects of U.S. federal income taxation that may be important to a particular holder in light of its investment or tax circumstances or to holders subject to special tax rules, such as partnerships, subchapter S corporations or other pass-through entities, banks, financial institutions, tax-exempt entities, insurance companies, regulated investment companies, real estate investment trusts, trusts and estates, dealers in stocks, securities or currencies, traders in securities that have elected to use the mark-to-market method of accounting for their securities, persons holding our common stock as part of an integrated transaction, including a "straddle," "hedge," "constructive sale," or "conversion transaction," persons whose functional currency for tax purposes is not the U.S. dollar and persons subject to the alternative minimum tax provisions of the Code. This discussion does not include any description of the tax laws of any state or local governments, or of any foreign government, that may be applicable to a particular holder.

This discussion is directed solely to holders that hold our common stock as capital assets within the meaning of Section 1221 of the Code, which generally means as property held for investment. In addition, the following discussion only addresses "U.S. persons" for U.S. federal income tax purposes, generally defined as beneficial owners of our common stock who are:

- Individuals who are citizens or residents of the United States;
- Corporations (including an entity treated as a corporation for U.S. federal income tax purposes) created or organized in or under the laws of the United States or of any state of the United States or the District of Columbia;
- Estates, the income of which is subject to U.S. federal income taxation regardless of its source;
- Trusts, if a court within the United States is able to exercise primary supervision over the administration of any such trust and one or more U.S. persons have the authority to control all substantial decisions of such trust; or
- Trusts in existence on August 20, 1996 that have valid elections in effect under applicable Treasury regulations to be treated as U.S. persons.

If an entity or arrangement treated as a partnership for U.S. federal income tax purposes holds our common stock, the U.S. federal income tax treatment of a partner generally will depend on the status of the partner and the activities of the partnership. A partner of a partnership holding our common stock should consult its own tax adviser regarding the U.S. federal income tax consequences to the partner of the Reincorporation.

This discussion does not purport to be a complete analysis of all of the tax consequences of the Reincorporation that may be relevant to holders. We urge you to consult your own tax adviser regarding your particular circumstances and the U.S. federal income and other federal tax consequences to you of the Reincorporation, as well as any tax consequences arising under the laws of any state, local, foreign or other tax jurisdiction and the possible effects of changes in U.S. federal or other tax laws.

We have not requested a ruling from the IRS or an opinion of counsel regarding the U.S. federal income tax consequences of the Reincorporation. However, we believe:

- The Reincorporation will constitute a tax-free reorganization under Section 368(a) of the Code;
- No gain or loss will be recognized by holders of Cisco Systems California common stock on receipt of Cisco Systems Delaware common stock pursuant to the Reincorporation;
- The aggregate tax basis of Cisco Systems Delaware common stock received by each holder will equal the aggregate tax basis of the Cisco Systems California common stock surrendered by such holder in exchange therefor; and
- The holding period of the Cisco Systems Delaware common stock received by each holder will include the period during which such holder held the Cisco Systems California common stock surrendered in exchange therefor.

Vote Required

The affirmative vote of a majority of the shares of Cisco's outstanding common stock is required to effect the Reincorporation. Consequently, broker non-votes and abstentions shall have the same effect as a vote against the Reincorporation. If you own shares through a bank, broker or other holder of record, you must instruct your bank, broker or other holder of record how to vote in order for them to vote your shares so that your vote can be counted on this proposal.

Recommendation of the Board of Directors

The Board of Directors recommends that the shareholders vote **FOR** approval of the Reincorporation.

COMPENSATION COMMITTEE MATTERS

Proposal No. 3 — Approval of the Amendment and Restatement of the 2005 Stock Incentive Plan

Cisco is requesting that shareholders approve, in its entirety, the Cisco Systems, Inc. 2005 Stock Incentive Plan as amended and restated by the Board of Directors, subject to shareholder approval (as amended and restated, the "Amended Stock Plan"). If the amendment and restatement is not approved by shareholders at the 2020 Annual Meeting, awards shall continue to be granted under the 2005 Stock Incentive Plan until the 2005 Stock Incentive Plan expires on the date of the 2021 Annual Meeting. A summary of the Amended Stock Plan follows.

General

Under its terms, the 2005 Stock Incentive Plan will expire on the date of the 2021 Annual Meeting if not approved by shareholders. The Amended Stock Plan that is being submitted to our shareholders for approval:

- Provides that the term of the 2005 Stock Incentive Plan be extended for nine years and expire on the date of the 2030 Annual Meeting;
- Increases the number of shares authorized for issuance under the 2005 Stock Incentive Plan by 95,975,000 shares to 789,975,000 shares;
- Expands the ability of the Compensation Committee to set appropriate performance goals under the Amended Stock Plan since an itemized list and specific time limits are no longer required by Section 162(m) of the Code;
- Clarifies that dividends, dividend equivalents, and other distributions on unvested awards will be paid or settled only after the underlying awards have been earned and are vested and not during the performance/service vesting period; and
- Expands cash compensation elections for non-employee directors to allow for non-employee directors to elect to receive stock grants or deferred stock units in lieu of any retainer paid in connection with service on any committee of the Board or other cash fees (not limited to his or her regular annual cash retainer).

Except for the changes set forth above, the terms of the 2005 Stock Incentive Plan will remain unchanged. After the amendment and restatement, the Amended Stock Plan will continue to contain the following important corporate governance features:

- Caps on the annual amount of awards that participants can be granted.
- Repricing of stock options and stock appreciation rights is prohibited unless shareholder approval is obtained.
- Stock options and stock appreciation rights must be granted with an exercise price that is not less than 100% of the fair market value on the date of grant.
- Automatic replacement of stock options when a stock option is exercised with previously acquired shares of Cisco common stock or so-called "stock option reloading" is not permitted.
- No single-trigger change in control vesting.

Request for Additional Shares, Dilution and Overhang

In order to give Cisco the flexibility to responsibly address its future equity compensation needs, Cisco is requesting that shareholders approve the Amended Stock Plan, which increases the number of shares authorized for issuance under the plan by 95.975 million shares. As of July 25, 2020, there were approximately 183 million shares available for grant under the 2005 Stock Incentive Plan. The 2005 Stock Incentive Plan contains a fungible share reserve feature. Under this feature, a distinction is made between the number of shares in the reserve attributable to (i) stock options and stock appreciation rights and (ii) "full value" awards (i.e., stock grants and stock units). Currently, shares granted pursuant to full value awards are counted against authorized shares under the 2005 Stock Incentive Plan on a 1.5-to-1 ratio, the fungible share ratio. Recent annual grant levels for the preceding three fiscal years have averaged at approximately 47 million full value shares (or approximately 70 million shares counted against authorized shares) for an average annual burn rate of

approximately 1.04%. The "burn rate" is the ratio of the number of shares underlying awards, including performance-based awards valued at 100% of target, granted under the 2005 Stock Incentive Plan during a fiscal year to the number of Cisco's weighted average common shares outstanding for the corresponding fiscal year.

A total of 350 million shares were originally authorized under the 2005 Stock Incentive Plan in 2005, an additional 209 million shares were authorized in 2007, and an additional 135 million shares were authorized in 2013. Set forth below is the number of shares available for issuance pursuant to outstanding and future equity awards under all stock incentive plans as of July 25, 2020:

Shares subject to outstanding stock option awards	1 million
Shares subject to outstanding restricted share/unit awards (assuming outstanding performance-based stock unit awards are earned at maximum)	101 million
Shares available for issuance pursuant to future equity awards (assuming outstanding performance-based stock unit awards are earned at maximum)	183 million
Total shares available for future issuance	285 million

Note: As of July 25, 2020, Cisco had under the Amended Stock Plan no outstanding options, approximately 93 million shares subject to outstanding RSUs, and approximately 8 million shares subject to outstanding PRSUs based on an assumed maximum performance, unless performance is otherwise known. As of July 25, 2020, Cisco had under assumed stock plans approximately 476 thousand shares subject to outstanding RSUs and 1 million shares subject to outstanding options with a weighted average exercise price of $6.71 per share and a weighted average life of 4.1 years.

The above total of 285 million shares represents an overhang of approximately 7% based on outstanding common shares as of July 25, 2020. If this amendment and restatement is approved, the additional 95.975 million shares available for issuance under the Amended Stock Plan would increase the overhang to 9%. Cisco calculates "overhang" as the total of (a) shares underlying outstanding awards plus shares available for issuance under future equity awards, divided by (b) the total number of shares outstanding, shares underlying outstanding awards and shares available for issuance under future equity awards. As of September 30, 2020, the fair market value of a share of Cisco common stock was $39.39.

When considering the number of additional shares to add to the Amended Stock Plan, the Compensation Committee reviewed, among other things, the potential dilution to Cisco's current shareholders as measured by burn rate and overhang, projected future share usage and projected future forfeitures. The projected future usage of shares for long-term incentive awards under the Amended Stock Plan was reviewed under scenarios based on a variety of assumptions. Depending on assumptions, the 95.975 million shares to be added to the Amended Stock Plan pursuant to this amendment and restatement, in combination with the remaining authorized shares and shares added back to the plan from forfeitures of awards granted under the Amended Stock Plan and added to the plan from forfeitures of awards granted under certain previous plans, is expected to satisfy Cisco's equity compensation needs through at least the 2024 Annual Meeting. However, while this forecast is based on current operating assumptions, there can be no guarantee that future events, including changes in future business conditions and Cisco's stock price, will not require Cisco to grant equity awards more rapidly or slowly than currently expected. The Compensation Committee is committed to effectively managing the number of shares reserved for issuance under the Amended Stock Plan while minimizing shareholder dilution.

Material Features of the Amended Stock Plan

The following is a summary of the material features of the Amended Stock Plan. This summary does not purport to be a complete description of all of the provisions of the Amended Stock Plan and is qualified in its entirety by the Amended Stock Plan in substantially the form attached hereto as Appendix D. A copy of the Amended Stock Plan has been filed with the SEC with this Proxy Statement and will be sent to shareholders free of charge upon written request to Cisco Systems, Inc., Attention: Investor Relations, 170 West Tasman Drive, San Jose, California 95134.

Purpose of the Amended SIP

The purpose of the Amended Stock Plan is to promote the long-term success of Cisco and the creation of shareholder value by offering employees, consultants and board members an opportunity to share in such long-term success by acquiring a proprietary interest in Cisco. The Amended Stock Plan seeks to achieve this purpose

by providing for discretionary long-term incentive awards in the form of incentive stock options or nonstatutory stock options, stock appreciation rights ("SARs"), stock grants, and stock units.

Share Reserve

The shares issuable under the Amended Stock Plan are authorized but unissued shares of Cisco common stock. The aggregate number of shares reserved for awards under the Amended Stock Plan must not exceed 789,975,000 shares, subject to adjustment in the event of a capitalization event as described below in "Capitalization Adjustments."

If awards issued under the Amended Stock Plan are forfeited or terminated for any reason before being exercised or settled, then the shares underlying such awards, plus the number of additional shares, if any, that counted against shares available for issuance under the Amended Stock Plan at the time of grant as a result of the application of the fungible share ratio described above, will become available again for issuance under the Amended Stock Plan. SARs will be counted in full against the number of shares available for issuance under the Amended Stock Plan regardless of the number of shares issued upon settlement of the SARs. In the event that withholding tax liabilities arising from an award other than a stock option or SAR are satisfied by the withholding of shares by Cisco, then the shares so withheld, plus the number of additional shares, if any, that counted against the shares available for issuance under the Amended Stock Plan in respect thereof at the time of grant, will again be available for issuance under the Amended Stock Plan. Shares withheld by Cisco to satisfy any tax withholding obligation with respect to a stock option or SAR will not be added to the shares available for issuance under the Amended Stock Plan. Further, shares that are exchanged by a participant or withheld by Cisco as full or partial payment in connection with the exercise or settlement of a stock option or SAR will not be available for subsequent awards under the Amended Stock Plan and shares repurchased on the open market with the proceeds of an option exercise will not be made available again for issuance under the Amended Stock Plan.

The following table provides certain information regarding the share reserve of the Amended Stock Plan:

Shares originally authorized under the 2005 Stock Incentive Plan on November 15, 2005	350 million
Additional shares authorized under the amendment and extension of the 2005 Stock Incentive Plan in 2007	209 million
Additional shares authorized under the amendment of the 2005 Stock Incentive Plan in 2013	135 million
Additional shares requested pursuant to this proposal	95.975 million
Shares granted from November 15, 2005 through July 25, 2020 from the 2005 Stock Incentive Plan, less allowable cancellations from the 2005 Stock Incentive Plan and the previous plans	(511 million)
Total shares available for grant under the Amended Stock Plan as of July 25, 2020 (inclusive of the shares requested pursuant to this proposal)	279 million

Note: As of July 25, 2020, Cisco had under the Amended Stock Plan no outstanding options, approximately 93 million shares subject to outstanding RSUs and approximately 8 million shares subject to outstanding PRSUs based on an assumed maximum performance, unless performance is otherwise known.

Plan Limits

No participant in the Amended Stock Plan may be granted awards during any fiscal year in excess of any of the following limits: options covering in excess of 5,000,000 shares; SARs covering in excess of 5,000,000 shares; or stock grants or stock units in the aggregate covering in excess of 5,000,000 shares. The maximum value of stock awards granted during a single fiscal year under the Amended Stock Plan, taken together with any cash fees paid during such fiscal year for services on the Board of Directors, will not exceed $800,000 in total value for any non-employee director, calculating the value of any such awards based on the grant date fair value of such awards under applicable financial accounting standards. Such limit includes the value of any stock awards that are received in lieu of payment of all or a portion of the non-employee director's regular annual retainer, additional retainer paid in connection with service on any committee of the Board of Directors, or other cash fees. For the avoidance of doubt, neither awards granted or compensation paid to a non-employee director for services rendered as an employee or consultant of Cisco nor any amounts paid to a non-employee director as a reimbursement of an expense will count against the foregoing limitation.

Administration

Under the terms of the Amended Stock Plan, the Board of Directors or a committee appointed by the Board of Directors has the authority to administer the Amended Stock Plan (the "Plan Administrator"). The Compensation Committee has been designated as the Plan Administrator. The Board of Directors may, however, at any time terminate the functions of the Compensation Committee and reassume all powers and authority previously delegated to the Compensation Committee.

Subject to the terms of the Amended Stock Plan, the Plan Administrator, among other things, determines the recipients, dates of grant, the numbers and types of stock awards to be granted and the terms and conditions of such stock awards. Notwithstanding the foregoing, only the full Board of Directors may grant and administer awards under the Amended Stock Plan to non-employee directors.

Eligibility and Types of Awards under the Amended Stock Plan

The Amended Stock Plan permits the granting of stock options, stock grants, stock units and SARs by the Plan Administrator as further described below. Employees (including employee directors and executive officers) and consultants of Cisco and its subsidiaries and affiliates and non-employee directors of Cisco are eligible to participate in the Amended Stock Plan. Accordingly, each non-employee member of the Board of Directors, each executive officer and each person who previously served as an executive officer during fiscal 2020 and remains employed by Cisco has an interest in Proposal No. 3. As of July 25, 2020, approximately 77,500 employees (including executive officers) are eligible to participate in the Amended Stock Plan. All non-employee directors (9 persons) are eligible to participate in the Amended Stock Plan.

- *Stock Units*

The Plan Administrator may award stock units under the Amended Stock Plan. Participants are not required to pay any consideration to Cisco at the time of grant of a stock unit. The number of shares covered by each stock unit award will be determined by the Plan Administrator.

The Plan Administrator may provide for time-based vesting or vesting upon satisfaction of performance goals, or both, and/or other conditions. Unless a deferral election is made, when the participant satisfies the vesting conditions of the stock unit award, Cisco will pay the participant cash or shares of Cisco common stock or any combination of both to settle the vested stock units. Conversion of the stock units into cash may be based on the average of the fair market value of a share of Cisco common stock over a series of trading days or on other methods. The holders of stock units have no voting rights. Awards may be granted with or without dividend equivalents, which, prior to distribution, are subject to the same terms and conditions (including, without limitation, any forfeiture conditions) as the stock units to which they relate. Any dividend equivalents awarded with respect to stock units will be settled only if, when and to the extent such stock units vest and are settled. Dividend equivalents payable with respect to stock units that do not vest will be forfeited. Currently, dividend equivalents are only credited on vested deferred stock units.

- *Stock Options*

The Plan Administrator may grant nonstatutory stock options or incentive stock options under the Amended Stock Plan. However, the Plan Administrator does not have the authority to grant stock options that automatically provide for the grant of new stock options upon their exercise. The number of shares covered by each stock option granted to a participant will be determined by the Plan Administrator.

The Plan Administrator may provide for time-based vesting or vesting upon satisfaction of performance goals, or both, and/or other conditions. The stock option exercise price is established by the Plan Administrator and must be at least 100% of the per share fair market value (110% for incentive stock option grants to 10% shareholders) of Cisco common stock on the date of grant. Repricing of stock options is prohibited unless shareholder approval is obtained. The maximum term for stock options may not exceed ten years from the date of grant, but the Plan Administrator may provide for earlier expiration. Since fiscal 2009, the Plan Administrator has determined that stock options granted will expire seven years after the date of grant. Unless otherwise provided by the Plan Administrator, unvested stock options will expire upon termination of the participant's service with Cisco and vested stock options will expire three months following a termination for any reason other than death, disability, or cause; eighteen months following a termination for death or disability; and immediately following a termination for cause. Stock options may not be granted with rights to dividends or dividend equivalents.

Under the Amended Stock Plan, the stock option exercise price must be paid at the time the shares are purchased. Consistent with applicable laws, regulations and rules, payment of the exercise price of a stock option may be made in cash, (including by check, wire transfer or similar means), by cashless exercise, by surrendering or attesting to previously acquired shares of Cisco common stock, or by any other legal consideration.

- *Stock Grants*

The Plan Administrator may award stock grants under the Amended Stock Plan. Except for non-employee directors, stock grants are not typically awarded to employees. At the time of the stock grant, participants may be required to pay cash or other legal consideration approved by the Plan Administrator, but the Amended Stock Plan does not establish a minimum purchase price for shares awarded as stock grants. Stock grants are comprised of shares of Cisco common stock. The number of shares associated with each stock grant will be determined by the Plan Administrator.

The Plan Administrator may provide for time-based vesting or vesting upon satisfaction of performance goals, or both, and/or other conditions. When the stock grant award conditions are satisfied, then the participant is vested in the shares and has complete ownership of the shares. The holder of a stock grant awarded under the Amended Stock Plan will have the same voting, dividend and other rights as Cisco's other shareholders, except that in the case of any unvested shares, the holder will not be entitled to any dividends and other distributions paid or distributed by Cisco on the equivalent number of vested shares. Notwithstanding the foregoing, at the Plan Administrator's discretion, the holder of unvested shares may be credited with such dividends and other distributions provided that such dividends and other distributions will be distributed to the holder only if, when and to the extent such shares vest. The value of dividends and other distributions payable or distributable with respect to any shares that do not vest shall be forfeited.

- *Stock Appreciation Rights*

The Plan Administrator may grant SARs under the Amended Stock Plan. However, the Plan Administrator does not have the authority to grant SARs that automatically provide for the grant of new SARs upon their exercise. The number of shares covered by each SAR will be determined by the Plan Administrator.

The Plan Administrator may provide for time-based vesting or vesting upon satisfaction of performance goals and/or other conditions. The SAR exercise price is established by the Plan Administrator and must be at least 100% of the per share fair market value of Cisco common stock on the date of grant. Repricing of SARs is prohibited unless shareholder approval is obtained. SARs may not be granted with rights to dividends or dividend equivalents.

The maximum term for SARs may not exceed ten years from the date of grant, but the Plan Administrator may provide for earlier expiration. Unless otherwise provided by the Plan Administrator, unvested SARs expire upon termination of the participant's service with Cisco and vested SARs expire three months following a termination for any reason other than death, disability, or cause; eighteen months following a termination for death or disability; and immediately following a termination for cause. Upon exercise of a SAR, the participant receives payment from Cisco in an amount determined by multiplying (a) the difference between (i) the fair market value of a share on the date of exercise and (ii) the exercise price times (b) the number of shares with respect to which the SAR is exercised. SARs may be paid in cash, shares of Cisco common stock or any combination of both, as determined by the Plan Administrator.

Performance Conditions

Awards under the Amended Stock Plan may be made subject to performance conditions as well as time-vesting conditions. Such performance conditions may be based on an objective formula or standard, which include, but are not limited to, one or more of the following factors, whether or not calculated in accordance with GAAP, and any objectively verifiable adjustment(s) thereto permitted and pre-established by the Plan Administrator: (i) operating income, operating cash flow and operating expense; (ii) earnings before interest, taxes, depreciation and amortization; (iii) earnings; (iv) cash flow; (v) market share; (vi) sales; (vii) revenue; (viii) profits before interest and taxes; (ix) expenses; (x) cost of goods sold; (xi) profit/loss or profit margin; (xii) working capital; (xiii) return on capital, equity or assets; (xiv) earnings per share; (xv) economic value added; (xvi) stock price; (xvii) price/earnings ratio; (xviii) debt or debt-to-equity; (xix) accounts receivable; (xx) write-offs; (xxi) cash; (xxii) assets; (xxiii) liquidity; (xxiv) operations; (xxv) intellectual property (e.g., patents); (xxvi) product development; (xxvii) regulatory activity; (xxviii) manufacturing, production or

inventory; (xxix) mergers and acquisitions or divestitures; (xxx) financings; (xxxi) customer satisfaction; and/or (xxxii) total shareholder return, each with respect to Cisco and/or one or more of its affiliates or operating units.

Capitalization Events

In the event of a subdivision of the outstanding shares of Cisco common stock, a declaration of a dividend payable in shares, a declaration of a dividend payable in a form other than shares in an amount that has a material effect on the price of shares, a combination or consolidation of the outstanding shares (by reclassification or otherwise) into a lesser number of shares, a recapitalization, a spin-off or a similar occurrence, the Plan Administrator will make appropriate adjustments to the number of shares and kind of shares or securities issuable under the Amended Stock Plan (on both an aggregate and per-participant basis) and under each outstanding award, to the award limits as described above in "Plan Limits", and to the exercise price of outstanding options and SARs.

Corporate Transactions

In the event that Cisco is acquired by merger or asset sale or consolidated into another entity, outstanding awards will be subject to the applicable agreement of merger, sale of assets or reorganization. Such agreement may provide, without limitation, for the assumption or substitution of outstanding options, SARs, or stock units by the surviving corporation or its parent, for the assumption of outstanding stock grants by the surviving corporation or its parent, for the replacement of outstanding options, SARs, and stock units with a cash incentive program of the surviving corporation which preserves the spread existing on the unvested portions of such outstanding awards at the time of the transaction and provides for subsequent payout in accordance with the same vesting provisions applicable to those awards, for accelerated vesting of outstanding awards, or for the cancellation of outstanding options, SARs, and stock units, with or without consideration, in all cases without the consent of the participant.

Vesting Acceleration

Unless otherwise provided in the applicable award agreement, outstanding stock options, SARs, and stock units will vest and, if applicable, become immediately exercisable in full in the event that Cisco is acquired by merger or asset sale or consolidated into another entity, unless such awards are assumed, substituted or replaced by the acquiring entity (or in the case of outstanding stock grants, the related stock grant agreements are assumed). The Plan Administrator may also provide, at the time of grant of such awards or any time thereafter, that such awards will vest in full and, if applicable, become immediately exercisable in the event that Cisco is acquired by merger or asset sale, or consolidated into another entity, or in the event there is a hostile takeover of Cisco, whether through a tender or exchange offer for more than 35% of Cisco's outstanding voting securities which the Board of Directors does not recommend the shareholders accept, or a change in the majority of the members of the Board of Directors as a result of one or more contested elections for board membership. In addition, Cisco currently has a vesting acceleration policy for outstanding and unvested equity awards up to a specified limit upon the death or terminal illness of an employee.

Dissolution

To the extent not previously exercised or settled, options, SARs and stock units will terminate immediately prior to the dissolution or liquidation of Cisco.

Amendment and Termination

The Board of Directors may amend the Amended Stock Plan at any time and for any reason, provided that any such amendment will be subject to shareholder approval to the extent shareholder approval is required by applicable laws, regulations, or rules. The Board of Directors may terminate the Amended Stock Plan at any time and for any reason, and the Amended Stock Plan will terminate at the 2030 Annual Meeting unless re-adopted or extended by the shareholders prior to or on such date. The termination or amendment of the Amended Stock Plan will not impair the rights or obligations of any participant under any award previously made under the Amended Stock Plan without the participant's consent, unless such modification is necessary or desirable to comply with any applicable law, regulation or rule.

New Plan Benefits

The Amended Stock Plan does not provide for set benefits or amounts of awards and we have not approved any awards that are conditioned on shareholder approval of the Amended Stock Plan. However, as discussed in

further detail in the section entitled "Director Compensation", each of our current non-employee directors is entitled to receive a grant of fully vested shares every year on the date of our Annual Meeting of Shareholders with a grant date fair value of $230,000. As of the date of the Annual Meeting, such awards will be granted under the Amended Stock Plan. The following table summarizes the aggregate value of the shares that our current non-employee directors as a group will receive if they remain a director following the 2020 Annual Meeting and highlights the fact that none of our executive officers (including our named executive officers) or employees will receive any set benefits or awards that are conditioned upon shareholder approval of the Amended Stock Plan. All other future awards to directors, executive officers, employees and consultants of Cisco under the Amended Stock Plan are discretionary and cannot be determined at this time.

Name and Principal Position	Dollar Value	Number of Shares
Charles H. Robbins Chairman and Chief Executive Officer	—	—
Kelly A. Kramer Executive Vice President and Chief Financial Officer	—	—
Gerri Elliott Executive Vice President, Chief Sales and Marketing Officer	—	—
Maria Martinez Executive Vice President and Chief Customer Experience Officer	—	—
Irving Tan Executive Vice President and Chief of Operations	—	—
David Goeckeler Former Executive Vice President and General Manager, Networking and Security Business	—	—
All current executive officers as a group (6 persons)	—	—
All current non-employee directors as a group (9 persons)	$ 2,070,000	— (1)
Non-executive officer employee group	—	—

(1) Number of shares will not be determinable until the grant date. See the section entitled "Director Compensation" for more information.

Historical Plan Benefits

The following table sets forth, for each of the individuals and groups indicated, the number of shares subject to stock options granted under the 2005 Stock Incentive Plan since the 2005 Stock Incentive Plan became effective through July 25, 2020. No stock options have been granted under the 2005 Stock Incentive Plan to any associate of any of our directors (including nominees) or executive officers. No person received 5% or more of the total stock options granted under the 2005 Stock Incentive Plan since its inception.

Name and Principal Position	Number of Shares Underlying Stock Options Granted
Charles H. Robbins (1) Chairman and Chief Executive Officer	212,000
Kelly A. Kramer Executive Vice President and Chief Financial Officer	—
Gerri Elliott Executive Vice President, Chief Sales and Marketing Officer	—
Maria Martinez Executive Vice President and Chief Customer Experience Officer	—
Irving Tan Executive Vice President and Chief of Operations	10,000
David Goeckeler Former Executive Vice President and General Manager, Networking and Security Business	21,000
All current executive officers as a group (6 persons)	717,145
All current non-employee directors as a group (9 persons) (2)	45,000
Non-executive officer employee group	230,751,029

(1) Mr. Robbins is also a nominee for election as a director.

(2) Each of the current non-employee directors is also a nominee for election as a director.

U.S. Federal Income Tax Consequences

The following is a brief summary of the federal income tax consequences applicable to awards granted under the Amended Stock Plan based on federal income tax laws in effect on the date of this Proxy Statement.

This summary is not intended to be exhaustive and does not address all matters that may be relevant to a particular participant based on his or her specific circumstances. The summary expressly does not discuss the income tax laws of any state, municipality, or non-U.S. taxing jurisdiction, or the gift, estate, excise (including the rules applicable to deferred compensation under Code Section 409A), or other tax laws other than federal income tax law. The following is not intended or written to be used, and cannot be used, for the purposes of avoiding taxpayer penalties. Because individual circumstances may vary, Cisco advises all participants to consult their own tax advisors concerning the tax implications of awards granted under the Amended Stock Plan.

A recipient of a stock option or SAR will not have taxable income upon the grant of the stock option or SAR. For nonstatutory stock options and SARs, the participant will recognize ordinary income upon exercise in an amount equal to the difference between the fair market value of the shares and the exercise price on the date of exercise. Any gain or loss recognized upon any later disposition of the shares generally will be a capital gain or loss.

The acquisition of shares upon exercise of an incentive stock option will not result in any taxable income to the participant, except, possibly, for purposes of the alternative minimum tax. The gain or loss recognized by the participant on a later sale or other disposition of such shares will either be long-term capital gain or loss or ordinary income, depending upon whether the participant holds the shares for the legally-required period (currently more than two years from the date of grant and more one year from the date of exercise). If the shares are not held for the legally-required period, the participant will recognize ordinary income equal to the lesser of (i) the difference between the fair market value of the shares on the date of exercise and the exercise price, or (ii) the difference between the sales price and the exercise price. Any additional gain recognized on the sale generally will be a capital gain.

For stock grant awards, unless vested or the participant elects under Code Section 83(b) to be taxed at the time of grant, the participant will not have taxable income upon the grant, but upon vesting will recognize ordinary income equal to the fair market value of the shares at the time of vesting less the amount paid for such shares (if any). Any gain or loss recognized upon any later disposition of the shares generally will be a capital gain or loss.

A participant is not deemed to receive any taxable income at the time an award of stock units is granted. When vested stock units (and dividend equivalents, if any) are settled and distributed, the participant will recognize ordinary income equal to the amount of cash and/or the fair market value of shares received less the amount paid for such stock units (if any).

At the discretion of the Plan Administrator, the Amended Stock Plan allows a participant to satisfy his or her tax withholding requirements under federal and state tax laws in connection with the exercise or receipt of an award by electing to have shares withheld, and/or by delivering or attesting to Cisco already-owned shares of Cisco common stock.

If the participant is an employee or former employee, the amount the participant recognizes as ordinary income in connection with an award is subject to withholding taxes (generally not applicable to incentive stock options) and Cisco is generally allowed a tax deduction equal to the amount of ordinary income recognized by the participant.

Equity Compensation Plan Information

The following table provides information as of July 25, 2020 with respect to the shares of Cisco common stock that may be issued under existing equity compensation plans. The category "Equity compensation plans approved by security holders" in the table below consists of the 2005 Stock Incentive Plan and the Cisco Systems, Inc. Employee Stock Purchase Plan (the "Purchase Plan").

Plan Category	Number of Securities to be Issued Upon Exercise of Outstanding Options, Warrants and Rights (1) (a)	Weighted Average Exercise Price of Outstanding Options, Warrants and Rights ($) (b)	Number of Securities Remaining Available for Future Issuance Under Equity Compensation Plans (Excluding Securities Reflected in Column (a)) (c)
Equity compensation plans approved by security holders	99,354,811(2)	—	324,607,945(3)
Equity compensation plans not approved by security holders	— (4)	—	—
Total	99,354,811	—	324,607,945(5)

(1) Excludes purchase rights accruing as of July 25, 2020 under the Purchase Plan.

(2) Includes 92,635,036 shares subject to outstanding RSUs and 6,719,775 shares issuable under outstanding PRSUs based on an assumed target performance, unless performance is otherwise known.

(3) Includes shares available for future issuance under the Purchase Plan. As of July 25, 2020, as reported in Cisco's 2020 Annual Report on Form 10-K, an aggregate of 141,794,842 shares of common stock were available for future issuance under the Purchase Plan, including shares subject to purchase during the current purchase period. Under the 2005 Stock Incentive Plan, each share issued as a stock grant (or pursuant to the vesting of a stock unit) will reduce the share reserve by 1.5 shares. Further, each share issued upon the settlement of a dividend equivalent will reduce the shares reserved by 1.5 shares. Under the 2005 Stock Incentive Plan, non-employee directors may also elect to receive fully vested shares of common stock (or RSUs that would be settled in shares after the non-employee director left the Board of Directors) in lieu of all or a specified portion of their regular annual cash retainer based on the fair market value of the shares on the date any regular annual cash retainer would otherwise be paid.

(4) Excludes options, warrants and other equity rights assumed by Cisco in connection with mergers and acquisitions. As of July 25, 2020, a total of 1,280,810 shares of common stock were issuable upon exercise of outstanding options and 477,631 shares were issuable upon the vesting of RSUs under those other assumed arrangements. The weighted average exercise price of those outstanding options is $6.71 per share. No additional awards may be granted under those assumed arrangements.

(5) As of July 25, 2020, 182,813,103 shares and 141,794,842 shares were available for future issuance under the 2005 Stock Incentive Plan and the Purchase Plan, respectively, as reported in Cisco's 2020 Annual Report on Form 10-K.

Vote Required

The affirmative vote of a majority of the shares of Cisco common stock present or represented by proxy and voting at the annual meeting, together with the affirmative vote of a majority of the required quorum, is required for approval of this proposal. If you own shares through a bank, broker or other holder of record, you must instruct your bank, broker or other holder of record, how to vote in order for your vote to be counted on this proposal.

Recommendation of the Board of Directors

The Board of Directors recommends that the shareholders vote **FOR** the approval of the amendment and restatement of the 2005 Stock Incentive Plan.

Proposal No. 4 — Advisory Vote to Approve Executive Compensation

Under Section 14A of the Exchange Act, Cisco shareholders are entitled to cast an advisory vote to approve the compensation of Cisco's named executive officers, known as a "Say on Pay" vote. The shareholder vote is an advisory vote only and is not binding on Cisco or its Board of Directors. Although the vote is non-binding, the Board of Directors and the Compensation Committee value the opinions of our shareholders and will consider the outcome of the vote when making future compensation decisions for our named executive officers.

The core of Cisco's executive compensation philosophy and practice continues to align real pay delivery with performance. Cisco's executive officers are compensated in a manner consistent with Cisco's business strategy, competitive practice, sound corporate governance principles, and shareholder interests and concerns. We believe our compensation program is strongly aligned with the long-term interests of our shareholders. We urge you to read the CD&A, the compensation tables and the narrative discussion set forth on pages 42 to 72 for additional details on Cisco's executive compensation program. Below are a few highlights of our pay-for-performance philosophy.

Fiscal 2020 Pay and Performance

During fiscal 2020, the decrease in total direct compensation ("TDC") for our CEO of 4% reflects our achievement of below median total shareholder return ("TSR") during fiscal 2020, relative to the component companies of the S&P 500 Index, and below target annual financial performance, as measured in our incentive plans, as illustrated below:

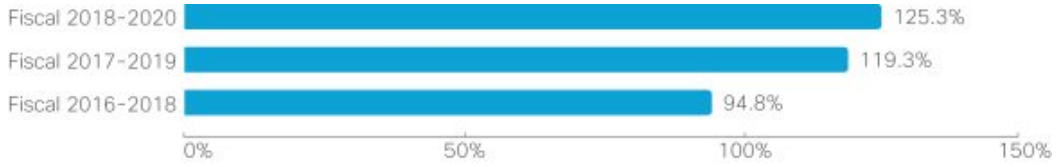
Absolute Total Shareholder Return[1]	**-15%**
Financial Performance[2]	
Revenue Growth	**-5%**
Operating Income Growth	**0%**
Operating Cash Flow Growth	**-3%**
EPS Growth	**4%**

1 TSR represents cumulative stock price appreciation with dividends reinvested. The 1-Year TSR is measured based on the fiscal year period ending July 25, 2020.

2 Revenue and Operating Income as determined pursuant to the Cisco Systems, Inc. Executive Incentive Plan ("EIP"), and EPS as determined pursuant to the PRSUs, as set forth in the CD&A below.

Long-term incentives continue to be the largest element of named executive officer compensation, consistent with market practice. For Cisco's named executive officers, approximately 75% of long-term grant value is in performance shares earned for operating cash flow, earnings per share ("EPS"), and relative TSR performance measured over three years. Also, to demonstrate the Compensation Committee's overriding objective of aligning real pay delivery with performance, PRSUs for fiscal 2018 — 2020 were earned at 125.3% of target as operating cash flow and EPS performance were at 100.7% of target over the three-year period, while relative TSR for the three-year period was at the 79th percentile of the companies comprising the S&P 500 Index.

The payouts for PRSUs with a three-year performance period granted in fiscal 2018, 2017, and 2016 were as follows:



At the annual meeting, we are asking shareholders to vote on the following advisory resolution:

RESOLVED, that the shareholders approve the compensation of Cisco's named executive officers as disclosed pursuant to the SEC's compensation disclosure rules, including the CD&A, the compensation tables and narrative discussion.

Vote Required

The affirmative vote of a majority of the shares of Cisco common stock present or represented by proxy and voting at the annual meeting, together with the affirmative vote of a majority of the required quorum, is required for approval of this proposal. If you own shares through a bank, broker or other holder of record, you must instruct your bank, broker or other holder of record how to vote in order for them to vote your shares so that your vote can be counted on this proposal.

Recommendation of the Board of Directors

The Board of Directors recommends that the shareholders vote **FOR** approval of the non-binding advisory resolution to approve executive compensation.

Compensation Discussion and Analysis

Introduction

The following discussion describes and analyzes Cisco's compensation program for its named executive officers. Cisco's named executive officers for fiscal 2020 are the CEO, the Chief Financial Officer ("CFO"), the three most highly compensated executive officers (other than the CEO and CFO) who were serving as executive officers at the end of fiscal 2020, and a former executive officer who departed during fiscal 2020. The named executive officers are: Charles H. Robbins, Chairman and CEO; Kelly A. Kramer, Executive Vice President and CFO; Gerri Elliott, Executive Vice President and Chief Sales and Marketing Officer; Maria Martinez, Executive Vice President and Chief Customer Experience Officer; Irving Tan, Executive Vice President and Chief of Operations, and David Goeckeler, former Executive Vice President and General Manager, Networking and Security Business.

Executive Summary

We continue to operate in a challenging macroeconomic and highly competitive environment. We saw broad-based weakening in the global macroeconomic environment during the fiscal year which impacted our commercial and enterprise markets. We also experienced continuing weakness in the service provider market and emerging countries. During this extraordinary time, our priority has been supporting our employees, customers, partners, and communities, while positioning Cisco for the future. While there continues to be uncertainty, we believe our role and responsibility have never been greater as businesses around the world are running on Cisco's technology to stay connected, secure, and productive. The following are performance and compensation highlights for fiscal 2020 at a glance:

Performance and Compensation Highlights

Company Performance

In fiscal 2020, we executed well in a challenging environment. We remain focused on providing the technology and solutions our customers need to digitize their operations and support the safety of their remote workforce at a faster speed and greater scale than ever before during this extraordinary time. Our financial performance as measured for purposes of our incentive plans[1] was as follows:

Revenue Growth:	-5%
Operating Income Growth:	0%
Operating Cash Flow Growth:	-3%
EPS Growth:	4%

Our strategy to transform our business model continues to resonate with customers as they digitize their organizations. In fiscal 2020, we achieved our goal of more than half of our revenue coming from software and services. Revenue from subscriptions was 74% of our software revenue in fiscal 2020, exceeding our target of 66%. Remaining performance obligations continued to grow strongly, reflecting the strength of our portfolio of software and services. We are also focused on the entire customer lifecycle to drive expansion and renewals. During fiscal 2020, we completed six acquisitions and we are seeing returns on investments in our key strategic areas which drive our innovation and competitive differentiation, and position Cisco for long-term growth and shareholder value.

Shareholder Value Creation

We maintained our historical practice of paying dividends and making share repurchases. We returned $8.6 billion to shareholders in fiscal 2020:

- $2.6 billion in share repurchases
- $6.0 billion in dividends

Absolute TSR[2]

1-Year	3-Year
-15%	61%

Strong Say-On-Pay Support

Even though last year's say-on-pay proposal was approved by approximately 95% of shareholder votes, we continued to engage with shareholders to enhance our compensation program in fiscal 2020. For fiscal 2020, we continued to implement an objective individual performance factor (IPF) scorecard under our EIP based on the achievement of goals in the four areas of leadership, innovation/strategic planning, execution, and contribution to financial goals. In addition, we re-designed the EIP for the named executive officers to move from a formula with equal Company Performance Factor (CPF) and IPF multipliers to a more prevalent additive formula in which 80% of the bonus is leveraged and based on the risk and reward of Cisco's financial performance while only 20% is based on a participant's individual performance.

Annual Executive Incentive Plan

Our revenue and operating income under the EIP resulted in a CPF of 0.48 for fiscal 2020, down from 1.08 in fiscal 2019, reflecting below target achievement of financial performance goals. The fiscal 2020 targets for revenue and operating income exceeded fiscal 2019 performance by 2% and 4%, respectively.

Performance Criteria	Fiscal 2020 Goals ($ billions)			Pay for Performance Results: Fiscal 2020 Results ($ billions)
	Threshold	Target	Maximum	
Revenue	$ 47.7 (90% of target)	$ 53.0	$ 54.6 (103% of target)	$ 49.3 (93% of target)
Operating Income	$ 15.6 (90% of target)	$ 17.4	$ 18.8 (108% of target)	$ 16.7 (96% of target)

2018-2020 PRSU Plan

The payout under our three-year PRSU plan for fiscal 2018-2020 was 125.3% of target (versus 119.3% for fiscal 2017-2019), representing achievement of 100.7% of our cash flow and EPS goals and 150% for the goal of TSR relative to the component companies of the S&P 500 Index over the three-year period.

Performance Criteria	Pay-for-Performance Results		
	Fiscal 2018 Grant	Cash Flow / EPS[3]	Relative TSR[4]
Earned PRSUs = Target PRSUs x ((50% x Average Financial Goal Multiplier) + (50% x Relative TSR Multiplier))	Fiscal 2020	84%	150%
	Fiscal 2019	115%	
	Fiscal 2018	103%	
	Result	100.7%	150%
	PRSUs Earned	125.3% of Target	

Fiscal 2020 CEO Pay

During fiscal 2020, the decrease in Mr. Robbins' TDC reflects our below target performance, as measured in our executive incentive plan and illustrated in this Executive Summary.

	Fiscal 2020 ($)	Fiscal 2019 ($)	Year over Year Change
CEO Total Direct Compensation			
Reported Earned Base Salary	$ 1,390,000	$ 1,325,000	
Reported Earned Bonus	2,471,976	5,795,550	
Target LTI Value[5]	19,518,092	17,306,352	
Total[6]	$ 23,380,068	$ 24,426,902	-4%

1 Revenue and Operating Income as determined pursuant to the EIP and EPS as determined pursuant to the PRSUs, in each case as set forth below.

2 TSR represents cumulative stock price appreciation with dividends reinvested. 1-Year and 3-Year TSR are measured based on the fiscal year periods ending July 25, 2020.

3 This is the Financial Goal Multiplier. EPS is determined pursuant to the PRSUs as set forth in the CD&A below.

4 This is the Relative TSR Multiplier.

5 Represents the target value of equity awards granted in fiscal 2019 and fiscal 2020. For a more detailed description, see "Fiscal 2020 Compensation — Long-Term, Equity-Based Incentive Awards" section in the CD&A.

6 This table does not include certain amounts which appear in the Summary Compensation Table, and the Target LTI Value for fiscal 2019 and fiscal 2020 is different from the amounts reported in the "Stock Awards" column of the Summary Compensation Table for such fiscal years. The amounts reported in the "Stock Awards" column are based on the accounting values of PRSUs (see the "Fiscal 2020 Compensation — Long-Term, Equity-Based Incentive Awards — Target Values versus Accounting Values" section in the CD&A).

Listening to Our Shareholders

Cisco's Compensation Committee relies on our regular shareholder outreach and engagement activities as well as more formal channels to communicate with shareholders, including the opportunity for shareholders to cast a non-binding advisory vote regarding executive compensation at Cisco's annual meeting of shareholders. See the "Corporate Governance — Shareholder Engagement" section for a discussion of our fiscal 2020 shareholder outreach and engagement. See also the "Corporate Governance — Shareholder Communications with the Board of Directors" section.

The Compensation Committee is very interested in the ideas and feedback of our shareholders regarding executive compensation. In fiscal 2020, we engaged with shareholders representing approximately 27% of our outstanding shares, including 65% of our top 30 shareholders, on a variety of topics, including our executive compensation program.

In evaluating our compensation practices in fiscal 2020, the Compensation Committee was mindful of the support our shareholders expressed for Cisco's philosophy and practice of linking compensation to operational objectives and the enhancement of shareholder value. In fiscal 2020, the Compensation Committee continued to monitor our executive compensation programs to ensure compensation is aligned with company performance.

The Compensation Committee will continue to seek out and consider shareholder feedback in the future.

Cisco's Fiscal 2020 Financial Performance Compared to Fiscal 2019

Our actual results and targets for fiscal 2020 compared to fiscal 2019 as follows:

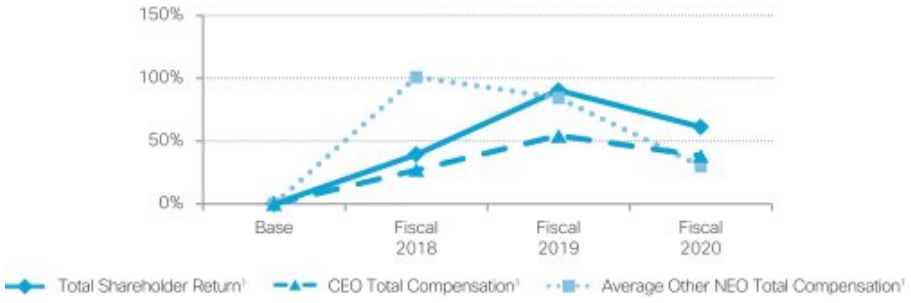
	Fiscal 2020[1]		Fiscal 2019[1]		Results as a Percentage of Target	
	Actual	Target	Actual	Target	Fiscal 2020	Fiscal 2019
Revenue[2] Under the EIP (in billions)	$ 49.3	$ 53.0	$ 51.7	$ 51.2	93%	101%
Operating Income[2] Under the EIP (in billions)	$ 16.7	$ 17.4	$ 16.7	$ 15.6	96%	107%
Operating Cash Flow for PRSUs (in billions)	$ 15.4	$ 15.8	$ 15.8	$ 14.7	98%	108%
EPS[2] for PRSUs	$ 3.21	$ 3.29	$ 3.10	$ 2.90	98%	107%

1 All numbers are rounded for purposes of this table.

2 For a description of how Cisco's revenue and operating income are calculated, see the "Fiscal 2020 Compensation — Variable Cash Incentive Awards" section in the CD&A. For a description of how EPS is calculated, see the "Fiscal 2020 Compensation — Long-Term, Equity-Based Incentive Awards" section in the CD&A.

Executive Compensation Pay-for-Performance Philosophy

The chart below illustrates how the three-year historical compensation for our CEO and the average for our other continuing named executive officers, as reported in the Compensation Committee Matters — Fiscal 2020 Compensation Tables — Summary Compensation Table in our annual proxy statements, compares to our absolute TSR during the same period.



1 CEO and average other continuing named executive officer total compensation for the three fiscal years is measured against fiscal 2017 total compensation. TSR is measured against the stock price as of the end of fiscal 2017 and includes the reinvestment of all dividends.

Our Compensation Practices Benefit our Shareholders

Our executive compensation programs have strong governance components that further strengthen our pay-for-performance compensation philosophy, including the following:

Compensation Practice	
Independent Compensation Committee	Our Compensation Committee consists entirely of independent directors.
Independent Compensation Consultant	Our Compensation Committee utilizes an independent compensation consultant, FWC, which is retained directly by the Compensation Committee and provides no other services to Cisco's management.
Risk Assessment	Our Compensation Committee performs an annual review of the risks related to our compensation programs.
Pay for Performance	74% of target annual TDC for the CEO was performance-based and approximately 72% of target annual TDC for the other named executive officers was performance-based. See the "Compensation Components" section for a discussion of our named executive officers' TDC.
Annual Cash Incentive	Payment is primarily leveraged and based on Cisco's achievement of rigorous pre-established revenue and operating income measures (80%) with a small portion based on the individual performance of our executive officers determined pursuant to an objective scorecard (20%).
Annual Long-Term Equity Incentive	Approximately 75% of our named executive officers' target equity award value is in PRSUs. 50% of the PRSUs may be earned based on relative TSR performance measured over a three-year period. 50% of the PRSUs may be earned based on consecutive annual goals, namely operating cash flow and EPS, over a three-year period, pre-established at the beginning of each fiscal year.
Caps on Incentive Compensation	There is a maximum limit on the amount of annual cash incentives and PRSUs that may be paid.
No SERP or Pension Plan	We do not sponsor a supplemental executive retirement plan or a defined benefit pension plan for our executive officers.
No Employment Agreements	None of our executive officers have employment, severance or change in control agreements.
Stock Ownership Guidelines	We have meaningful stock ownership guidelines for our executive officers and non-employee directors.
Recoupment Policy	We have a Recoupment Policy related to our cash awards and PRSUs in the event of certain financial restatements, and our equity plans provide for the forfeiture of awards if an executive officer participates in activities detrimental to Cisco or is terminated for misconduct.
No Change-in-Control Vesting Acceleration Provisions	No equity awards are subject to single-trigger change in control vesting.
No Repricing	Our 2005 Stock Incentive Plan expressly prohibits repricing or repurchasing equity awards that are underwater without shareholder approval.
No Gross-Ups	We do not provide tax gross-ups in connection with any "golden parachute" excise taxes.
"No Perks" Policy	We have a "no perks" policy with limited exceptions.
No Hedging	Under our insider trading policy, all employees (including officers) and members of the Board of Directors are prohibited from engaging in any speculative transactions in Cisco securities, including engaging in short sales, transactions involving put options, call options or other derivative securities, or any other forms of hedging transactions, such as collars or forward sale contracts.
No Pledging	Executive officers and members of the Board of Directors are prohibited from pledging Cisco securities in margin accounts or as collateral for loans.
No Dividends or Dividend Equivalents Paid on Unvested Equity Awards	We do not provide for payment of dividends or dividend equivalents on unvested awards.

Compensation decisions and other details are discussed in the remainder of this CD&A.

Compensation Philosophy

Attract and Retain While Changing

Attract and retain key executives with the proper background and experience required to drive our future growth and profitability by offering a total compensation program that flexibly adapts to changing economic, regulatory and social conditions, and takes into consideration the compensation practices of peer companies based on an objective set of criteria.

Motivate Performance

Provide a significant portion of compensation through variable, performance-based components that are at-risk and based on Cisco's achievement of designated financial and non-financial objectives.

Reward Actual Achievement

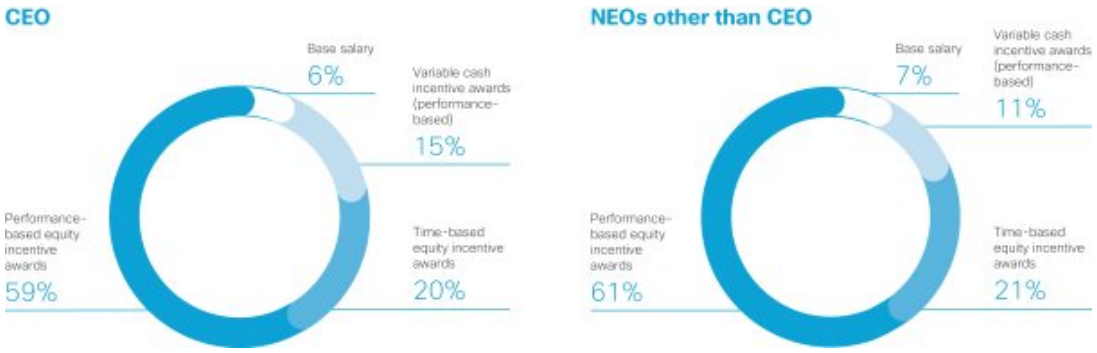
Compensate for achievement of short-term and long-term company financial and operating goals, and refrain from providing special benefits, "golden parachute" excise tax gross-ups, or accelerated equity vesting except in limited circumstances.

Align Interests

Align the interests of our executives with our shareholders by tying a significant portion of total compensation to our overall financial and operating performance and the creation of long-term shareholder value.

Compensation Components

The three major elements of our executive officers' regular TDC are: (i) base salary, (ii) variable cash incentive awards, and (iii) long-term, equity-based incentive awards. For fiscal 2020, 74% of target annual TDC for the CEO was performance-based and approximately 72% of the target annual TDC for the other named executive officers was performance-based, reflecting Cisco's pay-for-performance philosophy.



Fiscal 2020 Compensation

Annual Base Salary

We provide base salaries to our executive officers to compensate them for their services rendered during the year and to provide them with a level of stable fixed compensation. Consistent with our philosophy of linking pay to performance, our executives receive a small percentage of their overall compensation in the form of base salary.

The Compensation Committee, when establishing base salaries, considers each executive officer's individual performance, the breadth, scope, and complexity of his or her role, internal equity, and whether his or her base salary is appropriately positioned relative to similarly situated executives in our Peer Group. Effective as of the beginning of fiscal 2020 and based on the recommendation of FWC regarding competitive pay, Mr. Robbins' base salary increased from $1,325,000 to $1,390,000. Effective as of the beginning of fiscal 2020 and based on the performance of Ms. Elliott and Ms. Martinez in their first full year with Cisco, their base salaries increased from $750,000 to $825,000 and from $675,000 to $700,000, respectively.

Named Executive Officer	Fiscal 2020 Base Salary	Fiscal 2019 Base Salary
Charles H. Robbins	$ 1,390,000	$ 1,325,000
Kelly A. Kramer	$ 850,000	$ 850,000
Gerri Elliott	$ 825,000	$ 750,000
Maria Martinez	$ 700,000	$ 675,000
Irving Tan	$ 625,000	N/A
David Goeckeler	$ 825,000	$ 825,000

Variable Cash Incentive Awards

The objective of Cisco's annual cash incentive program is to reward achievement of our annual financial performance goals, and to establish appropriate company performance expectations to ensure that our executives are accountable for our continued growth and profitability. Performance measures and goals for determining our named executive officers' fiscal 2020 annual incentive awards were pre-established under Cisco's EIP. The pre-established performance goals were based on Cisco's achievement of financial performance goals, expressed as a company performance factor ("CPF"), and an individual performance factor ("IPF") that is initially determined based on the achievement of objective individual performance in the areas of leadership, innovation/strategic planning, execution, and contribution to financial goals. The Compensation Committee established such performance measures and goals based on an informed review of Cisco's targeted financial performance for fiscal 2020 and the pay practices of the companies in our Peer Group.

How Variable Cash Incentive Awards Work

Cisco re-designed the EIP for the named executive officers for fiscal 2020 to move from a formula with equal CPF and IPF multipliers to a more prevalent additive formula in which 80% of the bonus is leveraged and based on the risk and reward of Cisco's financial performance while only 20% is based a participant's individual performance. Considering this new design, the individual target awards were increased to competitive levels from 225% to 260% of base salary for Mr. Robbins, and from 135% to 160% of base salary for the other named executive officers.

The financial performance metrics for awards under the EIP for fiscal 2020 are based on the same one-year financial performance metrics as were used in fiscal 2019, and the specific financial targets are the same as those used under the company-wide bonus plan. For fiscal 2020, the target bonus was based on a CPF of 1.0 and Cisco's financial performance must exceed its fiscal 2020 financial plan established by the Board of Directors for the CPF to exceed 1.0.

For each named executive officer, the fiscal 2020 EIP awards were calculated by multiplying an individual's annual base salary for fiscal 2020 by the individual's target award percentage, and multiplying the result by the sum of 80% of the CPF and 20% of the IPF, as follows:

BONUS = BASE x TARGET x ((CPF x 0.80) + (IPF x 0.20))

The Compensation Committee does not have the discretion to award bonuses under the EIP if the applicable performance criteria have not been met.

The fiscal 2020 cash incentive awards for each named executive officer participant were as follows:

Named Executive Officer[1]	Base Salary	Target Award Percentage	Company Performance Factor	Individual Performance Factor	EIP Payment
Charles H. Robbins	$ 1,390,000	260%	0.48	1.50	$ 2,471,976
Kelly A. Kramer	$ 850,000	160%	0.48	1.45	$ 916,640
Gerri Elliott	$ 825,000	160%	0.48	1.50	$ 902,880
Maria Martinez	$ 700,000	160%	0.48	1.45	$ 754,880
Irving Tan	$ 625,000	160%	0.48	1.40	$ 664,000

1 Mr. Goeckeler resigned from Cisco effective March 8, 2020 and did not receive an EIP payment for fiscal 2020.

How Fiscal 2020 EIP Targets were Established and Actual Results

At the beginning of fiscal 2020, the Compensation Committee established a target EIP award for each of the named executive officer participants based on a percentage of their base salaries. The target awards were determined by the Compensation Committee after considering a number of factors, including the executive's title and responsibility, whether the target annual incentive is competitive with similarly situated executives in the Peer Group, and our recent and projected financial performance.

- *Company Performance Factor (CPF)*

The CPF for fiscal 2020 could range from 0.0 to 2.0 with target at 1.0. The formula for fiscal 2020 was constructed with upside potential so that if we exceeded our revenue and operating income targets, the CPF could be greater than 1.0.

The Compensation Committee selected revenue and operating income as the financial performance measures because these measures most directly align with Cisco's growth strategy and generally have the best correlation with shareholder value. Operating income is weighted on a 4-to-1 basis compared to revenue in calculating the outcome under the CPF. Revenue and operating income at or below the threshold levels set forth below results in a CPF of 0.0. Revenue and operating income at or above the maximum levels set forth below results in a CPF of 2.0.

The Compensation Committee established the annual financial performance goals based on Cisco's fiscal 2020 financial plan approved by the Board of Directors. In approving the financial plan, the Board took into account the uncertainty in the macro economic environment, potential tariff impacts, challenges in service provider spending, and continued competitive and pricing pressure. The fiscal 2020 financial plan and the corresponding financial goals set by the Compensation Committee under the EIP were challenging given the above-mentioned factors. Compared to fiscal 2019, the revenue and operating income targets for fiscal 2020 exceeded actual fiscal 2019 performance by 2% and 4%, respectively.

The revenue and operating income goals and results for fiscal 2020 as well as our fiscal 2019 performance relative to fiscal 2020 are set forth below:

	Fiscal 2020 Goals ($ billions)			Fiscal 2020 Results ($ billions)	Fiscal 2019 Results ($ billions)
	Threshold	Target	Maximum		
Revenue	$ 47.7 (90% of target)	$ 53.0	$ 54.6 (103% of target)	$ 49.3 (93% of target)	$ 51.7
Operating Income	$ 15.6 (90% of target)	$ 17.4	$ 18.8 (108% of target)	$ 16.7 (96% of target)	$ 16.7

The above resulted in a total fiscal 2020 CPF of 0.48, as further illustrated in the table below, reflecting below target achievement of the financial performance goals under the EIP.

	Fiscal 2020 Financial Performance Calculations		
	Funding (% of Target)	Weighting	Contribution
Revenue	0.0%	20%	0.00
Operating Income	60.1%	80%	0.48
			0.48

The revenue and operating income goals and results were calculated for purposes of the EIP in accordance with pre-established rules. Revenue was Cisco's GAAP revenue excluding the effects of the impact of changes in GAAP and the effects of business combinations and divestitures subject to pre-established criteria and thresholds. Operating income was Cisco's GAAP operating income excluding the following: share-based compensation expense; compensation expense related to acquisitions and divestitures; changes in estimates of contingent consideration related to acquisitions; gains or losses on acquisitions and divestitures; amortization or impairment of acquired intangible assets including in-process research and development; all external acquisition and divestiture-related costs such as finder's fees, advisory, legal, accounting, valuation, hedging or other professional or consulting fees directly associated with acquisitions; gains or losses resulting from resolving all pre-acquisition or divestiture contingencies; and each of the following subject to pre-established thresholds: the impact of any cumulative effect of changing to newly adopted accounting principles; operating income of acquired and divested entities and their subsidiaries as reflected on the financial records thereof; losses due to impairments or gain/loss contingencies; gains or losses on the sale of fixed assets; direct losses on Cisco's tangible assets from natural catastrophe, war, insurrection, riot, terrorism, confiscation, expropriation, nationalization, deprivation, or seizure; and restructuring charges. Cisco did not make any subsequent adjustments in response to the COVID-19 pandemic.

- *Individual Performance Factor (IPF)*

For fiscal 2020, each named executive officer participant's IPF could range from 0 to 2.0. In determining the appropriate IPF for each individual executive officer participant, the Compensation Committee considered individual performance in the areas of leadership, innovation/strategic planning, execution, and contributions to Cisco's achievement of its financial goals. Below are the fiscal 2020 goals for the various categories.

Leadership (1 to 5 Points)	**Innovation / Strategic Planning** (1 to 5 Points)	**Execution** (1 to 5 Points)	**Contribution to Financial Goals** (1 to 5 Points)
• Establish and maintain a high-performing leadership team known for delivering exceptional results and modeling Cisco's culture • Attract top critical talent focused on Cisco's current and future needs including succession plans. Create and maintain followership resulting in retention of critical employees and leaders • Continue to lead Cisco's culture change. Create an environment of trust, modeling Cisco's principles and behaviors	• Accelerate innovation and solutions that address current and future customer/partner priorities. Drive innovation across all functions with specific focus in fiscal 2020 on (1) Customer Experience, (2) Go-to-Market, (3) Development, (4) Operations, and (5) People and Culture • Continue to bring industry leading innovation to all aspects of the portfolio • Identify and build business plans to lead the company into new market opportunities • Accelerate delivery of cloud-based solutions	• Oversee the execution of the most critical transitions for the company • Ensure the organization is aligned to meet strategic, workforce and financial goals and plans • Drive value creation through M&A and R&D • Increase market share in networking, security, and collaboration	• Achieve or exceed the approved Cisco fiscal 2020 financial plan • Deliver on market guidance • Deliver TSR increase above peers • Achieve Cisco gross margins in-line with or exceeding approved targets • Achieve Cisco operating margins in-line with or exceeding targets

At the end of fiscal 2020, the CEO assessed each continuing named executive officer's performance for each individual goal, other than his own, and recommended to the Compensation Committee the number of points per category. The Compensation Committee determined the number of points for the CEO and each other

continuing named executive officer after considering the CEO's recommendations. The total number of points for all categories was then used to determine each continuing named executive officer's IPF based on the below objective IPF Scorecard.

IPF Scorecard			
	IPF Range		
Total Score	Low	Midpoint	High
20-17	1.45	1.70	2.00
16-13	1.10	1.30	1.50
12-9	0.85	1.00	1.15
8-5	0.00	0.75	0.85
4-1	—	—	—

Based on the Total Score, the Compensation Committee determined each continuing named executive officer's IPF within the above IPF range. When assigning the IPF, the Compensation Committee also considered each continuing named executive officer's contribution to Cisco's strong financial performance, the named executive officer's performance relative to peers, the named executive officer's total target cash and total direct compensation relative to the market, and the expectation that Cisco's named executive officers operate as a high-performing and cohesive team.

After considering the factors listed above, the Compensation Committee assigned IPFs based on each continuing named executive officer's performance. The chart below sets forth each continuing named executive officer participant's actual IPF.

Named Executive Officer	Fiscal 2020 Individual Performance Factor
Charles H. Robbins	1.50
Kelly A. Kramer	1.45
Gerri Elliott	1.50
Maria Martinez	1.45
Irving Tan	1.40

Named Executive Officer	Key Performance Achievements
Charles H. Robbins	• Built a high-performing leadership team of individuals aligned to Cisco's cultural mission by modeling compassion, inclusion, opportunity, transparency, accountability, and action. He created a culture in which employees are proud to work for Cisco and one which other companies seek to replicate, with others in the industry looking to Cisco for guidance and stewardship through challenge, including the COVID-19 pandemic. • Led a smooth transition of Engineering leadership as well as a transformation and restructuring of the Engineering and Collaboration functions. • Continued to elevate Cisco's brand and relationship with customers, partners, communities, governments, and other industry leaders. Customer feedback indicates strong experiences of support and value received from Cisco, as well as seeing Cisco as a strategic partner. He has a Glassdoor CEO approval rating of 95%, up from 2019.

Named Executive Officer	Key Performance Achievements
Kelly A. Kramer	• Consistently and clearly articulates Cisco's business model to drive understanding of Cisco's strategy, challenges, and opportunities. In the challenging environment created by the COVID-19 pandemic, she drove quarterly results. Despite revenue challenges, she drove both gross and operating margin percentages above plan. • Partnered with her cross-functional peers in Operations, IT, Customer Experience, Sales, and Engineering to enable process improvement in several areas, including a) the renewal process, b) an enhanced customer experience data structure to map contracts to orders, c) defined a process and enriched the metrics used for product reporting, and d) prioritized the Engineering portfolio. In addition, she worked closely with the Supply Chain and Customs teams to minimize tariffs with pricing actions. • Led the successful closure of six acquisitions and the remote due diligence process on the ThousandEyes acquisition. The fiscal 2020 acquisitions are intended to strategically position Cisco in Collaboration and intent-based networking platforms, adding to Cisco's software assets.
Gerri Elliott	• Invested in the Sales and Marketing leadership team and organization through strategic senior leadership hires, delivering a leadership program for senior leadership and key talent, and first line manager training and other programs increasing seller confidence. • Effectively led the Sales and Marketing organization through the COVID-19 pandemic by hosting frequent employee and leadership meetings. • Delivered increases in global deals for service provider and whole portfolio agreements, and successfully managed a substantial increase in subscription as a percentage of software.
Maria Martinez	• Achieved significant progress in the digital transformation for Customer Experience, enabling new orders and improving on-time renewal rates. Developed and launched Customer Experience demand generation programs and implemented customer success programs for Digital Networking Architecture, Security, Webex, and Software conformance. • Launched a program to optimize our partners' ability to resell, build additional value into their solutions, and invested in partners' success via specialization, certification programs, and a continuous release of enablement assets, training, and insights. • Advanced Cisco's Inclusion & Collaboration agenda by increasing the hiring and promoting of women, African American, and Hispanic talent in the Customer Experience organization by hiring a diversity leader who authored and delivered a diversity plan, becoming the executive sponsor of The Multiplier Effect sponsorship program, and increasing the focus on utilizing diverse interview panels.
Irving Tan	• Led and implemented an effective global Work-From-Home initiative, inclusive of a return to office framework with successful execution, focused on the safety of Cisco employees during the COVID-19 pandemic. • Established the Cloud analytics platform, leveraged to power new seller opportunities and generate bookings. • Managed a complex supply chain environment during the COVID-19 pandemic, optimized financial outcomes across revenue and margins, and drove cost savings.

Long-Term, Equity-Based Incentive Awards

The objective of Cisco's equity-based incentive awards program is to align the interests of executive officers with shareholders, and to provide executive officers with a long-term incentive to manage Cisco from the perspective of an owner. PRSUs support the objectives of linking realized value to the achievement of critical financial and operational objectives and delivering superior long-term shareholder returns. Time-based RSUs support retention and align the interests of our executive officers with those of our shareholders since they promote shareholder value creation and a culture of ownership.

The Compensation Committee determines the size of an executive officer's equity awards according to each executive officer's position within Cisco and sets targets at levels intended to create a meaningful opportunity for reward predicated on increasing shareholder value and delivering on key long-term financial performance objectives. In addition to considering competitive market data, the Compensation Committee considers an individual's performance history, an individual's potential for future advancement and promotions, the CEO's recommendations for awards other than his own, and the value of existing vested and unvested outstanding equity awards. The relative weight given to each of these factors varies among individuals at the Compensation Committee's discretion.

Fiscal 2020 Awards

In September 2019, the Compensation Committee approved fiscal 2020 equity awards for each named executive officer to be comprised of approximately 75% PRSUs and 25% time-based RSUs (based on grant date target value) as set forth in the table below.

Named Executive Officer	Target PRSUs	Max. PRSUs	Target Value of PRSUs	Time-Based RSUs	Grant Value of Time-Based RSUs	Total Target Value of Fiscal 2020 Annual Equity Awards[1]
Charles H. Robbins	353,743	530,614	$ 14,566,920	107,718	$ 4,951,172	$ 19,518,092
Kelly A. Kramer	181,407	272,110	$ 7,470,228	55,240	$ 2,539,062	$ 10,009,290
Gerri Elliott	181,407	272,110	$ 7,470,228	55,240	$ 2,539,062	$ 10,009,290
Maria Martinez	145,126	217,689	$ 5,976,201	44,192	$ 2,031,250	$ 8,007,451
Irving Tan	131,520	197,280	$ 5,415,915	40,049	$ 1,840,820	$ 7,256,735
David Goeckeler	181,407	272,110	$ 7,470,228	55,240	$ 2,539,062	$ 10,009,290

1 See the "Fiscal 2020 Compensation — Long-Term, Equity-Based Incentive Awards — Target Values versus Accounting Values" section in the CD&A for information about how this value is calculated.

How PRSUs Work

The fiscal 2020 PRSUs maintained the same metrics and design as those granted in fiscal 2018 and 2019, other than the July 2018 portion of Mr. Goeckeler's fiscal 2018 grant. The formula to determine the number of earned PRSUs is set forth below:

Earned PRSUs = Target PRSUs x

((50% x Average Financial Goal Multiplier) + (50% x Relative TSR Multiplier))

- *Average Financial Goal Multiplier*

The Average Financial Goal Multiplier is based on the average of Cisco's operating cash flow and EPS over a three-year period as measured against annual performance goals that are set by the Compensation Committee at the beginning of each fiscal year. For example, in the case of the fiscal 2020 PRSU grants, at the beginning of each of fiscal 2020, 2021, and 2022, the Compensation Committee will approve certain operating cash flow and EPS goals for the applicable fiscal year. Following the completion of each fiscal year, the Compensation Committee will certify the financial goal multiplier that was earned for such year and following the completion of the 2022 fiscal year, the Compensation Committee will determine the Average Financial Goal Multiplier for the three-year period.

Operating cash flow can range from a threshold of 85% of target to a maximum of 123% of target, while EPS can range from a threshold of 85% of target to a maximum of 124% of target. EPS is weighted on a 2-to-1

basis compared to operating cash flow in calculating the outcome under the Financial Goal Multiplier. Operating cash flow and EPS at or below the threshold levels set forth below results in a Financial Goal Multiplier of 0%. Operating cash flow and EPS at or above the maximum levels set forth below results in a Financial Goal Multiplier of 150%.

- *2020 Financial Results*

The operating cash flow and EPS goals for fiscal 2020 as well as our fiscal 2019 performance relative to fiscal 2020 are set forth below:

	Fiscal 2020 Goals			Fiscal 2020 Results	Fiscal 2019 Results
	Threshold	Target	Maximum		
Operating Cash Flow	$ 13.4 billion (85% of target)	$ 15.8 billion	$ 19.5 billion (123% of target)	$ 15.4 billion (98% of target)	$ 15.8 billion
EPS	$ 2.80 (85% of target)	$ 3.29	$ 4.08 (124% of target)	$ 3.21 (98% of target)	$ 3.10

The above resulted in a Financial Goal Multiplier for fiscal 2020 of 84% as further illustrated in the table below, reflecting achievement below target levels. This multiplier will be included as part of the three-year average for the relevant PRSUs (i.e., the Year 3 Financial Goal Multiplier for the fiscal 2018 PRSUs, the Year 2 Financial Goal Multiplier for the fiscal 2019 PRSUs, and the Year 1 Financial Goal Multiplier for the fiscal 2020 PRSUs).

	Fiscal 2020 Financial Performance Calculations		
	Funding (% of Target)	Weighting	Contribution
Operating Cash Flow	83.6%	33.3%	0.28
EPS	83.8%	66.7%	0.56
			0.84

For the fiscal 2020 PRSUs, operating cash flow is Cisco's GAAP operating cash flow. EPS was calculated from Cisco's GAAP diluted EPS excluding all of the items excluded from the calculation of operating income for purposes of the EIP as well as gains and losses on equity investments, while taking into account the related income tax effects and the effects of certain tax matters. The effect of planned share repurchases is included in the EPS calculation. The design of the PRSUs balances the effect, and limits any extraordinary impact, of EPS because it is averaged over a three-year period and is only one of three metrics.

- *Relative TSR Multiplier*

Following the completion of the three-year performance period, the Relative TSR Multiplier is determined and certified by the Compensation Committee by comparing Cisco's TSR at the end of the three-year performance period to the TSR of a pre-established group of comparator companies. In the case of the fiscal 2020 PRSU grants, the performance metric for the remaining 50% of the PRSUs is Cisco's TSR relative to the companies comprising the S&P 500 Index over a three-year period covering fiscal years 2020 through 2022.

The Relative TSR Multiplier is calculated as follows:

Relative TSR	Relative TSR Multiplier[1]
75th Percentile or Above	150%
50th Percentile	100%
25th Percentile	50%
Below 25th Percentile	0%

1 To the extent Cisco's relative TSR falls between two discrete points in the chart above, linear interpolation shall be used to determine the Relative TSR Multiplier.

- *Determining Earned PRSU Values for Fiscal 2020 PRSUs*

At the end of the three-year performance period and in connection with the settlement of the shares, the Compensation Committee will certify results and 50% of the Relative TSR Multiplier will be added to 50% of the Average Financial Goal Multiplier (the average of the Financial Goal Multipliers for fiscal 2020, 2021, and 2022) to determine the shares awarded to each named executive officer. As fiscal 2020 was the first year of the applicable performance period for fiscal 2020 PRSUs, no shares were earned. However, the one-year TSR for fiscal 2020 was at the 31st percentile of the S&P 500 Index which would have resulted in a TSR Multiplier of 61% had the three-year performance period been a one-year performance period.

Earned Fiscal 2018 Awards (Fiscal 2018 — 2020)

The table below summarizes the applicable Financial Goal Multipliers, Average Financial Goal Multiplier and Relative TSR Multiplier for the PRSUs granted during fiscal 2018 and the percentage of PRSUs earned:

	Financial Goal Multiplier					Results		
	Fiscal 2018	Fiscal 2019	Fiscal 2020	Fiscal 2021	Fiscal 2022	Average Financial Goal Multiplier (Cash Flow / EPS) (50%)	TSR Multiplier (Relative TSR) (50%)	Earned PRSUs[1]
Fiscal 2018 PRSUs	103%	115%	84%			100.7%	150%	125.3% of Target
Fiscal 2019 PRSUs		115%	84%	--		--	--	--
Fiscal 2020 PRSUs			84%	--	--	--	--	--

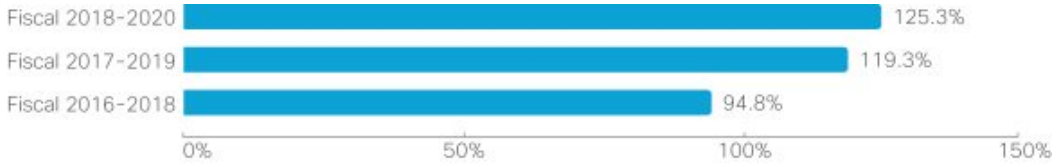
1 Earned PRSUs = Target PRSUs x ((50% x Average Financial Goal Multiplier) + (50% x Relative TSR Multiplier)).

Based on the multipliers as set forth in the table above, the fiscal 2018 PRSUs (for which the three-year performance cycle has been completed) were earned as follows reflecting our commitment to pay for performance:

Named Executive Officer	Target PRSUs	Fiscal 2018 PRSUs Earned[1]
Charles H. Robbins	358,000	448,691
Kelly A. Kramer	209,500	262,572
Irving Tan	42,200	52,888
David Goeckeler	184,800	231,616

1 The fiscal 2018 earned PRSUs remain subject to continued employment (other than Mr. Goeckeler who resigned from Cisco and was eligible for retirement vesting) and the Compensation Committee's discretion to further review and reduce the number of earned PRSUs until they settle on November 10, 2020.

The payouts for PRSUs with a three-year performance period granted in fiscal 2018, 2017, and 2016 were as follows:



Other Awards

Award to Irving Tan. On January 30, 2018, Mr. Tan was granted PRSUs in connection with his promotion, which were based on the same multipliers as the fiscal 2018 PRSUs described above. This PRSU grant was earned as follows:

Named Executive Officer	Target PRSUs	PRSUs Earned[1]
Irving Tan	23,530	29,489

1 The earned PRSUs remained subject to Mr. Tan's continued employment and the Compensation Committee's discretion to further review and reduce the number of earned PRSUs until they settle on November 10, 2020.

Awards to Gerri Elliott and Maria Martinez. In March 2018, Ms. Elliott and Ms. Martinez were granted new hire inducement PRSUs that are earned based on Cisco's TSR relative to the companies comprising the S&P 500 Index with the performance period covering the two-year period from the beginning of fiscal 2019 to the end of fiscal 2020. The number of PRSUs that are earned based on each measurement period is determined by multiplying the target PRSUs by a Relative TSR Multiplier that was calculated in the same manner as the Relative TSR Multiplier for our other PRSUs, but with reference to the two-year period from the beginning of fiscal 2019 to the end of fiscal 2020. These PRSU grants were earned as follows based on relative TSR at the 59th percentile for the period from the beginning of fiscal 2019 to the end of fiscal 2020:

Named Executive Officer	Total Target PRSUs	24-Month TSR Multiplier	PRSUs Earned[1]
Gerri Elliott	113,980	119%	135,636
Maria Martinez	140,190	119%	166,826

1 The earned PRSUs remained subject to continued employment and the Compensation Committee's discretion to further review and reduce the number of earned PRSUs until they settle on November 10, 2020.

Target Values versus Accounting Values

Because the fiscal 2020 PRSUs include annual Financial Goal Multipliers and a three-year Relative TSR Multiplier, the values reported in the Summary Compensation Table are different than the target values set forth in the tables above. Because 50% of the value of the fiscal 2020 PRSUs are based on the Relative TSR Multiplier, FASB ASC Topic 718 requires that the value of the fiscal 2020 PRSUs reported in the Compensation Committee Matters — Fiscal 2020 Compensation Tables — Summary Compensation Table include the full value of the TSR component based on the probable outcome of the Relative TSR Multiplier. However, because the remaining 50% of the value of the fiscal 2020 PRSUs is based on separate measurements of our financial performance for each year in the three-year performance period, FASB ASC Topic 718 requires that the grant date fair value to be calculated at the commencement of each separate year of the performance cycle when the respective performance measures are approved. As a result, for the fiscal 2020 PRSUs, the Summary Compensation Table does not include the value of the PRSUs based on the annual financial metric goals for fiscal 2021 or fiscal 2022. Such amounts will be included as equity compensation in the Summary Compensation Table for fiscal 2021 and fiscal 2022, respectively, when the financial metrics are established. However, the Summary Compensation Table for fiscal 2020 does include a portion of the value of the fiscal 2018 PRSUs and the fiscal 2019 PRSUs based on the annual operational performance metrics set for those awards during fiscal 2020. The table below illustrates the difference between target values and accounting values for our CEO over the last three fiscal years.

	Target Value	Accounting Value Disclosed in Summary Compensation Table
Fiscal 2020	$19,518,092	$ 19,215,141
Fiscal 2019	$17,306,352	$ 18,576,568
Fiscal 2018	$14,691,830	$ 14,940,771

Vesting of RSUs and PRSUs

25% of the time-based RSUs will generally vest subject to a one-year cliff and quarterly vesting thereafter. Subject to continued employment and the Compensation Committee's discretion to further review and reduce the number of earned PRSUs until the settlement date, any earned PRSUs will be settled following the completion of the performance period and final certification of the Compensation Committee. All outstanding unvested equity awards under Cisco's 2005 Stock Incentive Plan will vest in full (at target levels for PRSUs), and, if applicable, become immediately exercisable in the event of the named executive officer's death, terminal illness, or if Cisco is acquired by merger or asset sale, unless the award or related agreement is assumed or replaced by the acquiring entity.

Retirement

In the event of the retirement of a named executive officer, and to the extent the named executive officer meets certain retirement eligibility criteria described in the award agreement and complies with certain post-retirement assistance requirements and covenants, all PRSUs will continue to vest and any earned PRSUs, based on the satisfaction of the performance metrics, will be settled in Cisco shares at the end of the applicable three-year performance period.

Cisco believes that the retirement vesting feature of all PRSUs is appropriate and motivating because it provides protection to long-tenured named executive officers in light of the three-year PRSU performance period and is a prevalent practice among the companies within the Peer Group that grant similar equity awards with multi-year performance periods. Further, PRSUs will be forfeited and provide no value to its holder to the extent a named executive officer violates specific post-retirement covenants.

See the "Compensation Committee Matters — Fiscal 2020 Compensation Tables — Grants of Plan-Based Awards — Fiscal 2020" table for additional information regarding these equity grants to the named executive officers and the "Potential Payments upon Termination or Change in Control" section for additional information regarding these grants to the named executive officers and all other outstanding equity awards previously granted to the named executive officers.

Cisco does not provide for any single-trigger golden parachute arrangements or golden parachute excise tax gross-up arrangements for its named executive officers, nor does it provide employment agreements with cash severance provisions.

Perquisites

Consistent with our pay-for-performance compensation philosophy, we believe perquisites for executive officers should be limited in scope and value, and should only be offered when they provide necessities or conveniences that allow our executive officers to focus on and optimally perform in their role with Cisco. Consequently, under Cisco's "no perks" policy, Cisco's executive officers generally will not be entitled to receive any special benefits, except as provided below:

- *Health Benefits* — Executive officers may choose to have an annual executive health screening and other benefits at Cisco's expense. Executive health physicals and related benefits assist both the executive officer and Cisco by ensuring health risks are minimized.
- *Aircraft Policy* — Our CEO and our other executive officers may occasionally use our corporate aircraft for personal use, subject to availability, provided they reimburse Cisco for the incremental cost of the flight. Because the leased corporate aircraft is used primarily for business travel, Cisco requires reimbursement for the incremental cost of the flight (these costs do not include fixed costs that do not change based on usage). The reimbursable incremental cost for personal use includes, when applicable, the following costs: fuel, landing/parking fees, crew fees and expenses, custom fees, flight services/charts, variable maintenance costs, inspections, catering, aircraft supplies, telephone usage, trip-related hangar rent and parking costs, plane repositioning costs (deadhead flights), occupied variable fees, and other miscellaneous expenses. Cisco does not seek reimbursement of fixed costs such as monthly management fees, lease payments, crew salaries, maintenance costs not related to trips, training, home hangaring, general taxes and insurance, and services support, as these costs are generally incurred for business purposes. In addition, occasionally, guests of named executive officers are permitted to ride

along on Cisco's leased corporate aircraft when the aircraft is already going to a specific destination for a business purpose, provided there is no more than de minimis incremental cost. On such occasions, the named executive officer will be subject to imputed income at the applicable Standard Industrial Fare Level (SIFL) rates for any personal passengers on that flight, and Cisco does not provide tax gross-ups for such imputed income.

- *Personal Security* — Consistent with prevalent practices among large, multinational companies, and based on an independent third-party security study, Cisco provides security personnel for the CEO and his family members for business travel and certain non-business travel. The Compensation Committee must pre-approve security for the CEO and his family members on non-business trips when the aggregate cost for such trips per fiscal year will equal or exceed $25,000. The Chair of the Compensation Committee must pre-approve any security recommended by Cisco Security or a third-party security vendor for families traveling with executive officers other than the CEO on business trips and for such executive officers and, if applicable, their families on non-business trips. In addition, Cisco security practices provide that the CEO may be driven to and from work by an authorized car service and personal security driver. The incremental cost of security expenses for Cisco security personnel is their meals, lodging, and travel, but generally not their compensation because Cisco already incurs that cost for business purposes. The incremental cost of third-party security vendors is their actual cost. The incremental cost for the authorized car service and personal security driver is the actual cost. Cisco does not consider the provision of such security to be a perquisite since the need for security arises from the nature of the executive officer's employment by Cisco, the provision of such security is provided to mitigate risks to Cisco's business, and the provision of such security is excludable from income under IRS rules. Pursuant to SEC guidance, we have reported the aggregate incremental costs in the "All Other Compensation" column of the Summary Compensation Table.
- *Relocation Benefits* — Executive officers who are relocating may be entitled to the benefits determined with reference to Cisco's international and domestic assignment, transfer, and relocation policies for Vice Presidents and above, as amended from time to time. These relocation benefits are market competitive benefits and enable an orderly transition for Vice Presidents relocating within the United States or to another country.
- *Required Business Trips Where Spouses/Partners are Expected to Attend* — Cisco will pay for or reimburse spousal/partner travel and personal expenses only in connection with business-related events where Cisco executive officers are required to attend and where the presence of spouses/partners is expected; provided however, for each named executive officer, the aggregate amount of spousal/partner travel and personal expenses paid for by Cisco in a fiscal year must be less than $10,000. If a named executive officer's spousal/partner travel and personal expenses are in excess of such limit, the named executive officer will be responsible for such excess amounts and will reimburse Cisco.
- *Gross-Ups* — Cisco does not provide for tax gross-ups in connection with any of the foregoing items except in the case of tax equalization and tax adjustments under Cisco's international and domestic assignment, transfer, and relocation policies.

Deferred Compensation Plan

The Deferred Compensation Plan is available to all U.S. employees with the title of director or above, including the named executive officers. The Deferred Compensation Plan provides an opportunity for individual retirement savings on a tax- and cost-effective basis on compensation above the Code limits under the Cisco Systems, Inc. 401(k) Plan (the "401(k) Plan"). Cisco does not sponsor a supplemental executive retirement plan or a defined benefit pension plan. Cisco matches deferrals at the same percentage as made under the 401(k) Plan. Those matching contributions are described in footnote 2 to the "Compensation Committee Matters — Fiscal 2020 Compensation Tables — Nonqualified Deferred Compensation — Fiscal 2020" table below.

Fiscal 2021 Compensation Approach

- ***Base Salaries*** — The Compensation Committee does not intend at this time to make any adjustments to the annual base salaries for the named executive officers.
- ***Variable Cash Incentive Awards*** — Similar to fiscal 2020, awards under the EIP for the named executive officers are based on a prevalent additive formula in which 80% of the bonus is leveraged

and based on the risk and reward of Cisco's financial performance while only 20% is based a participant's individual performance. The individual target awards remain at competitive levels of 260% of base salary for Mr. Robbins and 160% of base salary for the other named executive officers.

- ***Long-Term, Equity-Based Incentive Awards*** — On September 18, 2020, the Compensation Committee granted the following equity awards to the named executive officers below (60% PRSUs/40% RSUs) and the PRSUs were granted using a three-year performance period and the same performance metrics (but not goals) that were used in fiscal 2020. The Compensation Committee changed the weighting of the fiscal 2021 equity awards from 75% PRSUs/25% RSUs to 60% PRSUs/40% RSUs as a better balance between retention and performance, and risk and leverage, and better alignment with the Peer Group. Ms. Kramer was not granted any equity awards since she will be leaving the company.

Named Executive Officer	Performance-Based Restricted Stock Units	Time-Based Restricted Stock Units
Charles H. Robbins	300,861	195,931
Gerri Elliott	154,288	100,478
Maria Martinez	123,431	80,382
Irving Tan	115,716	75,358

Executive Compensation Governance Components

Our Culture of Ownership

As noted above, a core element of Cisco's compensation philosophy is to align the interests of executive officers with those of shareholders by providing appropriate long-term incentives. To further this goal, Cisco has a long-standing policy regarding minimum ownership of shares by Cisco's executive officers.

Until August 2019, these minimum ownership requirements called for Cisco's CEO to own shares of Cisco's common stock having a value equal to at least five times the CEO's annual base salary and for each other executive officer to own shares of Cisco's common stock having a value equal to at least three times the executive officer's annual base salary. The CEO and each other executive officer had five years from the date of their respective appointment to attain their minimum ownership level. In August 2019, the minimum ownership requirements were increased to six times for the CEO and four times for the other executive officers. The CEO and each other executive officer were provided an additional year to meet the increased minimum ownership requirements.

Position	Required Share Ownership (Multiple of Base Salary)
CEO	6x
Executive Officers	4x

As of September 30, 2020, all of our executive officers were either exceeding the minimum stock ownership requirements or were on track to comply in the relevant timeframe.

Recoupment (or "clawback") Policy

Cisco has a long-standing recoupment policy for cash incentive awards paid to executive officers under Cisco's annual cash incentive plan, the EIP, and in June 2019, this policy was extended to include PRSUs. In the event of a restatement of incorrect financial results, this policy enables the Compensation Committee, if it determines appropriate and subject to applicable laws, to seek reimbursement from executive officers of:

- the incremental portion of EIP awards paid to executive officers in excess of the EIP awards that would have been paid based on the restated financial results; and
- the incremental shares of Cisco's common stock settled for any PRSUs in excess of the shares of Cisco's common stock that would have been settled for such PRSUs based on the restated financial results, or the value of such incremental shares to the extent an executive officer sells any incremental shares.

Cisco's long-term, equity-based incentive award plans also generally provide for forfeiture if a named executive officer participates in activities detrimental to Cisco (including during a retirement-vesting period) or is terminated for misconduct. We are monitoring the proposed SEC rules on recoupment and plan to modify our recoupment policy in accordance with any applicable final SEC or other rules.

Compensation Risk Management

The Compensation Committee's annual review and approval of Cisco's compensation philosophy and strategy includes the review of compensation-related risk management. In this regard, the Compensation Committee reviews Cisco's compensation programs for employees and executives, including the variable cash incentive plans and long-term, equity-based incentive awards, and does not believe that the compensation program creates risks that are reasonably likely to have a material adverse effect on Cisco.

As part of this review, the Compensation Committee evaluates the need to engage independent consultants for specific assignments and engaged FWC during fiscal 2020 to deliver a report and assist with the risk assessment of Cisco's executive compensation program.

FWC advised that Cisco's executive compensation program:

- maintains an appropriate pay philosophy,
- uses an appropriate, objectively selected peer group to support decision-making,
- reflects best-in-class design and governance practices in key areas,
- supports business objectives,
- mitigates compensation-related risk through a balanced structure and related policies such as stock ownership guidelines, pledging prohibitions, etc., and
- reviews actual pay delivery from performance-based incentives to confirm the rigor of goal setting and the alignment with performance.

The Compensation Committee also determined that Cisco's commission and sales incentive plans for employees at all levels are based on measurable and verifiable sales goals that are aligned with Cisco's company-wide revenue and operating income goals for its bonus plan for executives. In addition, total target incentive compensation for all employees is a small percentage of total sales and revenue, and incentive opportunities under these plans are capped. The plans are monitored to ensure that internal controls are in place to mitigate risk. Management also retains discretion to reduce incentive amounts in appropriate circumstances.

Compensation Process

The Compensation Committee begins its process of deciding how to compensate Cisco's named executive officers by considering the competitive market data provided by its independent compensation consultant and the People and Communities Department. The Compensation Committee engaged FWC to provide advice and recommendations on competitive market practices and specific compensation decisions. For purposes of evaluating competitive practices, the Compensation Committee, with assistance from FWC, identified criteria to select a list of companies that comprise Cisco's peer group.

Peer Group and Benchmarking

The Compensation Committee approved a peer group in March 2019, which was used to establish compensation targets and guide decisions prior to March 2020. FWC subsequently prepared a peer group study, and the same peer group was approved in March 2020. The Compensation Committee may also decide to use data accumulated by management regarding compensation practices of companies where Cisco regularly competes for talent as an additional point of reference.

How the Peer Group was Selected

The members of the Peer Group are generally based on the following objective criteria, recommended by FWC:

- Major information technology companies with related Global Industry Classification Standard (GICS) codes 4510, 4520, 4530, and 5020;

- A three-year rolling average market capitalization greater than $30 billion (based on the trailing 12-quarter average); and
- Revenues greater than $10 billion (based on the trailing four quarter averages).

Peer Group Members

Accenture	Facebook	Microsoft
ADP	Hewlett-Packard Enterprise	Oracle
Alphabet	HP Inc.	Qualcomm
Apple	IBM	Texas Instruments
Broadcom	Intel	Visa
Dell		

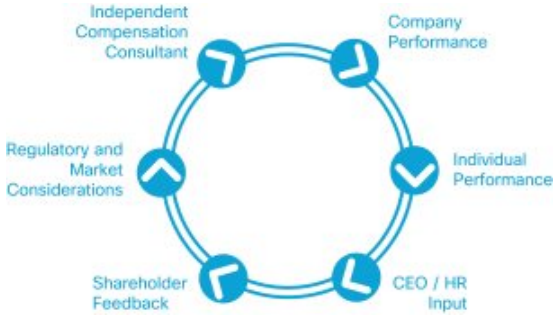
How We Use the Peer Group

The positions of Cisco's named executive officers were compared to their counterpart positions in the Peer Group, and the compensation levels for comparable positions in the Peer Group were examined for guidance in determining:

- base salaries;
- variable cash incentive awards; and
- the amount and mix of long-term, equity-based incentive awards.

The Compensation Committee establishes base salaries, variable cash incentive awards, and long-term, equity-based incentive awards on a case-by-case basis for each named executive officer taking into account, among other things, company and individual performance, role expertise, experience, and the competitive market, advancement potential, recruiting needs, internal equity, retention requirements, unrealized equity gains, succession planning, and best compensation governance practices. The Compensation Committee does not tie individual compensation to specific target percentiles.

How the Compensation Committee Makes Decisions and Policies



The Compensation Committee retains and does not delegate any of its exclusive power to determine all matters of executive compensation and benefits, although from time to time it seeks input and recommendations from the CEO and the People and Communities Department. Our CEO does not make recommendations with respect to his own compensation or participate in the deliberations regarding the setting of his own compensation. The Compensation Committee reports to the Board of Directors on the major items covered at each Compensation Committee meeting. FWC has worked directly with and on behalf of the Compensation Committee to assist the Compensation Committee in satisfying its responsibilities; and will undertake no projects for management except at the request of the Compensation Committee chair, and in the capacity of the Compensation Committee's agent where such projects are in direct support of the Compensation Committee's charter. The Compensation Committee assessed the independence of FWC during fiscal 2020 and believes that there are no conflicts of interest. In reaching this conclusion, the Compensation Committee considered applicable SEC rules and regulations and the corresponding Nasdaq independence factors regarding compensation advisor independence.

In determining executive compensation, the Compensation Committee also considers, among other factors, the possible tax consequences to Cisco and to its executives. To maintain maximum flexibility in designing compensation programs, the Compensation Committee, while considering company tax deductibility as one of its factors in determining compensation, will not limit compensation to those levels or types of compensation that

are intended to be deductible. The Tax Cuts and Jobs Act repealed the exemption for performance-based compensation under Code Section 162(m) for tax years commencing after December 31, 2017. However, certain compensation is specifically exempt from the deduction limit under a transition rule to the extent that it is "performance-based" as defined in Code Section 162(m) and subject to a written binding contract under applicable law in effect as of November 2, 2017 that is not later modified in any material respect.

In reviewing and establishing CEO compensation, the Compensation Committee also considers our CEO pay ratio. Cisco has always been committed to paying its people fairly and equitably, and we have strived to develop and execute robust policies to evaluate pay levels throughout the organization. We are a founding signer of the White House Equal Pay Pledge and the Parity.org pledge, and we are leading the charge to make fair pay a reality for all employees through the Employers for Pay Equity Consortium.

The Compensation Committee considers the accounting consequences to Cisco of different compensation decisions and the impact on shareholder dilution; however, neither of these factors by themselves will compel a particular compensation decision.

The Compensation Committee annually grants long-term, equity-based incentive awards to executive officers after the close of the prior fiscal year and the review and evaluation of each executive officer's performance. The Compensation Committee's policy is to generally grant equity awards only during open trading windows and to establish grant dates in advance, generally establishing those dates near the beginning of each fiscal year.

Compensation Committee Report

The information contained in this report shall not be deemed to be "soliciting material," to be "filed" with the SEC, or to be subject to Regulation 14A or Regulation 14C (other than as provided in Item 407 of Regulation S-K) or to the liabilities of Section 18 of the Securities Exchange Act of 1934, and shall not be deemed to be incorporated by reference in future filings with the SEC except to the extent that Cisco specifically incorporates it by reference into a document filed under the Securities Act of 1933 or the Securities Exchange Act of 1934.

The Compensation and Management Development Committee has reviewed and discussed the "Compensation Discussion and Analysis" section of this Proxy Statement with Cisco's management. Based on that review and those discussions, the Compensation and Management Development Committee recommended to the Board of Directors that the "Compensation Discussion and Analysis" section be included in this Proxy Statement and incorporated by reference into Cisco's Annual Report on Form 10-K for its 2020 fiscal year.

Submitted by the Compensation and Management Development Committee

Roderick C. McGeary, *Chairperson*
Wesley G. Bush
Kristina M. Johnson
Arun Sarin
Brenton L. Saunders

Compensation Committee Interlocks and Insider Participation

The members of the Compensation Committee during fiscal 2020 were Roderick C. McGeary (Chairperson), Dr. Kristina M. Johnson, Arun Sarin and Brenton L. Saunders for all of fiscal 2020, and Wesley G. Bush beginning in December 2019. No member of this committee was at any time during fiscal 2020 or at any other time an officer or employee of Cisco, and no member of this committee had any relationship with Cisco requiring disclosure under Item 404 of Regulation S-K. No executive officer of Cisco has served on the board of directors or compensation committee of any other entity that has or has had one or more executive officers who served as a member of the Compensation Committee during fiscal 2020.

Fiscal 2020 Compensation Tables

The following table, footnotes and related narrative sets forth the "total compensation" earned by the named executive officers for services rendered in all capacities to Cisco and its subsidiaries for each of the last three or fewer fiscal years during which such individuals were designated as named executive officers. The salary, bonus and non-equity incentive plan compensation columns set forth below reflect the actual amounts paid for the relevant fiscal years, while the stock awards column reflects accounting values. For the actual amounts of compensation related to long-term equity incentives, see the "Option Exercises and Stock Vested — Fiscal 2020" table below. Cisco's named executive officers for fiscal 2020 include Cisco's CEO, CFO, the three most highly compensated executive officers (other than CEO and CFO) who were serving as executive officers at the end of fiscal 2020, and a former executive officer who departed during fiscal 2020.

Summary Compensation Table

Name and Principal Position (1)	Fiscal Year (1)	Salary ($)	Bonus ($)	Stock Awards ($) (2)	Non-Equity Incentive Plan Compensation ($) (3)	All Other Compensation ($) (4)	Total ($)
Charles H. Robbins	2020	$ 1,390,000	—	$ 19,215,141	$ 2,471,976	$ 86,593	$ 23,163,710
Chairman and Chief	2019	$ 1,325,000	—	$ 18,576,568	$ 5,795,550	$ 132,715	$ 25,829,833
Executive Officer	2018	$ 1,231,250	—	$ 14,940,771	$ 4,990,711	$ 121,732	$ 21,284,464
Kelly A. Kramer	2020	$ 850,000	—	$ 10,185,929	$ 916,640	$ 67,500	$ 12,020,069
Executive Vice President and	2019	$ 850,000	—	$ 10,610,100	$ 2,106,810	$ 67,500	$ 13,634,410
Chief Financial Officer	2018	$ 763,750	—	$ 8,751,410	$ 1,857,206	$ 91,005	$ 11,463,371
Gerri Elliott	2020	$ 825,000	—	$ 8,267,815	$ 902,880	$ 11,672	$ 10,007,367
Executive Vice President and	2019	$ 750,000	$ 4,000,000(5)	$ 6,161,149	$ 1,968,300	$ 58,002	$ 12,937,451
Chief Sales and Marketing	2018	$ 187,500	$ 6,000,000(5)	$ 10,001,614	$ 385,941	$ 273,369	$ 16,848,424
Officer							
Maria Martinez	2020	$ 700,000	—	$ 6,809,059	$ 754,880	$ 19,510	$ 8,283,449
Executive Vice President and	2019	$ 675,000	$ 6,500,000(6)	$ 6,161,149	$ 1,574,640	$ 70,631	$ 14,981,420
Chief Customer Experience Officer	2018	$ 194,712	$ 6,500,000(6)	$ 12,003,070	$ 400,569	$ 246,554	$ 19,344,905
Irving Tan	2020	$ 625,000	—	$ 6,340,993	$ 664,000	$ 47,701	$ 7,677,694
Executive Vice President and Chief of Operations							
David Goeckeler	2020	$ 618,036(7)	—	$ 9,988,440	—	$ 12,819	$ 10,619,295
Former Executive Vice	2019	$ 825,000	—	$ 9,374,159	$ 2,044,845	$ 84,969	$ 12,328,973
President and General Manager,	2018	$ 748,077	—	$ 8,458,949	$ 1,823,312	$ 53,816	$ 11,084,154
Networking and Security							
Business							

(1) Mr. Goeckeler resigned from Cisco effective March 8, 2020. Mr. Tan was not a named executive officer in fiscal 2018 and 2019.

(2) The amounts in the "Stock Awards" column represent the aggregate grant date fair values, computed in accordance with FASB ASC Topic 718, of PRSUs and RSUs granted during the applicable fiscal year under the 2005 Stock Incentive Plan. See below for more information on, and assumptions used for, the grant date fair value of the PRSUs. For time-based awards, the grant date fair value was determined using the closing share price of Cisco common stock on the date of grant, adjusted for the present value of expected dividends.

The PRSUs awarded in fiscal 2020, 2019 and 2018 are generally based on the three-year performance cycle of (i) fiscal 2020 through fiscal 2022, (ii) fiscal 2019 through fiscal 2021, and (iii) fiscal 2018 through fiscal 2020, respectively. The performance metrics for 50% of the PRSUs are based on operating goal performance, and the performance metric for the remaining 50% of the PRSUs is Cisco's relative TSR, except that the performance metric for the PRSUs awarded to Mr. Goeckeler in July 2018, Ms. Martinez in April 2018, and Ms. Elliott in April 2018, respectively, was based 100% on Cisco's relative TSR. The metrics used to determine the number of PRSUs earned relative to operating goal performance are operating cash flow and EPS based on annual goals, pre-established at the beginning of each applicable fiscal year, which was intended to comply with the exemption for performance-based compensation under Code Section 162(m); provided that, as described above, only the grandfathered portion will continue to qualify for such exemption due to the repeal of the exemption and the corresponding transition rule. These operating goal performance metrics are reviewed at the end of each fiscal year and any PRSUs are earned based on the average performance over the three applicable fiscal years, subject to the Compensation Committee's approval. The probable and maximum values are based upon achieving the target or maximum level of performance as of the date the goals were set. The performance periods for the PRSUs

earned based on Cisco's relative TSR are described in the "Compensation Committee Matters — Grants of Plan-Based Awards — Fiscal 2020" table. See the "Fiscal 2020 Compensation" section in the CD&A for a more complete description of the PRSUs.

The table below sets forth the grant date fair value for PRSUs awarded in fiscal 2020, 2019 and 2018.

Name	Fiscal Year	Probable Outcome of Performance Conditions Grant Date Fair Value ($) (a)	Maximum Outcome of Performance Conditions Grant Date Fair Value ($) (a)	Market-Related Component Grant Date Fair Value ($) (b)
Charles H. Robbins	2020	$ 7,640,113	$ 11,460,170	$ 6,623,856
	2019	$ 7,013,562	$ 10,520,343	$ 7,133,895
	2018	$ 5,424,368	$ 8,136,552	$ 5,810,340
Kelly A. Kramer	2020	$ 4,250,001	$ 6,375,002	$ 3,396,865
	2019	$ 4,002,641	$ 6,003,961	$ 4,076,519
	2018	$ 3,182,404	$ 4,773,606	$ 3,400,185
Gerri Elliott	2020	$ 2,331,888	$ 3,497,832	$ 3,396,865
	2019	$ 875,170	$ 1,312,755	$ 3,261,236
	2018	$ —	$ —	$ 5,000,303
Maria Martinez	2020	$ 2,060,324	$ 3,090,487	$ 2,717,484
	2019	$ 875,170	$ 1,312,755	$ 3,261,236
	2018	$ —	$ —	$ 6,000,132
Irving Tan	2020	$ 2,037,461	$ 3,056,192	$ 2,462,712
David Goeckeler	2020	$ 4,052,513	$ 6,078,770	$ 3,396,865
	2019	$ 2,766,700	$ 4,150,050	$ 4,076,519
	2018	$ 1,289,969	$ 1,934,955	$ 4,691,704

(a) Because the performance-related component for PRSUs that contain operating goals is based on separate measurements of our financial performance for each year in the three-year performance cycle, FASB ASC Topic 718 requires the grant date fair value to be calculated at the commencement of each separate year of the performance cycle when the respective performance measures are approved as follows:

(i) the amounts for fiscal 2020 represent the grant date fair value for the operating goal performance-related component of the PRSUs awarded in fiscal 2020, 2019 and 2018 based upon the probable or target outcome of the fiscal 2020 operating goal performance-related component as of the date the goals were set and based upon achieving the maximum level of performance under the fiscal 2020 operating goal performance-related component as of the date the goals were set;

(ii) the amounts for fiscal 2019 represent the grant date fair value for the operating goal performance-related component of the PRSUs awarded in fiscal 2019, 2018 and 2017 based upon the probable or target outcome of the fiscal 2019 operating goal performance-related component as of the date the goals were set and based upon achieving the maximum level of performance under the fiscal 2019 operating goal performance-related component as of the date the goals were set; and

(iii) the amounts for fiscal 2018 represent the grant date fair value for the operating goal performance-related component of the PRSUs awarded in fiscal 2018, 2017 and 2016 based upon the probable or target outcome of the fiscal 2018 operating goal performance-related component as of the date the goals were set and based upon achieving the maximum level of performance under the fiscal 2018 operating goal performance-related component as of the date the goals were set.

For additional description of the actual amounts earned for the fiscal 2018 PRSUs, see the "Fiscal 2020 Compensation — Long-Term, Equity-Based Incentive Awards — Earned Fiscal 2018 Awards (Fiscal 2018 — 2020)" section in the CD&A above.

(b) Represents the grant date fair value for the market-related TSR component, which is not subject to probable or maximum outcome assumptions. The metric used to determine the number of PRSUs earned with respect to the TSR component is Cisco's TSR compared to the S&P 500 Index for the fiscal 2018, 2019 and 2020 grants, in each case, over a three fiscal year period. Consistent with FASB ASC Topic 718, the full grant date fair value for the market-related TSR component for the entire performance cycle is included in the amounts shown for the year of grant and was determined using a Monte Carlo simulation model.

The following table includes the assumptions used to calculate the grant date fair value of PRSU awards reported for fiscal 2020, 2019 and 2018.

		Assumptions (Operating Goal)			Assumptions (TSR Goal)		
PRSU Award	Fair Value ($)	Range of Risk Free Interest Rate (%)	Dividend Yield (%)	Fair Value ($)	Cisco Volatility (%)	Risk Free Interest Rate (%)	Dividend Yield (%)
Fiscal 2020							
9/18/2019 PRSUs	44.91	1.68 - 1.93	2.84	37.45	21.75	1.71	2.84
Year 2 of 9/18/2018 PRSUs	46.25	1.74 - 1.93	2.84	N/A	N/A	N/A	N/A
Year 3 of 9/20/2017 PRSUs	47.96	1.88 - 1.93	2.84	N/A	N/A	N/A	N/A
Fiscal 2019							
9/18/2018 PRSUs	41.55	2.31 - 2.99	2.91	51.61	20.82	2.86	2.78
Year 2 of 9/20/2017 PRSUs	42.77	2.31 - 2.92	2.91	N/A	N/A	N/A	N/A
Year 3 of 9/21/2016 PRSUs	44.04	2.31 - 2.67	2.91	N/A	N/A	N/A	N/A
Fiscal 2018							
7/25/2018 PRSUs	N/A	N/A	N/A	42.31	20.61	2.73	3.06
4/30/2018 PRSUs	N/A	N/A	N/A	43.87	19.74	2.51	2.98
4/16/2018 PRSUs	N/A	N/A	N/A	42.80	20.49	2.41	3.05
9/20/2017 PRSUs	28.91	0.98 - 1.60	3.56	32.46	20.60	1.58	3.56
Year 2 of 9/21/2016 PRSUs	30.03	0.98 - 1.45	3.56	N/A	N/A	N/A	N/A
Year 3 of 9/9/2015 PRSUs	31.45	0.98 - 1.32	3.56	N/A	N/A	N/A	N/A

(3) The amounts listed in the "Non-Equity Incentive Plan Compensation" column for fiscal 2020, 2019 and 2018 reflect the cash awards paid under the EIP for performance in the applicable fiscal year. See the "Fiscal 2020 Compensation" section in the CD&A for a more complete description of how the variable cash incentive awards were determined for fiscal 2020.

(4) The amounts listed in the "All Other Compensation" column for fiscal 2020 include actual and estimated matching contributions by Cisco under the Deferred Compensation Plan, matching contributions that Cisco made under the 401(k) Plan, and other perquisites and personal benefits, and details about these amounts are set forth in the table below.

Name	Matching Contributions under Deferred Compensation Plan ($) (a)	Matching Contributions under 401(k) Plan ($)	Other ($) (b)	Total ($)
Charles H. Robbins	$ 54,675	$ 12,825	$ 19,093(c)	$ 86,593
Kelly A. Kramer	$ 54,675	$ 12,825	$ —	$ 67,500
Gerri Elliott	$ —	$ 11,672	$ —	$ 11,672
Maria Martinez	$ —	$ 12,076	$ 7,434(d)	$ 19,510
Irving Tan	$ 16,767	$ 16,598	$ 14,336(e)	$ 47,701
David Goeckeler	$ —	$ 12,819	$ —	$ 12,819

(a) This includes matching contributions related to fiscal 2020 salary and non-equity incentive plan compensation deferred during calendar year 2019 as well as fiscal 2020 salary and non-equity incentive plan compensation deferred during calendar year 2020 that is expected to be credited at the end of calendar year 2020. See the "Compensation Committee Matters — Fiscal 2020 Compensation Tables — Nonqualified Deferred Compensation — Fiscal 2020" section for more information.

(b) In fiscal 2020, occasionally, guests of the named executive officers were permitted to ride along on Cisco's leased corporate aircraft when the aircraft was already going to a specific destination for a business purpose, provided there was no more than a de minimis incremental cost. In fiscal 2020, the named executive officers were also permitted to use the aircraft occasionally for non-business travel, subject to availability and reimbursing Cisco for the incremental cost of the flight. On such occasions, the named executive officer will be subject to imputed income at the applicable SIFL rates for any personal passengers on that flight, and Cisco does not provide tax gross-ups for such imputed income. See the "Fiscal 2020 Compensation — Perquisites" section in the CD&A for the method Cisco used in determining the reimbursable incremental cost for personal use.

(c) The amount listed in the All Other Compensation column for fiscal 2020 for Mr. Robbins includes security expenses relating to non-business travel and guest travel while accompanying Mr. Robbins on a business trip. In addition, Cisco security practices provide that the CEO may be driven to and from work by an authorized car service and personal security driver. Cisco does not consider these security expenses to be personal benefits since these expenses arise from the nature of Mr. Robbins' employment by Cisco. However, the disclosure regulations require certain security expenses to be reported as personal benefits. The amount reported for such security expenses is the incremental cost to Cisco of providing security personnel employed by Cisco and third-party security vendors. For Cisco security personnel, the incremental cost includes meals, lodging and travel. Compensation is not included because Cisco already incurs that cost for business purposes. For third-party security vendors, the incremental cost is their actual cost. The incremental cost for the authorized car service and personal security driver is the actual cost. The amount listed for

Mr. Robbins also includes executive health physicals and other benefits, and reimbursement for personal expenses in connection with a business trip to recognize sales personnel achievements where the presence of spouses/partners was expected.

(d) The amount listed in the "All Other Compensation" column for Ms. Martinez for fiscal 2020 includes $7,434 for tax restoration benefits pursuant to Cisco's policy for domestic partner health benefits.

(e) Mr. Tan was reassigned to the U.S. from Singapore in January 2018. The amount listed in the "All Other Compensation" column for Mr. Tan for fiscal 2020 includes fees for his tax preparation services, $850 for related tax restoration benefits, and reimbursement for personal expenses in connection with a business trip to recognize sales personnel achievements where the presence of spouses/partners was expected.

(5) As part of her new hire compensation package, the Compensation Committee approved the payment to Ms. Elliott of a $10 million new hire cash bonus payment with $6 million paid in May 2018 and the balance paid in May 2019.

(6) As part of her new hire compensation package and as consideration for the compensation she forfeited when she left Salesforce, the Compensation Committee approved the payment to Ms. Martinez of a $13 million new hire cash bonus payment with $6.5 million paid in June 2018 and the balance paid in May 2019.

(7) Includes $100,825 for the payout of accrued vacation.

The following table provides information on cash-based performance awards and stock unit awards in fiscal 2020 to each of Cisco's named executive officers. There can be no assurance that the Grant Date Fair Value, as listed in this table, of the Stock Awards will ever be realized. These Grant Date Fair Value amounts also are included in the "Stock Awards" column of the Summary Compensation Table.

Grants of Plan-Based Awards — Fiscal 2020

		Estimated Future Payouts Under Non-Equity Incentive Plan Awards			Estimated Future Payouts Under Equity Incentive Plan Awards			All Other Stock Awards: Number of Shares of Stock or Units	Grant Date Fair Value of Stock Awards
Name	Grant Date	Threshold ($)	Target ($)	Maximum ($)	Threshold (#)	Target (#) (1)	Maximum (#)	(#) (1)	($) (2)
Charles H. Robbins	(3)	—	$3,614,000	$7,228,000					
	9/18/19(4)				—	353,743	530,614		$9,271,544
	9/18/19(5)							107,718	$4,951,172
Kelly A. Kramer	(3)	—	$1,360,000	$2,720,000					
	9/18/19(4)				—	181,407	272,110		$4,754,638
	9/18/19(5)							55,240	$2,539,062
Gerri Elliott	(3)	—	$1,320,000	$2,640,000					
	9/18/19(4)				—	181,407	272,110		$4,754,638
	9/18/19(5)							55,240	$2,539,062
Maria Martinez	(3)	—	$1,120,000	$2,240,000					
	9/18/19(4)				—	145,126	217,689		$3,803,693
	9/18/19(5)							44,192	$2,031,250
Irving Tan	(3)	—	$1,000,000	$2,000,000					
	9/18/19(4)				—	131,520	197,280		$3,447,113
	9/18/19(5)							40,049	$1,840,820
David Goeckeler	(3)	—	$1,320,000	$2,640,000					
	9/18/19(4)				—	181,407	272,110		$4,754,638
	9/18/19(5)							55,240	$2,539,062

(1) Each of the awards will vest in full (at target levels for PRSUs) in the event that Cisco is acquired by merger or asset sale, unless the award or related agreement is assumed or replaced by the acquiring entity. In addition, pursuant to a Compensation Committee policy which can be revoked or changed at any time, if the holder of an award dies or becomes terminally ill, his or her award will generally vest in an amount equal to the greater of 100% of the unvested shares subject to the award (at target levels for PRSUs) up to a total value of $10 million, net of aggregate exercise or purchase price, or up to one year of vesting from the date of death or determination of terminal illness. For purposes of this policy, shares subject to the award are valued based on the closing share price of Cisco common stock on the date of death or determination of terminal illness.

In the event of the retirement of a named executive officer, and to the extent the named executive officer meets certain retirement eligibility criteria described in the award agreement and complies with certain post-retirement covenants, all PRSUs will continue to vest and any earned PRSUs, based on the satisfaction of the performance metrics, will be settled in Cisco shares at the end of the three-year performance period. Further, PRSUs will be forfeited and provide no value to its holder to the extent the holder violates specific post-retirement covenants.

(2) Excludes the grant date fair value for the operating goal performance-related component of the fiscal 2019 and fiscal 2018 awards based on the probable or target outcome of the fiscal 2020 operating goal performance-related component because these PRSUs were not awarded in fiscal 2020. The amounts included in the "Stock Awards" column of the Summary Compensation Table for fiscal 2020 related to the PRSUs awarded in fiscal 2019 and 2018 in aggregate are as follows: $4,992,425 for Mr. Robbins; $2,892,229 for Ms. Kramer; $974,115 for Ms. Elliott; $974,115 for Ms. Martinez; $1,053,061 for Mr. Tan; and $2,694,741 for Mr. Goeckeler.

(3) These rows represent possible payouts pursuant to the annual cash incentive awards under the EIP for fiscal 2020. The EIP did not contain any threshold value for fiscal 2020. For more information about these payments, see the CD&A.

- For Mr. Robbins, the target and maximum values are calculated by multiplying 260% (target) and 520% (maximum), respectively, by his annual base salary in effect during fiscal 2020.
- For Ms. Kramer, Ms. Elliott, Ms. Martinez, Mr. Tan and Mr. Goeckeler, the target and maximum values are calculated by multiplying 160% (target) and 320% (maximum), respectively, by his or her annual base salary during fiscal 2020.

(4) The amounts shown in these rows reflect, in share amounts, the target and maximum potential awards of PRSUs for the fiscal 2020 performance period, as further described in the CD&A. In September 2019, each named executive officer was awarded PRSUs under the 2005 Stock Incentive Plan, which are subject to the satisfaction of pre-determined performance metrics based on operating cash flow, EPS and relative TSR over the three fiscal year performance cycle starting with fiscal 2020, with a maximum award equal to 150% of the target grant. There was no threshold number for these PRSUs for fiscal 2020. The potential awards were performance-based and were completely at risk. For additional detail on the grant date fair value of the PRSUs, see footnote 2 to the Summary Compensation Table above.

(5) Granted under the 2005 Stock Incentive Plan and vests 25% on November 10, 2020, and 6.25% quarterly thereafter. Each award is settled in shares on each vesting date.

The following table shows the number of Cisco unvested restricted stock units held by Cisco's named executive officers as of July 25, 2020.

Outstanding Equity Awards At 2020 Fiscal Year-End

	Stock Awards			
Name	Number of Shares or Units of Stock That Have Not Vested (#)	Market Value of Shares or Units of Stock That Have Not Vested ($) *	Number of Unearned Shares, Units or Other Rights That Have Not Vested (#)	Market or Payout Value of Unearned Shares, Units or Other Rights That Have Not Vested ($) *
Charles H. Robbins	29,650(2)	$ 1,375,760		
	46,650(3)	$ 2,164,560		
	448,691(4)	$ 20,819,262		
	62,463(11)	$ 2,898,283		
	107,718(13)	$ 4,998,115		
			414,681(12)	$ 19,241,198
			353,743(14)	$ 16,413,675
Kelly A. Kramer	16,475(2)	$ 764,440		
	27,300(3)	$ 1,266,720		
	262,572(4)	$ 12,183,341		
	35,694(11)	$ 1,656,202		
	55,240(13)	$ 2,563,136		
			236,961(12)	$ 10,994,990
			181,407(14)	$ 8,417,285
Gerri Elliott	135,636(9)	$ 6,293,510		
	28,555(11)	$ 1,324,952		
	55,240(13)	$ 2,563,136		
			189,568(12)	$ 8,795,955
			181,407(14)	$ 8,417,285
Maria Martinez	74,175(7)	$ 3,441,720		
	166,826(8)	$ 7,740,726		
	28,555(11)	$ 1,324,952		
	44,192(13)	$ 2,050,509		
			189,568(12)	$ 8,795,955
			145,126(14)	$ 6,733,846
Irving Tan	7,500(1)	$ 348,000		
	8,113(2)	$ 376,443		
	15,825(3)	$ 734,280		
	52,888(4)	$ 2,454,003		
	8,824(5)	$ 409,434		
	29,489(6)	$ 1,368,290		
	46,401(11)	$ 2,153,006		
	40,049(13)	$ 1,858,274		
			102,684(12)	$ 4,764,538
			131,520(14)	$ 6,102,528
David Goeckeler	231,616(4)	$ 10,746,982		
			60,000(10)	$ 2,784,000
			236,961(12)	$ 10,994,990

* The market values of the RSUs that have not vested and the unearned PRSUs are calculated by multiplying the number of units shown in the table by the fiscal 2020 year-end closing price of Cisco common stock of $46.40.

Vesting Schedule for Unvested Restricted Stock Units

Note	Grant	Incremental Vesting Date
(1)	7/27/16	25% on 9/11/17; 25% annually for next 3 years
(2)	9/21/16	25% on 11/20/17; 25% annually for next 3 years
(3)	9/20/17	25% on 11/10/18; 6.25% quarterly thereafter
(4)	9/20/17	Represents shares earned under fiscal 2018 PRSUs based on Cisco's performance through the end of the three-year performance period covering fiscal 2018, fiscal 2019 and fiscal 2020. These shares were earned following certification of the operating and TSR performance goals by the Compensation Committee. The earned fiscal 2018 PRSUs remain subject to the executive officer's continued employment (other than Mr. Goeckeler who resigned from Cisco and was eligible for retirement vesting) and the Compensation Committee's discretion to further review and reduce the number of earned PRSUs until they settle on November 10, 2020.
(5)	1/30/18	25% on 11/10/18; 6.25% quarterly thereafter
(6)	1/30/18	Represents shares earned under fiscal 2018 PRSUs based on Cisco's performance through the end of the three-year performance period covering fiscal 2018, fiscal 2019 and fiscal 2020. These shares were earned following certification of the operating and TSR performance goals by the Compensation Committee. The earned fiscal 2018 PRSUs remain subject to the executive officer's continued employment and the Compensation Committee's discretion to further review and reduce the number of earned PRSUs until they settle on November 10, 2020.
(7)	4/16/18	25% on 6/10/19; 6.25% quarterly thereafter
(8)	4/16/18	Represents shares earned under fiscal 2018 PRSUs based on Cisco's TSR relative to the S&P 500 Index over a two-year period covering fiscal 2019 and fiscal 2020. These shares were earned following certification of TSR performance goals by the Compensation Committee. The earned fiscal 2018 PRSUs remain subject to the executive officer's continued employment and the Compensation Committee's discretion to further review and reduce the number of earned PRSUs until they settle on November 10, 2020.
(9)	4/30/18	Represents shares earned under fiscal 2018 PRSUs based on Cisco's TSR relative to the S&P 500 Index over a two-year period covering fiscal 2019 and fiscal 2020. These shares were earned following certification of TSR performance goals by the Compensation Committee. The earned fiscal 2018 PRSUs remain subject to the executive officer's continued employment and the Compensation Committee's discretion to further review and reduce the number of earned PRSUs until they settle on November 10, 2020.
(10)	7/25/18	PRSUs that are earned and settled on 11/10/21 subject to (i) Cisco's TSR relative to the S&P 500 Index over a three-year period covering fiscal 2019, fiscal 2020 and fiscal 2021; and (ii) Mr. Goeckeler's retirement vesting eligibility through the settlement date. The number of shares and the payout value for the PRSUs reflect payout at maximum since Cisco's relative TSR performance for the first two years of the three-year performance period exceeds target levels. Each PRSU is subject to the Compensation Committee's negative discretion when approving the settlement thereof.
(11)	9/18/18	25% on 11/10/19; 6.25% quarterly thereafter
(12)	9/18/18	PRSUs that are earned and settled on 11/10/21 subject to (i) the achievement of two operating goal performance metrics, operating cash flow and EPS, subject to annual goals that are pre-established at the beginning of each of fiscal 2019, fiscal 2020 and fiscal 2021; (ii) Cisco's TSR relative to the S&P 500 Index over a three-year period covering fiscal 2019, fiscal 2020 and fiscal 2021; and (iii) the executive officer's employment (other than Mr. Goeckeler who resigned from Cisco and is eligible for retirement vesting) through the settlement date. The number of shares and the payout value for the PRSUs reflect payout at maximum since Cisco's operating performance and relative TSR performance for the first two years of the three-year performance period exceeds target levels. Each PRSU is subject to the Compensation Committee's negative discretion when approving the settlement thereof.
(13)	9/18/19	25% on 11/10/20; 6.25% quarterly thereafter
(14)	9/18/19	PRSUs that are earned and settled on 11/10/22 subject to (i) the achievement of two operating goal performance metrics, operating cash flow and EPS, subject to annual goals that are pre-established at the beginning of each of fiscal 2020, fiscal 2021 and fiscal 2022; (ii) Cisco's TSR relative to the S&P 500 Index over a three-year period covering fiscal 2020, fiscal 2021 and fiscal 2022; and (iii) the executive officer's employment through the settlement date. The number of shares and the payout value for the PRSUs reflect payout at target since Cisco's operating performance and relative TSR performance for the first year of the three-year performance period did not exceed target levels. Each PRSU is subject to the Compensation Committee's negative discretion when approving the settlement thereof.

The following table shows the number of shares acquired by each of the named executive officers during fiscal 2020 through vesting of restricted stock units (including restricted stock units granted upon the satisfaction of a performance condition). The table also presents the value realized upon such vesting, as calculated based on the closing share price of Cisco's common stock on the Nasdaq Global Select Market on the vesting date. No stock options were exercised by the named executive officers during fiscal 2020, and there were no outstanding stock options held by the named executive officers as of July 25, 2020.

Option Exercises and Stock Vested — Fiscal 2020

	Stock Awards (1)	
Name	Number of Shares Acquired on Vesting (#)	Value Realized on Vesting ($)
Charles H. Robbins	543,862	$ 24,877,304
Kelly A. Kramer	305,588	$ 13,989,907
Gerri Elliott	76,182	$ 3,620,148
Maria Martinez	54,220	$ 2,496,467
Irving Tan	147,858	$ 7,014,549
David Goeckeler	215,950	$ 10,317,804

(1) Includes 60,750 shares subject to fully vested deferred stock units for Mr. Robbins and 4,283 shares subject to fully vested deferred stock units for Ms. Elliott. As elected by the named executive officer, these shares will be deferred until either (i) the employee's separation from service with Cisco or (ii) the earlier of an elected future settlement date or the employee's separation from service with Cisco, in each case in accordance with Code Section 409A. For the values realized on vesting of the deferred stock units, see the "Nonqualified Deferred Compensation — Fiscal 2020" table below.

The following table shows the contributions and earnings during fiscal 2020, and account balance as of July 25, 2020, for named executive officers under the Deferred Compensation Plan or the 2005 Stock Incentive Plan, as the case may be.

Nonqualified Deferred Compensation — Fiscal 2020

Name	Plan	Executive Contributions in Last Fiscal Year ($) (1)	Registrant Contributions in Last Fiscal Year ($) (2)	Aggregate Earnings in Last Fiscal Year ($) (3)	Aggregate Withdrawals/ Distributions ($)	Aggregate Balance at Last Fiscal Year-End ($) (4)
Charles R. Robbins	Deferred Compensation Plan	$ 193,098	$ 54,675	$ 99,373	—	$ 1,108,390
	2005 Stock Incentive Plan	$ 2,838,130	$ —	$ (1,092,604)	—	$ 7,734,880
Kelly A. Kramer	Deferred Compensation Plan	$ 55,249	$ 54,675	$ 46,767	—	$ 617,338
Gerri Elliott	Deferred Compensation Plan	$ —	$ —	$ —	—	$ —
	2005 Stock Incentive Plan	$ 204,998	$ —	$ (6,266)	—	$ 198,732
Maria Martinez	Deferred Compensation Plan	$ —	$ —	$ —	—	$ —
Irving Tan	Deferred Compensation Plan	$ 16,767	$ 16,767	$ 1,041	—	$ 34,575
David Goeckeler	Deferred Compensation Plan	$ 8,329	$ —	$ 32,300	—	$ 2,556,986

(1) The executive contribution amounts under the Deferred Compensation Plan were included in fiscal 2020 compensation in the "Salary" and "Non-Equity Incentive Plan Compensation" columns of the Summary Compensation Table, as applicable. The executive contribution amount under the 2005 Stock Incentive Plan represents the value of fully vested deferred stock units based on the closing share price of Cisco's common stock on the Nasdaq Global Select Market on the vesting date and is included in the "Value Realized on Vesting" column of the Option Exercises and Stock Vested — Fiscal 2020 table.

(2) These amounts were included in the "All Other Compensation" column of the Summary Compensation Table. Matching contributions under the Deferred Compensation Plan are made to eligible participants following the end of each calendar year. Generally, the matching contribution rate for calendar year 2020 will be, and the matching contribution rate for calendar year 2019 was, 4.5% of eligible compensation over the Code Section 401(a)(17) limit for each calendar year ($285,000 for 2020 and $280,000 for 2019), with a $1,500,000 cap on eligible compensation for each calendar year. The matching contribution rate for calendar years 2020 and 2019 is the same as in the 401(k) Plan for both years. Participants must be actively employed by Cisco on the last day of a calendar year to receive a matching contribution under the Deferred Compensation Plan. The amounts in this column reflect the sum of (i) actual calendar year 2019 matching

contributions, excluding the portion of those contributions related to deferrals of fiscal 2019 salary and non-equity incentive plan compensation, and (ii) estimated calendar year 2020 matching contributions related to deferrals of fiscal 2020 salary and non-equity incentive plan compensation during calendar year 2020 that are expected to be credited to the accounts of the named executive officers at the end of calendar year 2020.

(3) None of the amounts in this column is included in the Summary Compensation Table because plan earnings were not preferential or above-market.

(4) The following amounts included in this column for the Deferred Compensation Plan also have been reported in the Summary Compensation Table as compensation for fiscal 2020 or a prior fiscal year: Mr. Robbins, $981,321; Ms. Kramer, $544,941; Mr. Tan, $33,534; and Mr. Goeckeler, $305,283. The aggregate grant date fair value of the fully vested deferred stock units under the 2005 Stock Incentive Plan included in this column that has been reported in the Summary Compensation Table as compensation for fiscal 2020 or a prior fiscal year: Mr. Robbins, $4,854,433; and Ms. Elliott, $203,271. The deferred equity amounts included in this column are valued using the fiscal 2020 year-end closing share price of Cisco common stock of $46.40.

The Deferred Compensation Plan, which became effective on June 25, 2007, is an unfunded and unsecured deferred compensation arrangement that is designed to allow the participants to defer a specified percentage of their base salary (up to 75%), commissions and/or eligible bonuses (up to 100%) in a manner similar to the way in which the 401(k) Plan operates, but without regard to the maximum deferral limitations imposed on 401(k) plans by the Code. The Deferred Compensation Plan is designed to comply with Code Section 409A. As required by applicable law, participation in the Deferred Compensation Plan is limited to a group of Cisco's management employees, which group includes each of Cisco's named executive officers.

Amounts deferred by each participant pursuant to the Deferred Compensation Plan are credited to a bookkeeping account maintained on behalf of that participant. Amounts credited to each participant under the Deferred Compensation Plan are periodically adjusted for earnings and/or losses at a rate that is equal to one or more of the measurement funds selected by the 401(k) Plan Committee and elected by a participant. Currently, the measurement funds consist of the following: Fidelity Money Market Fund; iShares Core Total U.S. Bond Market ETF Trust; SPDR S&P 500 ETF Trust; SPDR S&P MidCap 400 ETF Trust; iShares Russell 2000 Index Fund; iShares MSCI EAFE Index Fund; BlackRock LifePath Index Retirement Fund; BlackRock LifePath Index 2030 Fund; BlackRock LifePath Index 2040 Fund; and BlackRock LifePath Index 2050 Fund.

In addition, Cisco may credit additional matching amounts to a participant's account for any plan year as determined by the Compensation Committee. For calendar years 2020 and 2019, there are matching contributions on deferrals over the IRS limitation on compensation that may be taken into account under the 401(k) Plan ($285,000 for 2020 and $280,000 for 2019). Generally, the matching contribution rate for calendar year 2020 will be, and the matching contribution rate for calendar year 2019 was, 4.5% of eligible compensation over the Code Section 401(a)(17) limit, with a $1,500,000 cap on eligible compensation for each calendar year. The matching contribution rate for calendar years 2020 and 2019 is the same as in the 401(k) Plan for both years. Participants must be actively employed by Cisco on the last day of a calendar year to receive a matching contribution under the Deferred Compensation Plan.

Distributions are made in accordance with elections filed by participants at the time of their deferral elections and distributions are expected to occur on specified future distribution dates or after participant's separation of service.

Under the 2005 Stock Incentive Plan, at the election of an eligible employee, the settlement of vested shares underlying RSUs may be deferred until either (i) the employee's separation from service with Cisco or (ii) the earlier of an elected future settlement date or the employee's separation from service with Cisco, in each case in accordance with Code Section 409A. Commencing with the fiscal 2016 annual equity grants, vested and deferred time-based RSUs shall be credited with dividend equivalents.

Potential Payments upon Termination or Change in Control

Acceleration of Equity Awards

As described above in the CD&A, each outstanding award to all employees under the 2005 Stock Incentive Plan that is subject to vesting provisions, and each PRSU awarded from time to time, will vest in full (at target levels for PRSUs) and, if applicable, become immediately exercisable in the event that Cisco is acquired by merger or asset sale, unless the award or related agreement is assumed or replaced by the acquiring entity. The Plan Administrator may also provide that each outstanding award will vest in full and, if applicable, become

immediately exercisable in the event Cisco is acquired by merger or asset sale, or there is a hostile change in control or ownership of Cisco, whether through a tender or exchange offer for more than 35% of Cisco's outstanding voting securities which the Board of Directors does not recommend the shareholders to accept, or a change in the majority of the members of the Board of Directors as a result of one or more contested elections for board membership. However, we eliminated single-trigger change in control vesting (which only existed in the case of a hostile change in control) for equity awards granted beginning July 2016.

The Compensation Committee has adopted a policy (the "Death and Terminal Illness Policy") that applies to each outstanding award to all employees (other than as described in this paragraph) and that can be revoked or changed at any time. Pursuant to this policy, if the holder of such an award dies or becomes terminally ill, his or her aggregate awards will generally vest in an amount (at target levels for PRSUs) equal to the greater of (a) 100% of the unvested shares subject to the awards up to a total value of $10 million, net of aggregate exercise or purchase price, or (b) up to one year of vesting from the date of death or determination of terminal illness. For purposes of this policy, shares subject to each award are valued based on the closing share price of Cisco common stock on the date of death or determination of terminal illness.

In the event of the retirement of a named executive officer, and to the extent the named executive officer meets certain retirement eligibility criteria described in the award agreement and complies with certain post-retirement covenants, all PRSUs will continue to vest and any earned PRSUs, based on the satisfaction of the performance metrics, will be settled in Cisco shares at the end of the three-year performance period. Further, PRSUs will be forfeited and provide no value to its holder to the extent a named executive officer violates specific post-retirement covenants.

The table below sets forth the values that the continuing named executive officers would derive in the event of (a) a hostile change in control of Cisco, (b) a change in control in which the awards are not assumed or replaced by the acquiror, (c) the death or terminal illness of the named executive officer, or (d) the retirement of the named executive officer, that in each case hypothetically occurred on the last business day of fiscal 2020. For RSUs and PRSUs, the value is based upon the fiscal 2020 year-end closing share price of Cisco common stock of $46.40.

Potential Payments — Accelerated Equity Awards

	Change in Control			
Name	Hostile ($)	Awards are not Assumed or Replaced by Acquiror ($) (1)	Death or Terminal Illness ($) (2)	Retirement ($)
Charles H. Robbins	—	$ 57,289,059	$ 22,463,586	—
Kelly A. Kramer	—	$ 31,718,576	$ 12,953,395	—
Gerri Elliott	—	$ 23,458,030	$ 10,000,000	—
Maria Martinez	—	$ 25,919,829	$ 10,000,000	—
Irving Tan	—	$ 18,208,195	$ 10,000,000	—

(1) Represents the value of accelerated RSUs and PRSUs.

(2) Represents the greater of (i) the value of full acceleration of unvested RSUs and PRSUs, up to the limit of $10 million, assuming those awards were to be accelerated under the Death and Terminal Illness Policy or (ii) up to one year of vesting of unvested stock awards from the date of death or determination of terminal illness. These values have not been, and may never be, realized.

CEO Pay Ratio

Presented below is the ratio of annual total compensation of our CEO to the annual total compensation of our median employee. The ratio is a reasonable estimate calculated in a manner consistent with Item 402(u) of Regulation S-K under the Exchange Act. SEC rules for identifying the median employee allow companies to apply various methodologies and assumptions and, as a result, the pay ratio reported by us may not be comparable to the pay ratio reported by other companies.

As determined in accordance with SEC rules, the fiscal 2020 annual total compensation was $23,163,710 for our CEO as reported in the Summary Compensation Table and $127,236 for our median employee, and the ratio of these amounts is 182 to 1. The Compensation Committee considers our CEO pay ratio in reviewing and establishing CEO compensation.

As permitted by SEC rules, to identify our median employee, we elected to use the target annual total cash compensation of each employee as of the end of fiscal 2020. For these purposes, target annual total cash compensation included annual base salary or hourly wages, target cash incentives, target commissions, and comparable cash elements of compensation in non-U.S. jurisdictions and was calculated using internal human resources records with all foreign currencies converted to U.S. dollars. All amounts were annualized for permanent employees who did not work for the entire year.

We selected the median employee from among our global population of employees as of the end of fiscal 2020. As permitted by SEC rules, we excluded 261 employees, representing approximately 0.3% of our global population of employees, who joined Cisco during fiscal 2020 as part of our acquisitions of 42Hertz, CloudCherry, Exablaze, Fluidmesh Networks, Sentryo, and Voicea when making this determination. Except for the employees excluded on the basis of these acquisitions completed in fiscal 2020, we did not exclude any other employees whether pursuant to the de minimis exemption for foreign employees or any other permitted exclusion.

Ownership of Securities

The following table sets forth information known to Cisco with respect to beneficial ownership of Cisco common stock as of July 25, 2020 for (i) each director and nominee, (ii) each holder of 5.0% or greater of Cisco common stock, (iii) Cisco's CEO, CFO, and the other named executive officers listed in the "Summary Compensation Table" section, and (iv) all executive officers and directors as a group.

Beneficial ownership is determined under the rules of the SEC and generally includes voting or investment power with respect to securities. Except as indicated in the footnotes to this table and pursuant to applicable community property laws, to Cisco's knowledge the persons named in the table below have sole voting and investment power with respect to all shares of common stock beneficially owned. The number of shares beneficially owned by each person or group as of July 25, 2020 includes shares of common stock that such person or group had the right to acquire on or within 60 days after July 25, 2020, including, but not limited to, upon the exercise of options or the vesting of RSUs. References to RSUs in the footnotes of the table below include only RSUs outstanding as of July 25, 2020 that would vest or could settle on or within 60 days after July 25, 2020. For each individual and group included in the table below, percentage ownership is calculated by dividing the number of shares beneficially owned by such person or group by the sum of the 4,237,208,289 shares of common stock outstanding on July 25, 2020 plus the number of shares of common stock that such person or group had the right to acquire on or within 60 days after July 25, 2020.

Name	Number of Shares Beneficially Owned	Percent Owned
The Vanguard Group (1)	352,956,930	8.3
BlackRock, Inc. (2)	317,188,524	7.5
M. Michele Burns (3)	79,261	*
Wesley G. Bush (4)	20,323	*
Michael D. Capellas	146,225	*
Gerri Elliott (5)	72,928	*
Mark Garrett (6)	14,165	*
David Goeckeler	20,371	*
Dr. Kristina M. Johnson (7)	49,026	*
Kelly A. Kramer (8)	150,343	*
Maria Martinez (9)	53,198	*
Roderick C. McGeary (10)	99,622	*
Charles H. Robbins (11)	57,775	*
Arun Sarin (12)	70,197	*
Brenton L. Saunders (13)	22,153	*
Dr. Lisa T. Su (14)	11,764	*
Irving Tan (15)	24,142	*
All executive officers, directors and nominees as a group (16 Persons) (16)	934,158	*

* Less than one percent.

(1) Based on information set forth in a Schedule 13G filed with the SEC on February 12, 2020 by The Vanguard Group and certain related entities. The Vanguard Group reported that it has sole voting power with respect to 6,592,297 shares of common stock, sole dispositive power with respect to 345,504,855 shares of common stock, shared voting power with respect to 1,248,998 shares of common stock, and shared dispositive power with respect to 7,452,075 shares of common stock. The address of The Vanguard Group is 100 Vanguard Blvd., Malvern, Pennsylvania 19355.

(2) Based on information set forth in a Schedule 13G filed with the SEC on February 5, 2020 by BlackRock, Inc. and certain related entities. BlackRock, Inc. reported that it has sole voting power with respect to 271,952,079 shares of common stock and sole dispositive power with respect to all shares beneficially owned. The address of BlackRock, Inc. is 55 East 52nd Street, New York, New York 10055.

(3) Includes 6,904 shares subject to fully vested deferred stock units.

(4) Represents 10,000 shares held by a trust and 10,323 shares subject to fully vested deferred stock units.

(5) Includes 2,142 shares subject to RSUs.

(6) Represents 13,266 held by a trust and 899 shares held by family limited partnerships.

(7) Includes 33,531 shares subject to fully vested deferred stock units.

(8) Includes 8,120 shares subject to RSUs.

(9) Includes 1,276 shares held by a trust and 12,127 shares subject to RSUs.

(10) Includes 49,460 shares subject to fully vested deferred stock units.

(11) Includes 6,246 shares subject to RSUs.

(12) Represents 70,197 shares subject to fully vested deferred stock units.

(13) Includes 21,713 shares subject to fully vested deferred stock units.

(14) Represents 6,000 shares held by spouse and 5,764 shares subject to fully vested deferred stock units.

(15) Includes 16,247 shares subject to RSUs.

(16) Includes 197,892 shares subject to fully vested deferred stock units and 48,896 shares subject to RSUs.

AUDIT COMMITTEE MATTERS

Proposal No. 5 — Ratification of Independent Registered Public Accounting Firm

Cisco is asking the shareholders to ratify the Audit Committee's appointment of PricewaterhouseCoopers LLP ("PwC") as Cisco's independent registered public accounting firm for the fiscal year ending July 31, 2021. In the event the shareholders fail to ratify the appointment, the Audit Committee will reconsider this appointment. Even if the appointment is ratified, the Audit Committee, in its discretion, may direct the appointment of a different independent registered public accounting firm at any time during the year if the Audit Committee determines that such a change would be in Cisco's and its shareholders' best interests.

The Audit Committee is directly responsible for the appointment, determination of the compensation for, retention and oversight of the work of the independent registered public accounting firm retained to audit Cisco's consolidated financial statements. The Audit Committee has appointed PwC as Cisco's independent registered public accounting firm for fiscal 2020 and is responsible for pre-approving all audit and permissible non-audit services to be provided by PwC. PwC has audited Cisco's consolidated financial statements annually since fiscal 1988. In order to assure continuing auditor independence, the Audit Committee considers non-audit fees and services when assessing auditor independence and periodically considers whether there should be a regular rotation of the independent registered public accounting firm. Further, in conjunction with the mandated rotation of the audit firm's lead engagement partner, the committee chair and other members of the Audit Committee are directly involved in the selection of PwC's new lead engagement partner, including the most recent selection of PwC's lead engagement partner for the period of service beginning with fiscal 2019. The members of the Audit Committee and the Board believe that the continued retention of PwC to serve as Cisco's independent registered public accounting firm is in the best interests of Cisco and its shareholders. Representatives of PwC are expected to be present at the annual meeting and will have the opportunity to make a statement if they desire to do so. It is also expected that those representatives will be available to respond to appropriate questions.

Principal Accountant Fees and Services

The following is a summary of the fees billed to Cisco by PwC for professional services rendered for the fiscal years ended July 25, 2020 and July 27, 2019:

Fee Category	Fiscal 2020 Fees	Fiscal 2019 Fees
Audit Fees	$ 23,765,000	$ 25,040,000
Audit-Related Fees	1,015,000	1,980,000
Tax Fees	3,475,000	3,730,000
All Other Fees	10,000	50,000
Total Fees	$ 28,265,000	$ 30,800,000

Audit Fees

Consists of fees billed for professional services rendered for the integrated audit of Cisco's consolidated financial statements and of its internal control over financial reporting, for review of the interim consolidated financial statements included in quarterly reports and for services that are normally provided by PwC in connection with statutory and regulatory filings or engagements.

Audit-Related Fees

Consists of fees billed for assurance and related services that are reasonably related to the performance of the audit or review of Cisco's consolidated financial statements and are not reported under "Audit Fees". These services include employee benefit plan audits, accounting consultations in connection with transactions, merger and acquisition due diligence, attest services that are not required by statute or regulation, and consultations concerning new financial accounting and reporting standards.

Tax Fees

Consists of fees billed for professional services for tax compliance, tax advice and tax planning. These services include assistance regarding federal, state and international tax compliance, assistance with tax reporting requirements and audit compliance, assistance with customs and duties compliance, value-added tax compliance, mergers and acquisitions tax compliance, and tax advice on international, federal and state tax matters. None of these services were provided under contingent fee arrangements. Tax compliance fees were $3,445,000 and $3,650,000 in fiscal 2020 and fiscal 2019, respectively. All other tax fees were $30,000 and $80,000 in fiscal 2020 and 2019, respectively.

All Other Fees

Consists of fees for professional services other than the services reported above, including permissible business process advisory and consulting services, fees for software licenses, and the translation of filings.

Policy on Audit Committee Pre-Approval of Audit and Permissible Non-Audit Services of Independent Registered Public Accounting Firm

The Audit Committee's policy is to pre-approve all audit and permissible non-audit services to be provided by the independent registered public accounting firm. These services may include audit services, audit-related services, tax services and other services. Pre-approval is generally provided for up to one year and any pre-approval is detailed as to the particular service or category of services and is generally subject to a specific budget. The independent registered public accounting firm and management are required to report periodically to the Audit Committee regarding the extent of services provided by the independent registered public accounting firm in accordance with this pre-approval, and the fees for the services performed to date. The Audit Committee may also pre-approve particular services on a case-by-case basis.

Vote Required

The affirmative vote of a majority of the shares of Cisco common stock present or represented by proxy and voting at the annual meeting, together with the affirmative vote of a majority of the required quorum, is required for approval of this proposal.

Recommendation of the Board of Directors

The Board of Directors recommends that the shareholders vote **FOR** the ratification of the appointment of PwC to serve as Cisco's independent registered public accounting firm for the fiscal year ending July 31, 2021.

Audit Committee Report

The information contained in this report shall not be deemed to be "soliciting material," to be "filed" with the SEC or be subject to Regulation 14A or Regulation 14C (other than as provided in Item 407 of Regulation S-K) or to the liabilities of Section 18 of the Securities Exchange Act of 1934, and shall not be deemed to be incorporated by reference in future filings with the SEC except to the extent that Cisco specifically incorporates it by reference into a document filed under the Securities Act of 1933 or the Securities Exchange Act of 1934.

The Audit Committee has reviewed and discussed with Cisco's management and PricewaterhouseCoopers LLP the audited consolidated financial statements of Cisco contained in Cisco's Annual Report on Form 10-K for the 2020 fiscal year. The Audit Committee has also discussed with PricewaterhouseCoopers LLP the matters required to be discussed by the applicable requirements of the Public Company Accounting Oversight Board and the SEC.

The Audit Committee has received and reviewed the written disclosures and the letter from PricewaterhouseCoopers LLP required by applicable requirements of the Public Company Accounting Oversight Board regarding the independent accountant's communications with the Audit Committee concerning independence, and has discussed with PricewaterhouseCoopers LLP its independence from Cisco.

Based on the review and discussions referred to above, the Audit Committee recommended to the Board of Directors that the audited consolidated financial statements be included in Cisco's Annual Report on Form 10-K for its 2020 fiscal year for filing with the Securities and Exchange Commission.

Submitted by the Audit Committee

Mark Garrett, *Chairperson*
M. Michele Burns
Roderick C. McGeary

Form 10-K

Cisco will mail without charge, upon written request, a copy of Cisco's Annual Report on Form 10-K for the fiscal year ended July 25, 2020, including the Consolidated Financial Statements, schedules and list of exhibits, and any particular exhibit specifically requested. Requests should be sent to: Cisco Systems, Inc., 170 West Tasman Drive, San Jose, California 95134-1706, Attention: Investor Relations. The Annual Report on Form 10-K is also available at *investor.cisco.com*.

Certain Relationships and Transactions with Related Persons

Cisco's Board of Directors has adopted a written related person transactions policy. The Audit Committee (or other committee designated by the Nomination and Governance Committee) reviews transactions that may be "related-person transactions," which are transactions between Cisco and related persons in which the aggregate amount involved exceeds or may be expected to exceed $120,000 and in which a related person has or will have a direct or indirect material interest. For purposes of the policy, a related person is a director, executive officer, nominee for director, or a greater than 5% beneficial owner of Cisco's common stock, in each case since the beginning of the last fiscal year, and their immediate family members.

This policy provides that, barring special facts or circumstances, a related person does not have a direct or indirect material interest in the following categories of transactions:

- employment-related compensation to executive officers that is determined by the Compensation Committee;
- compensation to non-employee directors that is reported in Cisco's proxy statement;
- transactions with another company at which:
  - the related person's only relationship is as a beneficial owner of less than 10% of that company's shares or as a limited partner holding interests of less than 10% in such partnership;
  - the related person is an employee (other than an executive officer) and/or a director, if the aggregate amount involved in a Cisco fiscal year does not exceed the greater of $1 million or 2% of that company's total annual revenues; or
  - the related person is the beneficial owner of less than a majority interest in that company (if the related person is solely related to Cisco because of its beneficial ownership of greater than 5% of Cisco's common stock);
- charitable contributions, grants or endowments to the Cisco Foundation or by Cisco or the Cisco Foundation to a charitable organization, foundation, or university at which the related person's only relationship is as an employee (or at which the related person is a trustee, director or executive officer if the aggregate amount involved in a Cisco fiscal year does not exceed $300,000), or any non-discretionary matching contribution, grant, or endowment made pursuant to a matching gift program;
- transactions where the related person's interest arises solely from the ownership of publicly traded securities issued by Cisco and all holders of such securities receive proportional benefits;
- transactions involving services as a bank depositary of funds, transfer agent, registrar, trustee under a trust indenture, or similar services;
- transactions where the rates or charges involved are determined by competitive bids;
- transaction involving the rendering of services as a common or contract carrier, or public utility, at rates or charges fixed in conformity with law or governmental authority;
- ordinary course business travel and expenses, advances and reimbursements; and
- payments made pursuant to (i) directors and officers insurance policies, (ii) Cisco's articles of incorporation or bylaws, and/or (iii) any policy, agreement or instrument previously approved by Cisco's Board of Directors, such as indemnification agreements.

When transactions involving related persons do not fall into one of the above categories, they are reviewed by Cisco's disclosure committee. The disclosure committee determines whether a related person could have a significant interest in such a transaction, and any such transaction is referred to the Audit Committee (or other designated committee). Transactions may also be identified through Cisco's COBC or other Cisco policies and procedures and reported to the Audit Committee (or other designated committee). That committee reviews the material facts of all related-person transactions and either approves, ratifies, rescinds, or takes other appropriate action (in its discretion) with respect to the transaction. There are no related person transactions to report.

SHAREHOLDER PROPOSAL

Proposal No. 6 — Shareholder Proposal

Kenneth Steiner, 14 Stoner Ave., 2M, Great Neck, New York 11021, a beneficial owner of no less than 500 shares of Cisco common stock, has notified us that he intends to present the following proposal at the meeting:

Proposal 6 — Independent Board Chairman

Shareholders request our Board of Directors adopt as policy, and amend our governing documents as necessary, to require that the Chairman of the Board be an independent member of the Board whenever possible. Although it would be better to have an immediate transition to an independent Board Chairman, the Board would have the discretion to phase in this policy for the next Chief Executive Officer transition.

If the Board determines that a Chairman, who was independent when selected is no longer independent, the Board shall select a new Chairman who satisfies the requirements of the policy within a reasonable amount of time. Compliance with this policy is briefly waived in the unlikely event that no independent director is available and willing to serve as Chairman.

This proposal topic won 52% support at Boeing and 54% support at Baxter International in 2020. The Baxter vote is of increased significance because Baxter used shareholder money to send a glossy management pitch of management performance to shareholders a month after it filed its annual meeting proxy.

It is more important to have an independent Board Chairman after our Chairman and CEO Charles Robbins received the most negative votes of any Cisco director in 2019. Lead Director Michael Capellas received the 2nd highest negative votes. Executive Pay Committee Chairman Roderick McGeary received the 3rd highest negative votes. Mr. McGeary's negative votes might be explained by his role in Mr. Robbins receiving $30 million in total realized pay in 2019.

Directors with more than 14-years long tenure controlled 50% of both the Audit and Nomination Committees. Long tenure can detract from the objectivity and independence of directors.

An independent Board Chairman will have more time and authority for director refreshment oversight.

Please vote yes:
Independent Board Chairman — Proposal 6

Cisco's Statement in Opposition to Proposal No. 6

The Board of Directors believes this proposal does not serve the best interests of Cisco or its shareholders and recommends a vote AGAINST it.

As corporate governance experts have recognized, a strong, empowered and independent Lead Independent Director role, such as Cisco has, fulfills the goals espoused by those who want to arbitrarily require an independent Board chair. In our view, the decision of who should serve in the role of Board chair, and whether the role should be filled by an independent or a non-independent director, at any given time should be the responsibility of the Board of Directors, rather than be dictated by a rigid rule that assumes that the same leadership structure would work best at all times. Departing from Cisco's current policy of permitting a non-independent director to serve as Board chair would limit the Board's ability to select the director it believes is best suited to serve as chair based on the circumstances at the time, especially given the external roles filled often by the chairperson of the board.

The Board of Directors believes that it should maintain flexibility to set Cisco's board leadership structure as it deems appropriate from time to time. Effective corporate governance is not merely a "one size fits all" approach, and we believe it is not in the best interest of our shareholders to place arbitrary constraints on the Board of Directors' ability to determine a leadership structure that will work best given the complex dynamics of the Board of Directors, senior management and other factors at any particular time.

The Board of Directors believes that it is currently in the best interest of Cisco and its shareholders for Mr. Robbins to serve as both CEO and Chairman, and that the role of Board chair and CEO, together with the role of the Lead Independent Director and Cisco's other strong corporate governance policies and practices, provides an appropriate balance in Cisco's leadership. The proponents recognize this in suggesting that their

proposed rule apply only in choosing Mr. Robbins' successor. As discussed under "Corporate Governance — Board Leadership Structure" above, in designating Mr. Robbins as Chairman, the Board of Directors considered Mr. Robbins' demonstrated leadership during his tenure at Cisco, and the Board of Directors believes that Mr. Robbins' ability to speak as Board chair and CEO provides strong unified leadership for Cisco. The Board believes that the flexibility to make such a determination with respect to a future CEO, just as in the case of Mr. Robbins, is justified by the features of Cisco's corporate governance structure:

- *Robust Lead Independent Director role.* The role given to the Lead Independent Director helps ensure a strong independent and active Board of Directors. Our Lead Independent Director is elected by and from the independent board members, and each term of service in the Lead Independent Director position is one year. As further described in our corporate governance policies and under "Corporate Governance — Board Leadership Structure" above, the Lead Independent Director has clearly delineated and comprehensive duties. These duties include:
  - the authority to call meetings of the independent directors;
  - presiding at all meetings of the Board of Directors at which the Chairman is not present, including executive sessions of the independent directors (during which Cisco's strategy is reviewed and other topics are discussed);
  - serving as principal liaison between the independent directors and the Chairman and CEO;
  - reviewing and approving agendas, meeting schedules to assure that there is sufficient time for discussion of all agenda items, and information provided to the Board (including the quality, quantity and timeliness of such information);
  - being available, as appropriate, for consultation and direct communication with major shareholders;
  - presiding over the annual performance evaluation of the Board of Directors, including the performance evaluation of each Board committee and individual Board members; and
  - facilitating the Board of Directors' performance evaluation of the CEO in conjunction with the Compensation Committee.
- *Strongly independent Board*. At least 90% of the members of our Board of Directors are independent.
- *Fully-independent key committees.* All members of the key board committees — the Audit Committee, the Compensation and Management Development Committee, and the Nomination and Governance Committee — are independent.
- *Established corporate governance guidelines.* Cisco maintains strong corporate governance policies and practices. Key information regarding Cisco's corporate governance initiatives can be found on our website, including Cisco's Corporate Governance Policies, Cisco's Code of Business Conduct, and the charter for each committee of the Board of Directors. The corporate governance page can be found by clicking on "Corporate Governance" in the Investor Relations section of the website at *investor.cisco.com*.

We believe our strong corporate governance policies and practices, including the substantial percentage of independent directors on our Board of Directors, as well as the robust duties of our Lead Independent Director position, empower our independent directors to effectively oversee Cisco's management and provide an effective and appropriately balanced board governance structure. We believe that the interests of our shareholders will best be served by maintaining the Board of Directors' flexibility in the selection process of the Board chair position and the board leadership structure from time to time.

Vote Required

The affirmative vote of a majority of the shares of Cisco common stock present or represented by proxy and voting at the annual meeting, together with the affirmative vote of a majority of the required quorum, is required for approval of this proposal. If you own shares through a bank, broker or other holder of record, you must instruct your bank, broker or other holder of record how to vote in order for them to vote your shares so that your vote can be counted on this proposal.

Recommendation of the Board of Directors

For all the reasons set forth above, the Board of Directors recommends a vote AGAINST Proposal No. 6.

INFORMATION ABOUT THE MEETING

General Information

These proxy materials are provided in connection with the solicitation of proxies by Cisco's Board of Directors for the Annual Meeting of Shareholders to be held at 8:00 a.m. Pacific Time on Thursday, December 10, 2020, and at any adjournments or postponements of the annual meeting.

The annual meeting will be held for the following purposes:

- To elect ten members of Cisco's Board of Directors (Proposal No. 1);
- To vote upon a proposal to approve the reincorporation of Cisco from California to Delaware by means of a merger with and into a wholly-owned Delaware subsidiary (Proposal No. 2);
- To approve the amendment and restatement of the 2005 Stock Incentive Plan (Proposal No. 3);
- To vote on a non-binding advisory resolution to approve executive compensation (Proposal No. 4);
- To ratify the appointment of PricewaterhouseCoopers LLP as Cisco's independent registered public accounting firm for the fiscal year ending July 31, 2021 (Proposal No. 5);
- To vote upon one proposal submitted by a shareholder, if properly presented at the annual meeting (Proposal No. 6); and
- To act upon such other matters as may properly come before the annual meeting or any adjournments or postponements thereof.

Cisco's Board of Directors recommends that you vote:

- **FOR** each of the nominees of the Board of Directors (Proposal No. 1);
- **FOR** the proposal to approve the reincorporation of Cisco from California to Delaware by means of a merger with and into a wholly-owned Delaware subsidiary (Proposal No. 2);
- **FOR** the approval of the amendment and restatement of the 2005 Stock Incentive Plan (Proposal No. 3);
- **FOR** the non-binding advisory resolution to approve executive compensation (Proposal No. 4);
- **FOR** the ratification of the appointment of PricewaterhouseCoopers LLP as Cisco's independent registered public accounting firm for the fiscal year ending July 31, 2021 (Proposal No. 5); and
- **AGAINST** the proposal submitted by a shareholder (Proposal No. 6).

Participating in the Meeting

You are entitled to participate in the annual meeting if you were a shareholder of record or a beneficial owner of our common stock as of October 12, 2020, the record date, or you hold a valid legal proxy for the annual meeting. We will also provide a live webcast of the Annual Meeting of Shareholders from our Investor Relations website at *investor.cisco.com*. A replay of the annual meeting, including the question and answer session, will be available on our Investor Relations website at *investor.cisco.com* after the meeting.

Due to public health and travel concerns as well as state and local government restrictions caused by the COVID-19 pandemic, this year's annual meeting will be accessible online through the Internet. We have worked to offer the same participation opportunities as if you attended the annual meeting in person. To be admitted to the annual meeting at *www.virtualshareholdermeeting.com/CSCO2020,* you must enter the 16-digit control number found next to the label "Control Number" for postal mail recipients or within the body of the email sending you the Proxy Statement. We encourage you to access the annual meeting before it begins. Online check-in will begin at 7:45 a.m. Pacific Time on the date of the annual meeting. If you have difficulty accessing the meeting, please call 1-800-586-1548 (toll free) or 303-562-9288 (international). We will have technicians available to assist you. This year's shareholders question and answer session will include questions submitted in advance of the meeting at www.proxyvote.com after logging in with your Control Number, and questions submitted live during the annual meeting through *www.virtualshareholdermeeting.com/CSCO2020*.

Voting Rights

Only shareholders of record of Cisco common stock on October 12, 2020, the record date, will be entitled to vote at the annual meeting. Each holder of record will be entitled to one vote on each matter for each share of common stock held on the record date. On the record date, there were 4,221,019,555 shares of common stock outstanding.

A majority of the outstanding shares of common stock must be present or represented by proxy at the annual meeting in order to have a quorum. Abstentions and broker non-votes will be treated as shares present for the purpose of determining the presence of a quorum for the transaction of business at the annual meeting. A broker non-vote occurs when a bank, broker or other holder of record holding shares for a beneficial owner submits a proxy for the annual meeting but does not vote on a particular proposal, except for Proposal No. 5, because that holder does not have discretionary voting power with respect to that proposal and has not received instructions from the beneficial owner. If the persons present or represented by proxy at the annual meeting constitute the holders of less than a majority of the outstanding shares of common stock as of the record date, the annual meeting may be adjourned to a subsequent date for the purpose of obtaining a quorum.

In the election of directors, a nominee will be elected if the votes cast "for" the nominee constitute a majority of the shares of common stock present or represented by proxy and voting at the meeting and also constitute at least a majority of the required quorum. Shareholders may not cumulate votes in the election of directors. Proposal No. 2 requires the affirmative vote of a majority of the shares of common stock outstanding. The other proposals require the approval of the affirmative vote of a majority of the shares of common stock present or represented by proxy and voting at the annual meeting, together with the affirmative vote of a majority of the required quorum.

Abstentions and broker non-votes have no effect on the determination of whether a nominee or Proposal Nos. 3, 4, 5 or 6 have received the vote of a majority of the shares of common stock present or represented by proxy and voting at the meeting. However, abstentions and broker non-votes could prevent the approval of such proposal where the number of affirmative votes, though a majority of the votes represented and cast, does not constitute a majority of the required quorum. Abstentions and broker non-votes shall have the same effect as a vote against Proposal No. 2.

The inspector of elections appointed for the annual meeting will separately tabulate affirmative and negative votes, abstentions and broker non-votes.

Voting via the Internet, by Telephone or by Mail

Holders of shares of Cisco common stock whose shares are registered in their own name with Cisco's transfer agent, Computershare Investor Services ("Computershare"), are record holders. As an alternative to voting in person at the annual meeting, record holders may vote via the Internet, by telephone or, for those shareholders who receive a paper proxy card in the mail, by mailing a completed proxy card.

For those record holders who receive a paper proxy card, instructions for voting via the Internet, telephone or by mail are set forth on the proxy card. If you are a shareholder who elects to vote by mail, you should sign and mail the proxy card in the addressed, postage paid envelope that was enclosed with the proxy materials, and your shares will be voted at the annual meeting in the manner you direct. In the event that you return a signed proxy card on which no directions are specified, your shares will be voted as follows:

- **FOR** each of the nominees of the Board of Directors (Proposal No. 1);
- **FOR** the proposal to approve the reincorporation of Cisco from California to Delaware by means of a merger with and into a wholly-owned Delaware subsidiary (Proposal No. 2);
- **FOR** the approval of the amendment and restatement of the 2005 Stock Incentive Plan (Proposal No. 3);
- **FOR** the non-binding advisory resolution to approve executive compensation (Proposal No. 4);
- **FOR** the ratification of the appointment of PricewaterhouseCoopers LLP as Cisco's independent registered public accounting firm for the fiscal year ending July 31, 2021 (Proposal No. 5);
- **AGAINST** the proposal submitted by a shareholder (Proposal No. 6); and
- in the discretion of the proxy holders as to any other matters that may properly come before the annual meeting or any postponement or adjournment of the annual meeting.

Cisco shareholders whose shares are not registered in their own name with Computershare are beneficial holders of shares held in street name. Such shares may be held in an account at a bank or at a brokerage firm (your record holder). As the beneficial holder, you have the right to direct your record holder on how to vote your shares, and you will receive instructions from your record holder that must be followed in order for your record holder to vote your shares per your instructions. Many banks and brokerage firms have a process for their beneficial holders to provide instructions via the Internet or by telephone. If Internet or telephone voting is unavailable from your record holder, please complete and return the enclosed voting instruction card in the addressed, postage paid envelope provided. If your shares are held beneficially in street name and you have not given your record holder voting instructions, your record holder will not be able to vote your shares with respect to any matter other than ratification of the appointment of Cisco's independent registered public accounting firm. Shares held beneficially in street name may be voted by you in person at the annual meeting only if you obtain a legal proxy from your record holder giving you the right to vote such shares in person at the annual meeting.

For those shareholders who receive a Notice of Internet Availability of Proxy Materials (described in the "Internet Availability of Proxy Materials" section below), the Notice of Internet Availability of Proxy Materials provides information on how to access your proxy on the Internet, which contains instructions on how to vote via the Internet or by telephone. If you received a Notice of Internet Availability, you can request a printed copy of your proxy materials by following the instructions contained in the notice.

Revocation of Proxies

You may revoke or change a previously delivered proxy at any time before the annual meeting by delivering another proxy with a later date, by voting again via the Internet or by telephone, or by delivering written notice of revocation of your proxy to Cisco's Secretary at Cisco's principal executive offices before the beginning of the annual meeting. You may also revoke your proxy by attending the annual meeting and voting in person, although participating in the annual meeting will not, in and of itself, revoke a valid proxy that was previously delivered. If you hold shares through a bank or brokerage firm, you must contact that bank or brokerage firm to revoke any prior voting instructions. You also may revoke any prior voting instructions by voting in person at the annual meeting if you obtain a legal proxy as described in the "Participating in the Meeting" section above.

Proxy Solicitation and Costs

Cisco will bear the entire cost of this solicitation of proxies, including the preparation, assembly, printing, and mailing of the Notice of Internet Availability of Proxy Materials, this Proxy Statement, the proxy and any additional solicitation material that Cisco may provide to shareholders. Copies of solicitation material will be provided to brokerage firms, fiduciaries and custodians holding shares in their names that are beneficially owned by others so that they may forward the solicitation material to such beneficial owners. This solicitation is being made by mail and through the Internet, but also may be made by telephone or in person. In addition, Cisco has retained D.F. King & Co., Inc. to act as a proxy solicitor in conjunction with the annual meeting. Cisco has agreed to pay that firm an estimated fee of $25,000 plus additional fees for telephone solicitation of proxies, if needed, and its customary out-of-pocket expenses, for proxy solicitation services. Proxies may also be solicited on behalf of the Board by directors, officers or employees of Cisco by telephone or in person, or by email or through the Internet. Further, the original solicitation of proxies by mail may be supplemented by solicitation by telephone and other means by directors, officers and employees of Cisco. No additional compensation will be paid to these individuals for any such services.

Internet Availability of Proxy Materials

In accordance with the rules of the SEC, we are using the Internet as our primary means of furnishing proxy materials to shareholders. Consequently, most shareholders will not receive paper copies of our proxy materials. We will instead send these shareholders a Notice of Internet Availability of Proxy Materials with instructions for accessing the proxy materials, including our proxy statement and annual report, and voting via the Internet. The Notice of Internet Availability of Proxy Materials also provides information on how shareholders may obtain paper copies of our proxy materials if they so choose. This makes the proxy distribution process more efficient and less costly, and helps conserve natural resources. If you previously elected to receive our proxy materials electronically, these materials will continue to be sent via email unless you change your election.

Shareholders Sharing the Same Address

The SEC has adopted rules that permit companies and intermediaries (such as brokers) to implement a delivery procedure called "householding". Under this procedure, multiple shareholders who reside at the same address may receive a single copy of our annual report and proxy materials, including the Notice of Internet Availability of Proxy Materials, unless the affected shareholder has provided contrary instructions. This procedure reduces printing costs and postage fees.

A number of brokers with account holders who beneficially own our common stock will be "householding" our annual report and proxy materials, including the Notice of Internet Availability of Proxy Materials. A single Notice of Internet Availability of Proxy Materials and, if applicable, a single set of annual report and other proxy materials will be delivered to multiple shareholders sharing an address unless contrary instructions have been received from the affected shareholders. Once you have received notice from your broker that it will be "householding" communications to your address, "householding" will continue until you are notified otherwise or until you revoke your consent. Shareholders may revoke their consent at any time by contacting Broadridge Financial Solutions, either by calling toll-free (866) 540-7095, or by writing to Broadridge Financial Solutions, Householding Department, 51 Mercedes Way, Edgewood, New York, 11717.

Upon written or oral request, Cisco will promptly deliver a separate copy of the Notice of Internet Availability of Proxy Materials and, if applicable, a separate set of the annual report and other proxy materials to any beneficial owner at a shared address to which a single copy of any of those documents was delivered. To receive a separate copy of the Notice of Internet Availability of Proxy Materials and, if applicable, a separate set of the annual report and other proxy materials, you may write or call Cisco's Investor Relations Department at Cisco Systems, Inc., 170 West Tasman Drive, San Jose, California 95134-1706, Attention: Investor Relations, telephone (408) 227-2726.

Shareholders who share the same address and currently receive multiple copies of our Notice of Internet Availability of Proxy Materials or annual report and other proxy materials, who wish to receive only one set in the future, can contact their bank, broker or other holder of record to request information about householding.

Shareholder Proposals and Nominations for 2021 Annual Meeting of Shareholders

Requirements for Shareholder Proposals to Be Considered for Inclusion in Cisco's Proxy Materials. Shareholders of Cisco may submit proposals on matters appropriate for shareholder action at meetings of Cisco's shareholders in accordance with Rule 14a-8 promulgated under the Exchange Act. For such proposals to be included in Cisco's proxy materials relating to its 2021 Annual Meeting of Shareholders, all applicable requirements of Rule 14a-8 must be satisfied and such proposals must be received by Cisco no later than June 23, 2021. Such proposals should be delivered to Cisco Systems, Inc., Attention: Secretary, 170 West Tasman Drive, San Jose, California 95134-1706 (and we encourage you to send a copy via email to CorporateSecretary@cisco.com), with a copy to Cisco Systems, Inc., Attention: General Counsel at the same address.

Requirements for Shareholder Proposals to be Brought Before the Annual Meeting. Cisco's bylaws provide that, except in the case of proposals made in accordance with Rule 14a-8, for shareholder nominations to the Board of Directors or other proposals to be considered at an annual meeting of shareholders, the shareholder must have given timely notice thereof in writing to the Secretary of Cisco not less than sixty nor more than ninety calendar days prior to the anniversary of the date on which Cisco first mailed its proxy materials for its immediately preceding annual meeting of shareholders (as specified in Cisco's proxy materials for its immediately preceding annual meeting of shareholders). To be timely for the 2021 Annual Meeting of Shareholders, a shareholder's notice must be delivered or mailed to and received by Cisco's Secretary at the principal executive offices of Cisco between July 23, 2021 and August 22, 2021. However, in the event that the annual meeting is called for a date that is not within thirty calendar days of the anniversary of the date on which the immediately preceding annual meeting of shareholders was called, to be timely, notice by the shareholder must be so received not later than the close of business on the tenth calendar day following the date on which public announcement of the date of the annual meeting is first made. In no event will the public announcement of an adjournment of an annual meeting of shareholders commence a new time period for the giving of a shareholder's notice as provided above. A shareholder's notice to Cisco's Secretary must set forth the information required by Cisco's bylaws with respect to each matter the shareholder proposes to bring before the annual meeting.

Requirements to Submit Candidates for Nomination to be Elected at the Annual Meeting. To recommend a prospective nominee for the Nomination and Governance Committee's consideration, submit the candidate's name and qualifications to Cisco's Secretary in writing to the following address: Cisco Systems, Inc., Attention: Secretary, 170 West Tasman Drive, San Jose, California 95134, with a copy to Cisco Systems, Inc., Attention: General Counsel at the same address. When submitting candidates for nomination to be elected at Cisco's annual meeting of shareholders, shareholders must also follow the notice procedures and provide the information required by Cisco's bylaws. In particular, for the Nomination and Governance Committee to consider a candidate recommended by a shareholder for nomination at the 2021 Annual Meeting of Shareholders, the recommendation must be delivered or mailed to and received by Cisco's Secretary between July 23, 2021 and August 22, 2021 (or, if the 2021 annual meeting is called for a date that is not within 30 calendar days of the anniversary of the date of the 2020 Annual Meeting, within 10 calendar days after Cisco's public announcement of the date of the 2021 annual meeting). The recommendation must include the same information as is specified in Cisco's bylaws for shareholder nominees to be considered at an annual meeting, including the following:

- The shareholder's name and address and the beneficial owner, if any, on whose behalf the nomination is proposed;
- The shareholder's reason for making the nomination at the annual meeting, and the signed consent of the nominee to serve if elected;
- The number of shares owned by, and any material interest of, the record owner and the beneficial owner, if any, on whose behalf the record owner is proposing the nominee;
- A description of any arrangements or understandings between the shareholder, the nominee and any other person regarding the nomination; and
- Information regarding the nominee that would be required to be included in Cisco's proxy statement by the SEC rules, including the nominee's age, business experience for the past five years and any directorships held by the nominee, including directorships held during the past five years.

Requirements to Submit Candidates for Nomination and Inclusion in Cisco's Proxy Materials. Pursuant to the proxy access provisions of Cisco's bylaws, an eligible shareholder or group of shareholders may nominate one or more director candidates to be included in Cisco's proxy materials. The nomination notice and other materials required by these provisions must be delivered or mailed to and received by Cisco's Secretary in writing between May 24, 2021 and June 23, 2021 (or, if the 2021 annual meeting is called for a date that is not within 30 calendar days of the anniversary of the date of the 2020 Annual Meeting, by the later of the close of business on the date that is 180 days prior to the date of the 2021 annual meeting or within 10 calendar days after Cisco's public announcement of the date of the 2021 annual meeting) at the following address: Cisco Systems, Inc., Attention: Secretary, 170 West Tasman Drive, San Jose, California 95134, with a copy to Cisco Systems, Inc., Attention: General Counsel at the same address. When submitting nominees for inclusion in Cisco's proxy materials pursuant to the proxy access provisions of Cisco's bylaws, shareholders must follow the notice procedures and provide the information required by Cisco's bylaws.

In addition, the proxy solicited by the Board of Directors for the 2021 Annual Meeting of Shareholders will confer discretionary authority to vote on (i) any proposal presented by a shareholder at that meeting for which Cisco has not been provided with notice on or prior to August 22, 2021 and (ii) any proposal made in accordance with the bylaw provisions, if the 2021 proxy statement briefly describes the matter and how management's proxy holders intend to vote on it, if the shareholder does not comply with the requirements of Rule 14a-4(c)(2) under the Exchange Act.

Notwithstanding the foregoing, if "Delaware Reincorporation — Proposal No. 2 — Approval of the Reincorporation of Cisco from California to Delaware" is approved by the shareholders at the 2020 annual meeting, Cisco's shareholders will become stockholders under Delaware law and Cisco's 2021 annual meeting shall be an Annual Meeting of Stockholders. The requirements for notice shall otherwise remain unchanged following the Reincorporation.

Other Matters

The Board of Directors knows of no other matters to be presented for shareholder action at the annual meeting. However, if other matters do properly come before the annual meeting or any adjournments or postponements thereof, the Board of Directors intends that the persons named in the proxies will vote upon such matters in accordance with their best judgment.

BY ORDER OF THE BOARD OF DIRECTORS

Evan Sloves
Secretary

Dated: October 19, 2020

Appendix A

AGREEMENT AND PLAN OF MERGER
OF CISCO SYSTEMS, INC.
(a California corporation)
AND
CISCO SYSTEMS (DE), INC.
(a Delaware corporation)

This Agreement and Plan of Merger, dated as of (the "***Agreement***"), is made by and between Cisco Systems, Inc., a California corporation ("***Cisco Systems California***"), and Cisco Systems (DE), Inc., a Delaware corporation and wholly-owned subsidiary of Cisco Systems California ("***Cisco Systems Delaware***"). Cisco Systems California and Cisco Systems Delaware are sometimes referred to herein as the "***Constituent Corporations***."

RECITALS

WHEREAS, Cisco Systems Delaware is a corporation duly organized and existing under the laws of the State of Delaware and has an authorized capital of 20,005,000,000 shares, 20,000,000,000 shares of which are designated common stock, par value $0.001 per share and 5,000,000 shares of which are designated preferred stock, par value $0.001 per share. As of the date of this Agreement, [ ] shares of common stock of Cisco Systems Delaware were issued and outstanding, all of which were held by Cisco Systems California, and no shares of preferred stock were issued and outstanding.

WHEREAS, Cisco Systems California is a corporation duly organized and existing under the laws of the State of California and has an authorized capital of 20,005,000,000 shares, 20,000,000,000 shares of which are designated common stock, par value $0.001 per share and 5,000,000 shares of which are designated preferred stock, par value $0.001 per share. 1,200,000 shares of the authorized preferred stock are designated Series A Junior Participating Stock. As of the date of this Agreement, [ ] shares of common stock of Cisco Systems California were issued and outstanding, and no shares of preferred stock, including the Series A Junior Participating Stock, were issued and outstanding.

WHEREAS, the Board of Directors of Cisco Systems California has determined that, for the purpose of effecting the reincorporation of Cisco Systems California in the State of Delaware, it is advisable and in the best interests of Cisco Systems California and its shareholders that Cisco Systems California merge with and into Cisco Systems Delaware upon the terms and conditions herein provided.

WHEREAS, the respective Boards of Directors of the Constituent Corporations have approved and declared the advisability of this Agreement and have directed that this Agreement be submitted to a vote of their respective sole stockholder and shareholders and executed by the undersigned officers.

WHEREAS, Cisco Systems California, as the sole stockholder of Cisco Systems Delaware, has adopted this Agreement in accordance with the Delaware General Corporation Law (the "***DGCL***").

WHEREAS, shareholders holding a majority of the shares of outstanding common stock of Cisco Systems California approved the principal terms of this Agreement in accordance with the California Corporations Code and the California General Corporation Law (the "***CGCL***") on December [10], 2020.

WHEREAS, the Merger (as defined below) is intended to qualify as a transaction governed by Section 368(a)(1) of the Internal Revenue Code of 1986, as amended (the "***Code***").

AGREEMENT

In consideration of the mutual agreements and covenants set forth herein, the Constituent Corporation***s*** hereby agree, subject to the terms and conditions hereinafter set forth, as follows:

ARTICLE 1
MERGER

1.1 Merger. In accordance with the provisions of this Agreement, the DGCL and the CGCL, Cisco Systems California shall be merged with and into Cisco Systems Delaware (the "***Merger***"), the separate existence of Cisco Systems California shall cease and Cisco Systems Delaware shall survive the Merger and shall continue to be governed by the laws of the State of Delaware, and Cisco Systems Delaware shall be, and is herein sometimes referred to as, the "***Surviving Corporation***." The name of the Surviving Corporation shall be "Cisco Systems, Inc."

1.2 Filing and Effectiveness. Subject to applicable law, the Merger shall become effective when the following actions shall have been completed:

(a) This Agreement shall have been adopted by the sole stockholder of Cisco Systems Delaware and the principal terms of this Agreement shall have been approved by the shareholders of Cisco Systems California in accordance with the requirements of the DGCL and the CGCL, which adoption and approval by such sole stockholder of Cisco Systems Delaware and by the shareholders of Cisco Systems California has occurred as of and December [10], 2020, respectively;

(b) All of the conditions precedent to the consummation of the Merger specified in this Agreement shall have been satisfied or duly waived by the party entitled to satisfaction thereof; and

(c) A certificate of merger meeting the requirements of the DGCL (the "***Certificate of Merger***") shall have been filed with the Secretary of State of the State of Delaware and this Agreement, together with a Certificate of Ownership as provided in Section 1110 of the CGCL (the "***Certificate of Ownership***"), shall have been filed with the Secretary of State of the State of California.

The Merger shall become effective upon the filing of the Certificate of Merger with the Secretary of State of the State of Delaware or at such later time as the Constituent Corporations agree and specify in the Certificate of Merger (the "***Effective Time***").

1.3 Effect of the Merger. The Merger shall have the effects set forth herein and in the applicable provisions of the DGCL and the CGCL. Without limiting the generality of the foregoing, at the Effective Time, all of the assets, properties, rights, privileges, powers and franchises of the Constituent Corporations shall vest in the Surviving Corporation, and all of the debts, liabilities, obligations, restrictions and duties of the Constituent Corporations shall become the debts, liabilities, obligations, restrictions and duties of the Surviving Corporation.

1.4 Tax Treatment.

(a) The Constituent Corporations intend that the Merger in conjunction with the formation of Cisco Systems Delaware qualify as a tax-free reorganization pursuant to Section 368(a)(1) of the Code, whereby Cisco Systems California transfers all of its assets to Cisco Systems Delaware in exchange for Cisco Systems Delaware stock and the assumption of any liabilities of Cisco Systems California under Sections 361(a) and 357(a) of the Code, and Cisco Systems California is deemed to distribute stock of Cisco Systems Delaware to its shareholders under Sections 354(a), 361(c), and 1032(a) of the Code.

(b) The Constituent Corporations intend that they be treated as "parties" to the reorganization under Sections 1.368-2(f) of the Treasury Regulations issued under the Code ("***Treasury Regulations***"); this Agreement be treated as a "plan of reorganization" under Treasury Regulation Sections 1.368-2(g) and 1.368-3(a); and the Merger be undertaken pursuant to this plan of reorganization.

(c) The Constituent Corporations hereto shall each perform such acts, execute and deliver such instruments and documents, and do all such other things as may be reasonably necessary to effect the transactions

as set forth above, and to secure their treatment as a reorganization under Section 368 of the Code and under applicable state and local tax law as contemplated by this Agreement. To the extent U.S. federal income tax reporting and/or state and local tax reporting is required, each Constituent Corporation shall report the transactions described herein as described above.

ARTICLE 2
CHARTER DOCUMENTS, DIRECTORS AND OFFICERS

2.1 Certificate of Incorporation. The Certificate of Incorporation of the Surviving Corporation shall be amended in its entirety to read as set forth on Exhibit A hereto, until duly amended in accordance with the provisions thereof and applicable law.

2.2 Bylaws. The Bylaws of Cisco Systems Delaware as in effect immediately prior to the Effective Time shall continue in full force and effect as the Bylaws of the Surviving Corporation, other than as amended to reflect the name of the Surviving Corporation, until duly amended in accordance with the provisions thereof and applicable law.

2.3 Directors and Officers. The directors and officers of Cisco Systems California immediately prior to the Effective Time shall be the directors and officers of the Surviving Corporation, with such directors and officers serving as such until their successors shall have been duly elected and qualified or until as otherwise provided by law or the Certificate of Incorporation of the Surviving Corporation or the Bylaws of the Surviving Corporation.

ARTICLE 3
MANNER OF CONVERSION OF STOCK

3.1 Cisco Systems California Common Stock. Upon the Effective Time, each share of Cisco Systems California common stock, par value $0.001 per share, issued and outstanding immediately prior thereto shall, by virtue of the Merger and without any action by the Constituent Corporations, the holder of such shares or any other person, be converted into one (1) fully paid and nonassessable share of common stock, par value $0.001 per share, of the Surviving Corporation.

3.2 Cisco Systems California Employee Benefit Plans. Upon the Effective Time, the obligations of Cisco Systems California under or with respect to every plan, trust, program, benefit and employment agreement or arrangement then in effect or administered by Cisco Systems California for the benefit of the directors, officers and employees of Cisco Systems California or any of its subsidiaries shall become the lawful obligations of Cisco Systems Delaware and shall be implemented and administered in the same manner and without interruption until the same are amended or otherwise lawfully altered or terminated. At the Effective Time, Cisco Systems Delaware hereby expressly adopts and assumes all obligations of Cisco Systems California under each such plan, trust, program, benefit and employment agreement or arrangement.

3.3 Cisco Systems California Equity Incentive Plans. Upon the Effective Time, Cisco Systems Delaware shall assume and continue each of the Cisco Systems California equity incentive plans, including all equity incentive plans heretofore assumed by Cisco Systems California (collectively, the "***Equity Plans***"), and all awards then outstanding thereunder. Each Equity Plan and each such award shall have the same terms and conditions, including the same number of shares of stock reserved or covered thereunder, as applicable, except that (i) the stock reserved or covered under each Equity Plan and all awards then outstanding thereunder shall be the common stock of Cisco Systems Delaware, (ii) any performance goals thereunder related to Cisco Systems California shall relate to Cisco Systems Delaware and (iii) Cisco Systems Delaware shall have the duties, responsibilities and authorities of Cisco Systems California thereunder. At the Effective Time, Cisco Systems Delaware hereby expressly adopts and assumes all obligations of Cisco Systems California under all Equity Plans. A number of shares of Cisco Systems Delaware's common stock shall be reserved for issuance under the Equity Plans equal to the number of shares of Cisco Systems California common stock so reserved immediately prior to the Effective Time.

3.4 Cisco Systems Delaware Common Stock. Upon the Effective Time, each share of common stock, par value $0.001 per share, of Cisco Systems Delaware issued and outstanding immediately prior thereto shall, by

virtue of the Merger and without any action by Cisco Systems Delaware, the holder of such shares or any other person, be canceled and returned to the status of authorized but unissued shares, without any consideration being delivered in respect thereof.

3.5 Exchange of Certificates. After the Effective Time, each holder of a certificate representing shares of Cisco Systems California common stock outstanding immediately prior to the Effective Time may, at such shareholder's option, surrender the same for cancellation to a transfer agent designated by the Surviving Corporation (the "***Transfer Agent***"), and each such holder shall be entitled to receive in exchange therefor a certificate or certificates representing the number of shares of the Surviving Corporation's common stock into which the shares formerly represented by the surrendered certificate were converted as herein provided. Unless and until so surrendered, each certificate representing shares of Cisco Systems California common stock outstanding immediately prior to the Effective Time shall be deemed for all purposes, from and after the Effective Time, to represent the number of shares of the Surviving Corporation's common stock into which such shares of Cisco Systems California common stock were converted in the Merger.

The registered owner on the books and records of the Surviving Corporation or the Transfer Agent of any shares of stock represented by such certificate shall, until such certificate shall have been surrendered for transfer or conversion or otherwise accounted for to the Surviving Corporation or the Transfer Agent, have and be entitled to exercise any voting and other rights with respect to and to receive dividends and other distributions upon the shares of common stock of the Surviving Corporation represented by such certificate as provided above.

Each certificate representing common stock of the Surviving Corporation so issued in the Merger shall bear the same legends, if any, with respect to the restrictions on transferability as the certificates of Cisco Systems California so converted and given in exchange therefor, unless otherwise determined by the Board of Directors of the Surviving Corporation in compliance with applicable laws, or other such additional legends as agreed upon by the holder and the Surviving Corporation.

ARTICLE 4
CONDITIONS

4.1 The obligations of Cisco Systems California under this Agreement shall be conditioned upon the occurrence of the following events:

(a) Shareholder Approval. The principal terms of this Agreement shall have been duly approved by the shareholders of Cisco Systems California, which approval was duly obtained on December [10], 2020; and

(b) Consents, Approvals or Authorizations. Any consents, approvals or authorizations that Cisco Systems California in its sole judgment deems necessary or appropriate to be obtained in connection with the consummation of the Merger shall have been obtained.

ARTICLE 5
GENERAL

5.1 Covenants of Cisco Systems Delaware. Cisco Systems Delaware covenants and agrees that it will, on or before the Effective Time:

(a) Qualify to do business as a foreign corporation in the State of California and in connection therewith appoint an agent for service of process as required under the provisions of Section 2105 of the CGCL;

(b) File the Certificate of Merger with the Secretary of State of the State of Delaware;

(c) File this Agreement, together with the Certificate of Ownership or the Certificate of Merger, with the Secretary of State of the State of California; and

(d) Take such other actions as may be required by the CGCL.

5.2 Further Assurances. From time to time, as and when required by Cisco Systems Delaware or by its successors or assigns, there shall be executed and delivered on behalf of Cisco Systems California such deeds

and other instruments, and there shall be taken or caused to be taken by Cisco Systems Delaware and Cisco Systems California such further and other actions as shall be appropriate or necessary to vest or perfect in or conform of record or otherwise by Cisco Systems Delaware the title to and possession of all the property, interests, assets, rights, privileges, immunities, powers, franchises and authority of Cisco Systems California and otherwise to carry out the purposes of this Agreement, and the officers and directors of Cisco Systems Delaware are fully authorized in the name and on behalf of Cisco Systems California or otherwise to take any and all such action and to execute and deliver any and all such deeds and other instruments.

5.3 Abandonment. At any time before the Effective Time, this Agreement may be terminated and the Merger may be abandoned for any reason whatsoever by the Board of Directors of either Cisco Systems California or of Cisco Systems Delaware, or of both, notwithstanding the approval of the principal terms of this Agreement by the shareholders of Cisco Systems California or the adoption of this Agreement by the sole shareholder of Cisco Systems Delaware, or by both.

5.4 Amendment. The Boards of Directors of the Constituent Corporations may amend this Agreement at any time prior to the Effective Time, provided that an amendment made subsequent to applicable Cisco Systems Delaware stockholder approval or Cisco Systems California shareholder approval shall not, unless approved by such stockholder or shareholders as required by law:

(a) Alter or change the amount or kind of shares, securities, cash, property and/or rights to be received in exchange for or on conversion of all or any of the shares of any class or series thereof of such Constituent Corporation;

(b) Alter or change any term of the Certificate of Incorporation of the Surviving Corporation to be effected by the Merger; or

(c) Alter or change any of the terms and conditions of this Agreement if such alteration or change would adversely affect the holders of any class or series of capital stock of any Constituent Corporation.

5.5 Governing Law. This Agreement shall in all respects be construed, interpreted and enforced in accordance with and governed by the laws of the State of Delaware and, so far as applicable, the merger provisions of the CGCL.

5.6 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument.

[Remainder of Page Left Blank Intentionally]

IN WITNESS WHEREOF, this Agreement having first been approved by the resolutions of the Board of Directors of Cisco Systems, Inc., a California corporation, and Cisco Systems (DE), Inc., a Delaware corporation, is hereby executed on behalf of each of such two corporations and attested by their respective officers thereunto duly authorized.

CISCO SYSTEMS, INC.
a California corporation

By: _____
Name:
Title:

CISCO SYSTEMS (DE), INC.
a Delaware corporation

By: _____
Name:
Title:

EXHIBIT A: Certificate of Incorporation

Appendix B

CISCO SYSTEMS, INC.

CERTIFICATE OF INCORPORATION

ARTICLE I: NAME

The name of the corporation is Cisco Systems, Inc. (the "***Corporation***").

ARTICLE II: AGENT FOR SERVICE OF PROCESS

The address of the Corporation's registered office in the State of Delaware is 251 Little Falls Drive, Wilmington, New Castle County, Delaware 19808-1674. The name of its registered agent at that address is Corporation Service Company.

ARTICLE III: PURPOSE AND DURATION

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware (the "***General Corporation Law***"). The Corporation is to have perpetual existence.

ARTICLE IV: AUTHORIZED STOCK

1. Total Authorized. The total number of shares of all classes of stock that the Corporation has authority to issue is 20,005,000,000 shares, consisting of two classes: 20,000,000,000 shares of Common Stock, $0.001 par value per share ("***Common Stock***"), and 5,000,000 shares of Preferred Stock, $0.001 par value per share ("***Preferred Stock***").

2. Designation of Additional Series.

2.1. The Board of Directors of the Corporation (the "***Board***") is authorized, by resolution or resolutions thereof, to provide, out of the unissued shares of Preferred Stock, for the issuance of the shares of Preferred Stock in one or more series, and, by filing a Certificate of Designation pursuant to the applicable law of the State of Delaware ("***Certificate of Designation***") and, with respect to each such series, to establish the number of shares to be included in each such series, to fix the designation, powers (including voting powers (if any)), preferences and relative, participating, optional or other special rights, if any, of the shares of each such series and any qualifications, limitations or restrictions thereof, and, except where otherwise provided in the applicable Certificate of Designation, to thereafter increase (but not above the total number of authorized shares of the Preferred Stock) or decrease (but not below the number of shares of such series then outstanding) the number of shares of any such series. The powers, preferences and relative, participating, optional and other special rights of each series of Preferred Stock, and the qualifications, limitations or restrictions thereof, if any, may differ from those of any and all other series at any time outstanding.

2.2 The number of authorized shares of Common Stock or Preferred Stock may be increased or decreased (but not below the number of shares thereof then outstanding) by the affirmative vote of the holders of a majority in voting power of the stock of the Corporation entitled to vote thereon irrespective of the provisions of Section 242(b)(2) of the General Corporation Law (or any successor provision thereto), and no vote of the holders of either the Common Stock or the Preferred Stock voting separately as a class shall be required therefor.

2.3 Each outstanding share of Common Stock shall entitle the holder thereof to one vote on each matter properly submitted to the stockholders of the Corporation for their vote; *provided, however*, that, except as otherwise required by law, holders of Common Stock, as such, shall not be entitled to vote on any amendment to this Certificate of Incorporation (including any Certificate of Designation relating to any series of Preferred Stock) that relates solely to the terms of one or more outstanding series of Preferred Stock if the holders of such affected series are entitled, either separately or together with the holders of one or more other such series, to vote thereon pursuant to this Certificate of Incorporation (including any Certificate of Designation relating to any series of Preferred Stock) or pursuant to the General Corporation Law.

ARTICLE V: AMENDMENT OF BYLAWS

In furtherance and not in limitation of the powers conferred by the laws of the State of Delaware, the Board shall have the power to adopt, amend or repeal the Bylaws of the Corporation (as the same may be amended and/or restated from time to time, the "***Bylaws***"). The Bylaws may also be adopted, amended or repealed by the stockholders of the Corporation.

ARTICLE VI: MATTERS RELATING TO THE BOARD OF DIRECTORS

1. **Director Powers**. Except as otherwise provided by the General Corporation Law or this Certificate of Incorporation, the business and affairs of the Corporation shall be managed by or under the direction of the Board. In addition to the powers and authority expressly conferred upon them by statute or by this Certificate of Incorporation or the Bylaws, the directors are hereby empowered to exercise all such powers and do all such acts and things as may be exercised or done by the Corporation except for such powers, acts and things that are by the General Corporation Law, this Certificate of Incorporation of the Bylaws required to be exercised or done by the stockholders.

2. **Number of Directors**. Subject to the special rights of the holders of any series of Preferred Stock to elect additional directors under specified circumstances, the total number of directors constituting the Board shall be fixed from time to time in accordance with the Bylaws.

3. **Vote by Ballot**. Election of directors need not be by written ballot unless the Bylaws shall so provide.

4. **No Cumulative Voting**. No stockholder will be permitted to cumulate votes at any election of directors.

ARTICLE VII: DIRECTOR LIABILITY

1. **Limitation of Liability**. To the fullest extent permitted by law, no director of the Corporation shall be personally liable for monetary damages for breach of fiduciary duty as a director. Without limiting the effect of the preceding sentence, if the General Corporation Law is hereafter amended to authorize the further elimination or limitation of the liability of a director, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the General Corporation Law, as so amended.

2. **Indemnification.** The Corporation may indemnify to the fullest extent permitted by law any person made or threatened to be made a party to an action, suit or proceeding, whether criminal, civil, administrative or investigative, by reason of the fact that he, she, his or her testator or intestate is or was a director, officer, employee or agent of the Corporation or any predecessor to the Corporation or serves or served at any other enterprise as a director, officer, employee or agent at the request of the Corporation or any predecessor to the Corporation.

3. **Change in Rights**. Neither any amendment nor repeal of this Article VII, nor the adoption of any provision of this Certificate of Incorporation inconsistent with this Article VII, shall eliminate, reduce or otherwise adversely affect any limitation on the personal liability of a director of the Corporation existing at the time of such amendment, repeal or adoption of such an inconsistent provision.

ARTICLE VIII: ACTION BY CONSENT

Subject to the rights of any series of Preferred Stock then outstanding, any action that is required or permitted to be taken by the stockholders of Corporation at any annual or special meeting may be taken by the stockholders of the Corporation by consent in lieu of a meeting of stockholders.

ARTICLE IX: BUSINESS COMBINATIONS

The Corporation shall not be subject to the provisions of Section 203 of General Corporation Law.

ARTICLE X: AMENDMENT OF CERTIFICATE OF INCORPORATION

The Corporation reserves the right to amend or repeal any provision contained in this Certificate of Incorporation in the manner prescribed by the laws of the State of Delaware and all rights conferred upon stockholders are granted subject to this reservation.

ARTICLE XI: INCORPORATOR

The name and mailing address of the incorporator is , c/o Cisco Systems, Inc., 170 West Tasman Drive, San Jose, California 95134.

* * * * * * * * * * *

The undersigned incorporator hereby acknowledges that the foregoing certificate is his or her act and deed and that the facts stated herein are true.

Dated:

[Name]
Incorporator

Appendix C

BYLAWS

OF

CISCO SYSTEMS, INC.
(a Delaware corporation)

Effective as of

ARTICLE 1
OFFICES

Section 1.01 The principal executive offices of Cisco Systems, Inc. (the "***Corporation***") shall be at such place inside or outside the State of Delaware as the Board of Directors may determine from time to time.

Section 1.02 The Corporation may also have offices at such other places as the Board of Directors may from time to time designate, or as the business of the Corporation may require.

ARTICLE 2
STOCKHOLDERS' MEETINGS

Section 2.01 Annual Meetings. The annual meeting of the stockholders of the Corporation for the election of directors to succeed those whose terms expire and for the transaction of such other business as may properly come before the meeting shall be held at such time, date and place as may be determined by the Board of Directors.

Section 2.02 Special Meetings. Special meetings of the stockholders may be called at any time by the Chairman of the Board of Directors, by the Chief Executive Officer, by the Board of Directors, or by one or more stockholders holding not less than ten percent (10%) of the voting power of the Corporation on the record date established pursuant to Article 2, Section 2.10 of these Bylaws and who otherwise comply the requirement of this Article 2, Section 2.02. The person or persons calling any such meeting or requesting such meeting be called shall concurrently specify the purpose of such meeting and the business proposed to be transacted at such meeting. In connection with any request for a special meeting by the stockholders in accordance with the provisions of this Article 2, Section 2.02, such request shall be in writing sent by registered mail to the Chairman of the Board of Directors, the Chief Executive Officer, or the Secretary of the Corporation, or delivered to any such officer in person, and shall include the information required by Article 2, Section 2.12 of these Bylaws. Subject to the immediately succeeding sentence, the Board of Directors shall cause notice of a meeting requested by the stockholders in accordance with this Section 2.02 to be given in accordance with Article 2, Section 2.04 of these Bylaws as promptly as reasonably practicable and, in connection therewith, establish the time, date and place of such meeting which shall be held not more than one hundred twenty (120) nor less than thirty five (35) days after the Board of Directors has determined the stockholder or stockholders shall have satisfied the requirements in Section 2.12. Within five (5) business days after receiving all of the information specified in Section 2.12 from a stockholder or stockholders of the Corporation, the Board of Directors shall determine whether such stockholder or stockholders have satisfied the requirements for calling a special meeting of the stockholders and notify the requesting party or parties of its finding.

Section 2.03 Place. All meetings of the stockholders shall be at any place within or without the State of Delaware designated by the Board of Directors or the Chief Executive Officer of the Corporation, or by means of remote communication as the Board of Directors in its sole discretion may determine. In the absence of any such designation, stockholders' meetings shall be held at the principal executive office of the Corporation.

Section 2.04 Notice. Notice of meetings of the stockholders of the Corporation shall be given in writing to each stockholder entitled to vote personally, by electronic transmission by the Corporation or by other means of written communication, charges prepaid, addressed to the stockholder at his, her or its address appearing on the books of the Corporation or given by the stockholder to the Corporation for the purpose of notice. Unless otherwise provided by law, the Certificate of Incorporation of the Corporation or these Bylaws, notice of any such meeting of stockholders shall be sent to each stockholder entitled thereto not less than ten (10) days nor

more than sixty (60) days before the meeting. Said notice shall state the time, date and place, if any, of the meeting and, (1) in the case of special meetings, the purpose of the meeting and the business proposed to be transacted, or (2) in the case of annual meetings, those matters which the Board of Directors, at the time of the mailing of the notice, intends to present for action by the stockholders, including any actions brought by a stockholder, and (3) in the case of any meeting at which directors are to be elected, the names of the nominees intended at the time of the mailing of the notice to be presented by the Board of Directors for election and the names of the nominees to be included in the Corporation's proxy statement for such annual meeting in accordance with Article 2, Section 2.14.

Section 2.05 Adjourned Meetings. Any stockholders' meeting may be adjourned from time to time by (1) the vote of the holders of a majority of the voting shares present at the meeting either in person or by proxy or (2) the presiding officer of the meeting. Notice of the time, date and place of any adjourned meeting need not be given if such time, date and place are announced at the meeting at which stockholders and proxy holders may be deemed to be present in person and voting at such adjourned meeting; provided, however, that if the adjournment is for more than thirty (30) days or, if after the adjournment, a new record date is fixed for the adjourned meeting, notice of the time, date and place of the adjourned meeting must be given in conformity with Article 2, Section 2.04 of these Bylaws. At any adjourned meeting, any business may be transacted which properly could have been transacted at the original meeting.

Section 2.06 Quorum. The presence in person or by proxy of the holders of a majority of the voting power of the shares issued, outstanding and entitled to vote at the meeting constitutes a quorum for the transaction of business; provided, however, that where a separate vote by a class or classes or series of stock is required by applicable law or the Certificate of Incorporation of the Corporation, the holders of a majority of the voting power of the shares of such class or classes or series of the stock issued and outstanding and entitled to vote on such matter, present in person or represented by proxy at the meeting, shall constitute a quorum entitled to take action with respect to the vote on such matter. The stockholders present at a duly called or held meeting at which a quorum is present may continue to do business, including at any adjournment thereof (unless a new record date is fixed for the adjourned meeting), notwithstanding the withdrawal of enough stockholders to leave less than a quorum, if any action taken (other than adjournment) is approved by the requisite vote of the stockholders.

In the absence of a quorum, any meeting of stockholders may be adjourned from time to time by the presiding officer of the meeting or the vote of a majority of the shares, the holders of which are either present in person or represented by proxy thereat, but no other business may be transacted, except as provided above. Votes shall be counted in accordance with Article 2, Section 2.09 of these Bylaws.

Section 2.07 Action By Consent. Any action which may be taken at any meeting of stockholders may be taken without a meeting and without prior notice, if a consent, setting forth the action so taken, shall be signed by the holders of outstanding shares on the record date established pursuant to Article 2, Section 2.10 of these Bylaws having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted; provided, however, that, notice of any stockholder approval without a meeting by less than unanimous stockholder consent shall be given as required by the General Corporation Law of the State of Delaware (the "***DGCL***").

Any consent may be revoked by a writing received by the Secretary of the Corporation prior to the time that consents of the holders of the number of shares required to authorize the proposed action have been delivered to the Corporation.

Section 2.08 Waiver of Notice. The transactions of any meeting of stockholders, however called and noticed, and whenever held, shall be as valid as though had at a meeting duly held after regular call and notice, if a quorum be present either in person or by proxy, and if, either before or after the meeting, each of the persons entitled to vote, not present in person or by proxy, gives a waiver of notice, or a consent to the holding of the meeting, or an approval of the minutes thereof. All such waivers, consents, or approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

Section 2.09 Voting.

(a) At any meeting of the stockholders, every stockholder having the right to vote shall be entitled to vote in person, or by proxy, but no such proxy shall be voted or acted upon after three (3) years from its date, unless

the proxy provides for a longer period. A proxy shall be irrevocable if it satisfies the requirements of Sections 212(e) of the DGCL. The voting at meetings of stockholders need not be by ballot, but any stockholder before the voting begins may demand that voting be by ballot, each of which shall state the name of the stockholder or proxy voting and the number of shares voted by such stockholder or proxy.

(b) Except as otherwise provided by law, the Certificate of Incorporation, these Bylaws, the rules or regulations of any stock exchange applicable to the Corporation, or any law or regulation applicable to the Corporation or its securities, all matters presented to the stockholders at a meeting at which a quorum is present shall be decided by a majority of the votes properly cast for or against such matter, and, for the avoidance of doubt, neither abstentions nor broker non-votes shall be counted as votes cast for or against such matter.

Section 2.10 Record Dates. In the event the Board of Directors fixes a day for the determination of stockholders of record entitled to vote as provided in this Section 2.10, then, subject to the provisions of the DGCL, only persons in whose name shares entitled to vote stand on the stock records of the Corporation at the close of business on such day shall be entitled to vote.

(a) Meetings. In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall, unless otherwise required by law, not be more than sixty (60) nor less than ten (10) days before the date of such meeting. If no record date is fixed by the Board of Directors, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the business day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the business day next preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for determination of stockholders entitled to vote at the adjourned meeting, and in such case shall also fix as the record date for stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote in accordance with the foregoing provisions of this subsection (a) at the adjourned meeting.

(b) Action by Consent. In order that the Corporation may determine the stockholders entitled to consent to corporate action without a meeting, the Board of Directors shall fix a record date to determine the stockholders entitled to act by consent, which record date shall not precede the date upon which the resolution fixing such record date is adopted by the Board of Directors, and which date shall not be more than ten (10) days after the date upon which the resolution fixing the record date is adopted by the Board of Directors. To the extent stockholders may take action by consent in accordance with the Certificate of Incorporation of the Corporation and these Bylaws, any stockholder of record seeking to have the stockholders authorize or take corporate action by consent shall, by written notice to the Secretary, request the Board of Directors to fix a record date. The Board of Directors shall promptly, but in no event later than twenty-eight (28) days after the date on which such request is received, adopt a resolution fixing the record date, to determine the stockholders entitled to act by consent. If no record date has been fixed by the Board of Directors, such record date shall be determined in accordance with the DGCL.

(c) Dividends, Distributions and other Rights. In order that the Corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may fix, in advance, a record date, which shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors and which shall not be more than sixty (60) days nor less than the number of days required by the primary stock exchange on which the Corporation's shares of common stock are traded prior to such action. If no such record date is fixed by the Board of Directors, then the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

Section 2.11 Order of Business. The Chief Executive Officer, or such other officer or director of the Corporation designated by a majority of the Board of Directors, will call meetings of the stockholders to order and will act as presiding officer thereof. Unless otherwise determined by the Board of Directors prior to the meeting, the presiding officer of the meeting of the stockholders will also determine the order of business and

have the authority in his or her sole discretion to regulate the conduct of any such meeting, including without limitation by (i) imposing restrictions on the persons (other than stockholders of the Corporation or their duly appointed proxies) who may attend any such stockholders' meeting, (ii) ascertaining whether any stockholder or his, her or its proxy may be excluded or removed from any meeting of the stockholders based upon any determination by the presiding officer, in his or her sole discretion, that any such person has unduly disrupted or is likely to disrupt the proceedings thereat, (iii) determining the circumstances in which any person may make a statement or ask questions at any meeting of the stockholders, (iv) restrict use of audio or video recording devices at the meeting, and (v) taking such other action as, in the discretion of the presiding officer, is deemed necessary, appropriate or convenient for the proper conduct of the meeting.

At an annual meeting of the stockholders, only such business will be conducted or considered as is properly brought before the meeting. To be properly brought before an annual meeting, business must be (i) specified in the notice of meeting (or any supplement thereto) given by or at the direction of the Board of Directors, (ii) otherwise properly brought before the meeting by the presiding officer or by or at the direction of a majority of the Board of Directors, or (iii) otherwise properly requested to be brought before the meeting by a stockholder of the Corporation in accordance with the immediately succeeding sentence. For business to be properly requested by a stockholder to be brought before an annual meeting, the stockholder must (i) be a stockholder of record at the time of the giving of the notice of such annual meeting by or at the direction of the Board of Directors, (ii) at the time of the meeting, is a stockholder of record who is entitled to vote at such meeting, and attends such meeting to present such nomination or proposal, and (iii) have given timely written notice thereof to the Secretary in accordance with Article 2, Section 2.12 or Article 2, Section 2.14, as the case may be, of these Bylaws.

Nominations of persons for election as Directors of the Corporation may be made at an annual meeting of stockholders only (i) by or at the direction of the Board of Directors, (ii) by any stockholder who is a stockholder of record at the time of the giving of the notice of such annual meeting by or at the direction of the Board of Directors, at the time of the meeting, is a stockholder of record who is entitled to vote at such meeting, and attends such meeting to present such nomination or proposal and who has given timely written notice thereof to the Secretary in accordance with, and otherwise satisfied the requirements of, Article 2, Section 2.12 of these Bylaws, or (iii) by any Eligible Holder (as defined in Article 2, Section 2.14) who has satisfied the requirements of Article 2, Section 2.14. Only persons who are nominated in accordance with this Article 2, Section 2.11 will be eligible for election at a meeting of stockholders as Directors of the Corporation.

At a special meeting of stockholders, only such business may be conducted or considered as is properly brought before the meeting. To be properly brought before a special meeting, business must be (i) specified in the notice of the meeting (or any supplement thereto) given by or at the direction of the Chairman of the Board of Directors, the Chief Executive Officer, or the Secretary or (ii) otherwise properly brought before the meeting by the presiding officer or by or at the direction of a majority of the Board of Directors.

The determination of whether any business sought to be brought before any annual or special meeting of the stockholders is properly brought before such meeting in accordance with this Article 2, Section 2.11, and whether any nomination of a person for election as a Director of the Corporation at any annual meeting of the stockholders was properly made in accordance with this Article 2, Section 2.11, will be made by the presiding officer of such meeting. If the presiding officer determines that any business is not properly brought before such meeting, or any nomination was not properly made, he or she will so declare to the meeting and any such business will not be conducted or considered and any such nomination will be disregarded.

Notwithstanding the provisions of Sections 2.11, 2.12 and 2.14 of this Article 2, a stockholder must also comply with all applicable requirements of the Securities Exchange Act of 1934, as amended (the "***Exchange Act***"), and the rules and regulations thereunder with respect to the matters set forth in Sections 2.11, 2.12 and 2.14 of this Article 2. Nothing in Sections 2.11, 2.12 and 2.14 of this Article 2 will be deemed to affect any rights of stockholders to request inclusion of proposals in the Corporation's proxy statement in accordance with the provisions of Rule 14a-8 under the Exchange Act.

For purposes of these Bylaws, "public announcement" means disclosure in a press release reported by the Dow Jones News Service, Associated Press, or comparable national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Sections 13, 14 or 15(d) of the Exchange Act, or furnished to stockholders.

Section 2.12 Advance Notice of Stockholder Proposals and Director Nominations.

(a) To be timely for purposes of Article 2, Section 2.11 of these Bylaws, a stockholder's notice (other than a notice by an Eligible Stockholder (as defined in Article 2, Section 2.14) who seeks to include a Nominee (as defined in Article 2, Section 2.14) in the Corporation's proxy statement for an annual meeting of stockholders pursuant to Article 2, Section 2.14) must be addressed to the Secretary and delivered or mailed to and received at the principal executive offices of the Corporation not less than sixty (60) nor more than ninety (90) calendar days prior to the anniversary date of the date (as specified in the Corporation's proxy materials for its immediately preceding annual meeting of stockholders) on which the Corporation first sent its proxy materials to the Corporation's stockholders for its immediately preceding annual meeting of stockholders; provided, however, that in the event the annual meeting is called for a date that is not within sixty (60) calendar days of the anniversary date of the date on which the immediately preceding annual meeting of stockholders was held to be timely, notice by the stockholder must be so received not later than the close of business on the tenth (10th) calendar day following the day on which public announcement of the date of the annual meeting is first made. In no event will the public announcement of an adjournment of an annual meeting of stockholders commence a new time period for the giving of a stockholder's notice as provided above. Notwithstanding anything in this Section 2.12 or any other provision of the Bylaws to the contrary, in the event that the number of directors to be elected to the Board of Directors at the annual meeting is increased effective after the time period for which nominations would otherwise be due under this Section 2.12 and there is no public announcement by the Corporation naming all of the Nominees for director or specifying the size of the increased Board of Directors at least seventy five (75) days prior to the first anniversary of the preceding year's annual meeting (or, if the annual meeting is held more than thirty (30) days before or sixty (60) days after such anniversary date, if there is no public announcement at least seventy five (75) days prior to the date of the annual meeting), a stockholder's notice required by this Section 2.12 shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be delivered to the Secretary of the Corporation at the principal executive office of the Corporation not later than 5:00 p.m. local time on the tenth (10th) day following the day on which such public announcement is first made by the Corporation.

(b) In the case of a request by a stockholder for business to be brought before any annual meeting of stockholders, a stockholder's notice to the Secretary must set forth as to each matter the stockholder proposes to bring before the annual meeting (i) a description in reasonable detail of the business desired to brought before the annual meeting and the reasons for conducting such business at the annual meeting, (ii) the name and address, as they appear on the Corporation's books, of the stockholder proposing such business and the beneficial owner, if any, on whose behalf the proposal is made, (iii) the class and number of shares of the Corporation that are owned beneficially and of record by the stockholder proposing such business and by the beneficial owner, if any, on whose behalf the proposal is made, (iv)(A) a reasonably detailed description of any agreement, arrangement or understanding (including any derivative instruments, swaps, warrants, short positions, profit interests, options, hedging transactions, borrowed or loaned shares or other transactions, such as those involving direct or indirect opportunities to profit or share in any profit derived from any increase or decrease in the value of shares of the Corporation, or partnership interests in a partnership that directly or indirectly hold any of the foregoing) that has been entered into as of the date of such notice by such stockholder and beneficial owner, if any, the effect or intent of which is to mitigate loss to, manage risk or benefit of share price changes for, or increase or decrease the voting power of each such person or any of its affiliates or associates with respect to shares of stock of the Corporation, and any performance-related fees to which each such party is directly or indirectly entitled based on any increase or decrease in the value of shares of the Corporation, and (B) a representation that the stockholder will notify the Corporation in writing of any of information required to be disclosed in clause (iv)(A) that is in effect as of the record date for the meeting not later than five (5) business days following the later of the record date or the date notice of the record date is first publicly disclosed, and (v) any material interest of such stockholder proposing such business and the beneficial owner, if any, on whose behalf the proposal is made in such business.

(c) In the case of a nomination by a stockholder of a person for election as a director of the Corporation at any annual meeting of stockholders pursuant to this Article 2, Section 2.12, a stockholder notice to the Secretary must set forth (i) the stockholder's intent to nominate one or more persons for election as a director of the Corporation, the name of each such nominee proposed by the stockholder giving the notice, and the reason for making such nomination at the annual meeting, (ii) the name and address, as they appear on the Corporation's books, of the stockholder proposing such nomination and the beneficial owner, if any, on whose behalf the nomination is proposed, (iii) the class and number of shares of the Corporation that are owned

beneficially and of record by the stockholder proposing such nomination and by the beneficial owner, if any, on whose behalf the nomination is proposed, (iv) the information and representation described in clause (iv) of the immediately preceding paragraph, (v) any material interest of such stockholder proposing such nomination and the beneficial owner, if any, on whose behalf the proposal is made, (vi) a description of all arrangements or understandings between or among any of (A) the stockholder giving the notice, (B) each nominee, and (C) any other person or persons (naming such person or persons) pursuant to which the nomination or nominations are to be made by the stockholder giving the notice, (vii) such other information regarding each nominee proposed by the stockholder giving the notice as would be required to be included in a proxy statement filed in accordance with the proxy rules of the Securities and Exchange Commission had the nominee been nominated, or intended to be nominated, by the Board of Directors, (viii) the signed consent of each nominee proposed by the stockholder giving the notice to be included as a nominee in the Corporation's proxy materials and to serve as a director of the Corporation if so elected, (ix) any material pending or threatened legal proceeding in which such stockholder is a party or material participant involving the Corporation or any of its officers or directors, or any affiliate of the Corporation, (x) the information set forth in Article 2, Sections 2.14(d)(ii)(D), (E) and (H), and (xi) such stockholder's unconditional consent to the public disclosure of any or all of the information provided to the Corporation pursuant to this Section 2.12 and such stockholder's agreement to the matters set forth in Article 2, Section 2.14(d)(iv).

(d) Any stockholder or stockholders seeking to call a special meeting pursuant to Article 2, Section 2.02 of these Bylaws shall provide information comparable to that required by the preceding paragraphs, to the extent applicable, in any request made pursuant to such Article and Section. From the date of delivery of the stockholder notice, such stockholder must give written notice to the Secretary of the Corporation at the principal executive offices of the Corporation of any change in the information provided pursuant to this Section 2.12, within two (2) business days thereof (each an "***Update***"), provided that any such Update shall be delivered by such stockholder at least two business days prior to the closing of the polls at the meeting.

(e) Nominations of persons for election to the Board of Directors may be made at a special meeting of stockholders at which directors are to be elected pursuant to the Corporation's notice of meeting (1) by or at the direction of the Board of Directors (including upon the request of stockholders pursuant to Section 2.02 hereof) or (2) provided that the Board of Directors has determined that directors shall be elected at such meeting (including upon the request of stockholders pursuant to Section 2.02 hereof), by any stockholder of the Corporation who is a stockholder of record at the time the notice provided for in this Section 2.12 is delivered to the Secretary of the Corporation, who is entitled to vote at the meeting and upon such election and who complies with the notice procedures set forth in this Section 2.12. The proposal by stockholders of other business to be conducted at a special meeting of stockholders may be made only in accordance with Section 2.02 hereof. In the event the Corporation calls a special meeting of stockholders for the purpose of electing one or more directors to the Board of Directors, any such stockholder entitled to vote in such election of directors may nominate a person or persons (as the case may be) for election to such position(s) as specified in the Corporation's notice of meeting, if the stockholder's notice required by Section 2.12(c) shall be delivered or mailed to and received by the Secretary at the principal executive offices of the Corporation not earlier than the close of business on the ninetieth (90th) day prior to such special meeting and not later than the close of business on the later of the sixtieth (60th) day prior to such special meeting or the tenth (10th) calendar day following the day on which public announcement of the date of the special meeting at which directors are to be elected is first made by the Corporation. In no event shall the public announcement of an adjournment or postponement of a special meeting commence a new time period for the giving of a stockholder's notice as described above.

Section 2.13 Election of Directors. In any uncontested election, candidates for election to the Board of Directors receiving the affirmative vote of a majority of the votes properly cast for or against such matter (and for the avoidance of doubt neither abstentions nor broker non-votes shall be counted as votes cast for or against such matter) at a duly held meeting at which a quorum is present shall be elected. In any election that is not an uncontested election, the candidates receiving the highest number of affirmative votes of the shares entitled to be voted for them up to the number of directors to be elected by those shares shall be elected; votes against a director and votes withheld shall have no legal effect.

For purposes of these Bylaws, "uncontested election" means an election of directors of the Corporation in which, at the expiration of the later of (i) the time fixed under Section 2.12 of this Article 2 requiring advance notification of director candidates, and (ii) the time fixed under Section 2.14 of this Article 2 for the inclusion of

a Nominee (as defined in Article 2, Section 2.14) in the Corporation's proxy statement, the number of candidates for election does not exceed the number of directors to be elected by the stockholders at that election.

Section 2.14 Stockholder Nominations Included in the Corporation's Proxy Materials.

(a) Inclusion of Nominees in Proxy Statement. Subject to the provisions of this Article 2, Section 2.14, if expressly requested in the relevant Nomination Notice (as defined below), the Corporation shall include in its proxy statement for any annual meeting of stockholders: (i) the name or names of any person or persons nominated for election (each, a "***Nominee***"), which shall also be included on the Corporation's form of proxy and ballot, by any Eligible Holder (as defined below) or group of up to twenty (20) Eligible Holders that has (individually and collectively, in the case of a group) satisfied, as determined by the Board of Directors, all applicable conditions and complied with all applicable procedures set forth in this Article 2, Section 2.14 (such Eligible Holder or group of Eligible Holders being a "***Nominating Stockholder***"), (ii) disclosure about each Nominee and the Nominating Stockholder required under the rules of the Securities and Exchange Commission or other applicable law to be included in the proxy statement, (iii) any statement included by the Nominating Stockholder in the Nomination Notice for inclusion in the proxy statement in support of each Nominee's election to the Board of Directors (subject, without limitation, to Article 2, Section 2.14(e)(ii)), if such statement does not exceed five hundred (500) words and fully complies with Section 14 of the Exchange Act, and the rules and regulations thereunder, including Rule 14a-9 (the "***Supporting Statement***"), and (iv) any other information that the Corporation or the Board of Directors determines, in their discretion, to include in the proxy statement relating to the nomination of each Nominee, including, without limitation, any statement in opposition to the nomination, any of the information provided pursuant to this Article 2, Section 2.14 and any solicitation materials or related information with respect to a Nominee.

For purposes of this Article 2, Section 2.14, any determination to be made by the Board of Directors may be made by the Board of Directors, a committee of the Board of Directors or any officer of the Corporation designated by the Board of Directors or a committee of the Board of Directors, and any such determination shall be final and binding on the Corporation, any Eligible Holder, any Nominating Stockholder, any Nominee and any other person so long as made in good faith (without any further requirements). The presiding officer of any annual meeting of stockholders, in addition to making any other determinations that may be appropriate to the conduct of the meeting, shall have the power and duty to determine whether a Nominee has been nominated in accordance with the requirements of this Article 2, Section 2.14 and, if not so nominated, shall direct and declare at the meeting that such Nominee shall not be considered.

(b) Maximum Number of Nominees. (i) The Corporation shall not be required to include in the proxy statement for an annual meeting of stockholders more Nominees than that number of directors constituting the greater of (i) two (2) or (ii) twenty percent (20%) of the total number of directors of the Corporation on the last day on which a Nomination Notice may be submitted pursuant to this Article 2, Section 2.14 (rounded down to the nearest whole number) (the "***Maximum Number***"). The Maximum Number for a particular annual meeting shall be reduced by: (1) Nominees who the Board of Directors itself decides to nominate for election at such annual meeting, (2) Nominees who cease to satisfy, or Nominees of Nominating Stockholders that cease to satisfy, the eligibility requirements in this Article 2, Section 2.14, as determined by the Board of Directors, (3) Nominees whose nomination is withdrawn by the Nominating Stockholder or who become unwilling to serve on the Board of Directors, and (4) the number of incumbent directors who had been Nominees with respect to any of the preceding two annual meetings of stockholders and whose reelection at the upcoming annual meeting is being recommended by the Board of Directors. In the event that one or more vacancies for any reason occurs on the Board of Directors after the deadline for submitting a Nomination Notice as set forth in Article 2, Section 2.14(d) below but before the date of the annual meeting, and the Board of Directors resolves to reduce the size of the Board of Directors in connection therewith, the Maximum Number shall be calculated based on the number of directors in office as so reduced.

(ii) If the number of Nominees pursuant to this Article 2, Section 2.14 for any annual meeting of stockholders exceeds the Maximum Number then, promptly upon notice from the Corporation, each Nominating Stockholder will select one Nominee for inclusion in the proxy statement until the Maximum Number is reached, going in order of the amount (largest to smallest) of the ownership position as disclosed in each Nominating Stockholder's Nomination Notice, with the process repeated if the Maximum Number is not reached after each Nominating Stockholder has selected one Nominee. If, after the deadline for submitting a Nomination Notice as set forth in Article 2, Section 2.14(d), a Nominating Stockholder or a Nominee ceases to satisfy the eligibility

requirements in this Article 2, Section 2.14, as determined by the Board of Directors, a Nominating Stockholder withdraws its nomination or a Nominee becomes unwilling to serve on the Board of Directors, whether before or after the mailing or other distribution of the definitive proxy statement, then the nomination shall be disregarded, and the Corporation: (1) shall not be required to include in its proxy statement or on any ballot or form of proxy the disregarded Nominee or any successor or replacement nominee proposed by the Nominating Stockholder or by any other Nominating Stockholder and (2) may otherwise communicate to its stockholders, including without limitation by amending or supplementing its proxy statement or ballot or form of proxy, that a Nominee will not be included as a nominee in the proxy statement or on any ballot or form of proxy and will not be voted on at the annual meeting.

(c) Eligibility of Nominating Stockholder. (i) An "Eligible Holder" is a person who has either (1) been a record holder of the shares of common stock used to satisfy the eligibility requirements in this Article 2, Section 2.14(c) continuously for the three-year period specified in Subsection (ii) below or (2) provides to the Secretary of the Corporation, within the time period referred to in Article 2, Section 2.14(d), evidence of continuous ownership of such shares for such three-year period from one or more securities intermediaries in a form that the Board of Directors determines would be deemed acceptable for purposes of a stockholder proposal under Rule 14a-8(b)(2) under the Exchange Act (or any successor rule).

(ii) An Eligible Holder or group of up to twenty (20) Eligible Holders may submit a nomination in accordance with this Article 2, Section 2.14 only if the person or group (in the aggregate) has continuously owned at least the Minimum Number (as defined below) of shares of the Corporation's common stock throughout the three-year period preceding and including the date of submission of the Nomination Notice, and continues to own at least the Minimum Number through the date of the annual meeting. Two or more funds that are (A) under common management and investment control, (B) under common management and funded primarily by the same employer or (C) a "group of investment companies," as such term is defined in Section 12(d)(1)(G)(ii) of the Investment Company Act of 1940, as amended, shall be treated as one Eligible Holder if such Eligible Holder shall provide together with the Nomination Notice documentation reasonably satisfactory to the Corporation that demonstrates that the funds meet the criteria set forth in (A), (B) or (C) hereof. For the avoidance of doubt, in the event of a nomination by a group of Eligible Holders, any and all requirements and obligations for an individual Eligible Holder that are set forth in this Article 2, Section 2.14, including the minimum holding period, shall apply to each member of such group; provided, however, that the Minimum Number shall apply to the ownership of the group in the aggregate. Should any stockholder cease to satisfy the eligibility requirements in this Article 2, Section 2.14, as determined by the Board of Directors, or withdraw from a group of Eligible Holders, at any time prior to the annual meeting of stockholders, the group of Eligible Stockholders shall only be deemed to own the shares held by the remaining members of the group.

(iii) The "Minimum Number" of shares of the Corporation's common stock means three percent (3%) of the number of outstanding shares of common stock as of the most recent date for which such amount is given in any filing by the Corporation with the SEC prior to the submission of the Nomination Notice.

(iv) For purposes of this Article 2, Section 2.14, an Eligible Holder "owns" only those outstanding shares of the Corporation as to which the Eligible Holder possesses both (A) the full voting and investment rights pertaining to the shares and (B) the full economic interest in (including the opportunity for profit and risk of loss on) such shares; provided, however, that the number of shares calculated in accordance with clauses (A) and (B) shall not include any shares:

(1) purchased or sold by such Eligible Holder or any of its affiliates in any transaction that has not been settled or closed, (2) sold short by such Eligible Holder, (3) borrowed by such Eligible Holder or any of its affiliates for any purpose or purchased by such Eligible Holder or any of its affiliates pursuant to an agreement to resell or subject to any other obligation to resell to another person, or (4) subject to any option, warrant, forward contract, swap, contract of sale, other derivative or similar agreement entered into by such Eligible Holder or any of its affiliates, whether any such instrument or agreement is to be settled with shares or with cash based on the notional amount or value of outstanding shares of the Corporation, in any such case which instrument or agreement has, or is intended to have, the purpose or effect of: (x) reducing in any manner, to any extent or at any time in the future, such Eligible Holder's or any of its affiliates' full right to vote or direct the voting of any such shares, and/or (y) hedging, offsetting, or altering to any degree, gain or loss arising from the full economic ownership of such shares by such Eligible Holder or any of its affiliates.

An Eligible Holder "owns" shares held in the name of a nominee or other intermediary so long as the Eligible Holder retains the right to instruct how the shares are voted with respect to the election of directors and possesses the full economic interest in the shares. An Eligible Holder's ownership of shares shall be deemed to continue during any period in which the Eligible Holder has delegated any voting power by means of a proxy, power of attorney, or other similar instrument or arrangement that is revocable at any time by the Eligible Holder. An Eligible Holder's ownership of shares shall be deemed to continue during any period in which the Eligible Holder has loaned such shares provided that the Eligible Holder has the power to recall such loaned shares on five (5) business days' notice. The terms "owned," "owning" and other variations of the word "own" shall have correlative meanings. Whether outstanding shares of the Corporation are "owned" for these purposes shall be determined by the Board of Directors.

(v) No Eligible Holder shall be permitted to be in more than one group constituting a Nominating Stockholder, and if any Eligible Holder appears as a member of more than one group, it shall be deemed to be a member of the group that has the largest ownership position as reflected in the Nomination Notice.

(d) Nomination Notice. To nominate a Nominee, the Nominating Stockholder must, not less than one hundred twenty (120) nor more than one hundred fifty (150) calendar days prior to the anniversary date of the date (as specified in the Corporation's proxy materials for its immediately preceding annual meeting of stockholders) on which the Corporation first sent its proxy materials for its immediately preceding annual meeting of stockholders, deliver or mail to the Secretary at the principal executive offices of the Corporation all of the below information and documents (collectively, the "***Nomination Notice***"), and the Nomination Notice must be received by the Secretary within such period of time; provided, however, that in the event the annual meeting is called for a date that is not within thirty (30) calendar days of the anniversary date of the date on which the immediately preceding annual meeting of stockholders was called, the Nomination Notice shall be given in the manner provided herein by the later of the close of business on the date that is one hundred eighty (180) days prior to the date of the annual meeting or the close of business on the tenth (10th) calendar day following the day on which public announcement of the date of the annual meeting is first made. In no event will the public announcement of an adjournment of an annual meeting of stockholders commence a new time period for the giving of the Nomination Notice as provided above. For the purposes of these bylaws, the Nomination Notice shall include the following:

(i) A Schedule 14N (or any successor form) relating to each Nominee, completed and filed with the SEC by the Nominating Stockholder as applicable, in accordance with SEC rules,

(ii) A written notice, in a form deemed satisfactory by the Board of Directors, of the nomination of each Nominee that includes the following additional information, agreements, representations and warranties by the Nominating Stockholder (including each group member) (A) the information required with respect to the nomination of directors pursuant to Article 2, Section 2.12 of these Bylaws, (B) the details of any relationship that existed within the past three (3) years and that would have been described pursuant to Item 6(e) of Schedule 14N (or any successor item) if it existed on the date of submission of the Schedule 14N, (C) a representation and warranty that the Nominating Stockholder acquired the securities of the Corporation in the ordinary course of business and did not acquire, and is not holding, securities of the Corporation for the purpose or with the effect of influencing or changing control of the Corporation, (D) a representation and warranty that each Nominee's candidacy or, if elected, Board membership would not violate applicable state or federal law or the rules of any stock exchange on which the Corporation's securities are traded, (E) a representation and warranty that each Nominee: (1) does not have any direct or indirect relationship with the Corporation that would cause the Nominee to be considered not independent pursuant to the Corporation's Corporate Governance Policies as most recently published on its website and otherwise qualifies as independent under the rules of the primary stock exchange on which the Corporation's shares of common stock are traded, (2) meets the audit committee and compensation committee independence requirements under the rules of the primary stock exchange on which the Corporation's shares of common stock are traded, (3) is a "non-employee director" for the purposes of Rule 16b-3 under the Exchange Act (or any successor rule), (4) is an "outside director" for the purposes of Section 162(m) of the Internal Revenue Code (or any successor provision), and (5) is not and has not been subject to any event specified in Rule 506(d)(1) of Regulation D (or any successor rule) under the Securities Act of 1933, as amended (the "***Securities Act***") or Item 401(f) of Regulation S-K (or any successor rule) under the Exchange Act, without reference to whether the event is material to an evaluation of the ability or integrity of such Nominee, (F) a representation and warranty that the Nominating Stockholder satisfies the eligibility

requirements set forth in Article 2, Section 2.14(c) and has provided evidence of ownership to the extent required by Article 2, Section 2.14(c)(i), (G) a representation and warranty that the Nominating Stockholder intends to continue to satisfy the eligibility requirements described in Article 2, Section 2.14(c) through the date of the annual meeting, (H) details of any position of a Nominee as an officer or director of any competitor (that is, any entity that produces products or provides services that compete with or are alternatives to the products produced or services provided by the Corporation or its affiliates) of the Corporation, within the three (3) years preceding the submission of the Nomination Notice, (I) a representation and warranty that the Nominating Stockholder will not engage in a "solicitation" within the meaning of Rule 14a-1(l) (without reference to the exception in Section 14a-1(l)(2)(iv)) (or any successor rules) with respect to the annual meeting, other than with respect to a Nominee or any nominee of the Board, (J) a representation and warranty that the Nominating Stockholder will not use any proxy card other than the Corporation's proxy card in soliciting stockholders in connection with the election of a Nominee at the annual meeting, (K) if desired, a Supporting Statement, and (L) in the case of a nomination by a group, the designation by all group members of one group member that is authorized to act on behalf of all group members with respect to matters relating to the nomination, including withdrawal of the nomination,

(iii) An executed agreement, in a form deemed satisfactory by the Board of Directors, pursuant to which the Nominating Stockholder (including each group member) agrees (A) to comply with all applicable laws, rules and regulations in connection with the nomination, solicitation and election, (B) to file any written solicitation or other communication with the Corporation's stockholders relating to one or more of the Corporation's directors or director nominees or any Nominee with the Securities and Exchange Commission, regardless of whether any such filing is required under rule or regulation or whether any exemption from filing is available for such materials under any rule or regulation, (C) to assume all liability stemming from an action, suit or proceeding concerning any actual or alleged legal or regulatory violation arising out of any communication by the Nominating Stockholder or any of its Nominees with the Corporation, its stockholders or any other person in connection with the nomination or election of directors, including, without limitation, the Nomination Notice, (D) to indemnify and hold harmless (jointly with all other group members, in the case of a group member) the Corporation and each of its directors, officers and employees individually against any liability, loss, damages, expenses or other costs (including attorneys' fees) incurred in connection with any threatened or pending action, suit or proceeding, whether legal, administrative or investigative, against the Corporation or any of its directors, officers or employees arising out of or relating to a failure or alleged failure of the Nominating Stockholder or any of its Nominees to comply with, or any breach or alleged breach of, its or their obligations, agreements or representations under this Article 2, Section 2.14, (E) in the event that any information included in the Nomination Notice, or any other communication by the Nominating Stockholder (including with respect to any group member), with the Corporation, its stockholders or any other person in connection with the nomination or election ceases to be true and accurate in all material respects (or omits a material fact necessary to make the statements made not misleading), or that the Nominating Stockholder (including any group member) has failed to continue to satisfy the eligibility requirements described in Article 2, Section 2.14(c), to promptly (and in any event within forty-eight (48) hours of discovering such misstatement, omission or failure) notify the Corporation and any other recipient of such communication of (x) the misstatement or omission in such previously provided information and of the information that is required to correct the misstatement or omission or (y) such failure, and

(iv) An executed agreement, in a form deemed satisfactory by the Board of Directors, by each Nominee (A) to provide to the Corporation such other information and certifications, including completion of the Corporation's director questionnaire, as it may reasonably request, (B) at the reasonable request of the Nomination and Governance Committee, to meet with the Nomination and Governance Committee to discuss matters relating to the nomination of such Nominee to the Board of Directors, including the information provided by such Nominee to the Corporation in connection with his or her nomination and such Nominee's eligibility to serve as a member of the Board of Directors, (C) that such Nominee has read and agrees, if elected, to serve as a member of the Board of Directors, to adhere to the Corporation's Corporate Governance Policies and Code of Business Conduct and any other Corporation policies and guidelines applicable to directors, and (D) that such Nominee is not and will not become a party to (i) any compensatory, payment or other financial agreement, arrangement or understanding with any person or entity in connection with his or her nomination, service or action as a director of the Corporation that has not been disclosed to the Corporation, (ii) any agreement, arrangement or understanding with any person or entity as to how such Nominee would vote or act on any issue or question as a director (a "***Voting Commitment***") that has not been disclosed to the Corporation or (iii) any

Voting Commitment that could limit or interfere with such Nominee's ability to comply, if elected as a director of the Corporation, with its fiduciary duties under applicable law.

The information and documents required by this Article 2, Section 2.14(d) to be provided by the Nominating Stockholder shall be: (i) provided with respect to and executed by each group member, in the case of information applicable to group members and (ii) provided with respect to the persons specified in Instruction 1 to Items 6(c) and (d) of Schedule 14N (or any successor item) in the case of a Nominating Stockholder or group member that is an entity. The Nomination Notice shall be deemed submitted on the date on which all the information and documents referred to in this Article 2, Section 2.14(d) (other than such information and documents contemplated to be provided after the date the Nomination Notice is provided) have been delivered to or, if sent by mail, received by the Secretary of the Corporation.

(e) Exceptions. (i) Notwithstanding anything to the contrary contained in this Article 2, Section 2.14, the Corporation may omit from its proxy statement any Nominee and any information concerning such Nominee (including a Nominating Stockholder's Supporting Statement) and no vote on such Nominee will occur (notwithstanding that proxies in respect of such vote may have been received by the Corporation), and the Nominating Stockholder may not, after the last day on which a Nomination Notice would be timely, cure in any way any defect preventing the nomination of such Nominee, if (A) the Corporation receives a notice pursuant to Article 2, Section 2.12 of these Bylaws that a stockholder intends to nominate a candidate for director at the annual meeting, whether or not such notice is subsequently withdrawn or made the subject of a settlement with the Corporation, (B) the Nominating Stockholder or the designated lead group member, as applicable, or any qualified representative thereof, does not appear at the meeting of stockholders to present the nomination submitted pursuant to this Article 2, Section 2.14, the Nominating Stockholder withdraws its nomination or the presiding officer of the annual meeting declares that such nomination was not made in accordance with the procedures prescribed by this Article 2, Section 2.14 and shall therefore be disregarded, (C) the Board of Directors determines that such Nominee's nomination or election to the Board of Directors would result in the Corporation violating or failing to be in compliance with the Corporation's bylaws or certificate of incorporation or any applicable law, rule or regulation to which the Corporation is subject, including any rules or regulations of the primary stock exchange on which the Corporation's common stock is traded, (D) such Nominee was nominated for election to the Board of Directors pursuant to this Article 2, Section 2.14 at one of the Corporation's two preceding annual meetings of stockholders and either withdrew or became ineligible, (E) such Nominee has been, within the past three years, an officer or director of a competitor, as defined for purposes of Section 8 of the Clayton Antitrust Act of 1914, as amended, or (F) the Corporation is notified, or the Board of Directors determines, that the Nominating Stockholder or the Nominee has failed to continue to satisfy the eligibility requirements described in Article 2, Section 2.14(c), any of the representations and warranties made in the Nomination Notice ceases to be true and accurate in all material respects (or omits a material fact necessary to make the statements made not misleading), such Nominee becomes unwilling or unable to serve on the Board of Directors or any material violation or breach occurs of the obligations, agreements, representations or warranties of the Nominating Stockholder or such Nominee under this Article 2, Section 2.14. (ii) Notwithstanding anything to the contrary contained in this Article 2, Section 2.14, the Corporation may omit from its proxy statement, or may supplement or correct, any information, including all or any portion of the Supporting Statement or any other statement in support of a Nominee included in the Nomination Notice, if the Board of Directors determines that (A) such information is not true in all material respects or omits a material statement necessary to make the statements made not misleading, (B) such information directly or indirectly impugns the character, integrity or personal reputation of, or directly or indirectly makes charges concerning improper, illegal or immoral conduct or associations, without factual foundation, with respect to, any person, or (C) the inclusion of such information in the proxy statement would otherwise violate the Securities and Exchange Commission proxy rules or any other applicable law, rule or regulation.

The Corporation may solicit against, and include in the proxy statement its own statement relating to, any Nominee.

Section 2.15 Inspector of Elections(a). The Corporation shall, in advance of any meeting of stockholders, appoint one or more inspectors of election to act as such with regards to the meeting, and make a written report thereof. The Corporation may designate one or more persons as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate is able to act at a meeting of stockholders, the person presiding at the meeting shall appoint one or more inspectors to act at the meeting. Each inspector of election, before entering upon the discharge of his or her duties, shall take and sign an oath faithfully to execute the duties

of inspector with strict impartiality and according to the best of such inspector's ability. At a meeting of stockholders, the inspectors of election shall (a) ascertain the number of shares outstanding and the voting power of each share, (b) determine the shares represented at a meeting and the validity of proxies and ballots, (c) count all votes and ballots, (d) determine and retain for a reasonable period of time a record of the disposition of any challenges made to any determination by the inspectors, and (e) certify their determination of the number of shares represented at the meeting, and their count of all votes and ballots. The inspectors may appoint or retain other persons or entities to assist the inspectors in the performance of the duties of the inspectors. In determining the validity and counting of proxies and ballots, the inspectors shall act in accordance with applicable law. No ballot, proxies or votes, nor any revocations thereof or changes thereto, shall be accepted by the inspectors after the closing of the polls.

ARTICLE 3
BOARD OF DIRECTORS

Section 3.01 Powers. Subject to any limitations in the Certificate of Incorporation or any provision of the DGCL requiring stockholder authorization or approval for a particular action, the business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors, which may exercise all such powers and manage and direct all such acts and things as may be exercised or done by the Corporation.

Section 3.02 Number and Qualification of Directors. The number of authorized directors of this Corporation shall be not less than eight (8) nor more than fifteen (15), the exact number of directors to be fixed from time to time within such range by a duly adopted resolution of the Board of Directors or stockholders. No decrease in the authorized number of directors shall shorten the term of any incumbent director.

Directors shall hold office until the next annual meeting of stockholders and until their respective successors are elected and qualified subject to their earlier death, resignation or removal. If any such annual meeting is not held, or the directors are not elected thereat, the directors may be elected at any special meeting of stockholders held for that purpose. Directors need not be stockholders. If an incumbent director fails, in an uncontested election, to receive the vote required to be elected in accordance with Section 2.13 of Article 2, then, such director shall tender his or her resignation, to be effective the earlier of ninety (90) days following certification of the election results or the date on which the Board of Directors selects a person to fill the office held by that director in accordance with the procedures set forth in these Bylaws and, except to the extent otherwise provided in these Bylaws, Section 223 of the DGCL.

Section 3.03 Regular Meetings. The Board of Directors may provide for regular meetings to be held at such places, within or without of the State of Delaware, and at such times as the Board of Directors may from time to time determine.

Section 3.04 Special Meetings. Special meetings of the Board of Directors may be called at any time by the Chairman of the Board of Directors, the Chief Executive Officer of the Corporation, the Lead Independent Director (as defined below) or any two (2) directors. Notice of the date, time and place of all special meetings of the Board of Directors shall be delivered personally or by telephone, including a voice messaging system, or by telegraph or electronic transmission by the Corporation to each director at least twenty-four (24) hours before the meeting, or sent to each director by first-class mail, postage prepaid, at least four (4) days before the meeting. Such notice need not specify the purpose of the meeting. Notice of any meeting of the Board of Directors need not be given to any director who signs a waiver of notice, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to such director.

Section 3.05 Place of Meetings. Meetings of the Board of Directors may be held at any place within or without the State of Delaware, which has been designated in the notice, or if not stated in the notice or there is no notice, the principal executive office of the Corporation or as designated by the resolution duly adopted by the Board of Directors.

Section 3.06 Remote Meetings Permitted. Members of the Board of Directors, or any committee thereof, may participate in a meeting through use of conference telephone or other communications equipment, so long as all members participating in such meeting can hear one another.

Section 3.07 Quorum. A quorum at all meetings of the Board of Directors shall be a majority of the authorized directors. In the absence of a quorum, a majority of the directors present may adjourn any meeting to

another time and place. If a meeting is adjourned for more than twenty-four (24) hours, notice in accordance with Section 3.04 of any adjournment to another time or place shall be given prior to the time of the reconvened meeting to the directors who were not present at the time of adjournment. Interested directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee which authorizes a contract or transaction.

Section 3.08 Action at Meeting. Every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is the act of the Board of Directors.

Section 3.09 Waiver of Notice. The transactions of any meeting of the Board of Directors, however called and noticed or wherever held, are as valid as though had at a meeting duly held after regular call and notice if a quorum is present and if, either before or after the meeting, each of the directors not present gives a waiver of notice, a consent to holding the meeting, or an approval of the minutes thereof. All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

Section 3.10 Action Without Meeting. Any action required or permitted to be taken by the Board of Directors, or a committee thereof, may be taken without a meeting, if all members of the Board of Directors or such committee taking action individually or collectively consent in writing or by electronic transmission to such action. Such writing or writings or electronic transmission or transmissions shall be filed with the minutes of the proceedings of the Board of Directors or committee as applicable. Such action by consent shall have the same force and effect as a unanimous vote of such directors.

Section 3.11 Removal. The entire Board of Directors or any individual director may be removed from office, with or without cause, by a vote of stockholders holding a majority of the outstanding shares entitled to vote at an election of directors.

Section 3.12 Resignations. Any director may resign effective upon giving notice to the Chairman of the Board of Directors, the Chief Executive Officer, the Secretary or the Board of Directors of the Corporation, unless the notice specifies a later time for the effectiveness of such resignation. If the resignation is effective at a future time, a successor may be elected to take office when the resignation becomes effective.

Section 3.13 Vacancies. Except for a vacancy created by the removal of a director pursuant to Article 3, Section 3.11, all vacancies in the Board of Directors, whether caused by resignation, death or otherwise, may be filled by a majority of the remaining directors, though less than a quorum, or by a sole remaining director, and each director so elected shall hold office until his or her successor is elected at an annual or special meeting of the stockholders. Vacancies created by the removal of a director may be filled only by approval of the stockholders. Notwithstanding the foregoing, if a director is an incumbent director in an uncontested election who failed to receive the vote required to be elected in accordance with Section 2.13 of Article 2, such director shall tender his or her resignation in accordance with Section 3.02 of these Bylaws.

Section 3.14 Compensation. Directors and members of committees may receive such compensation, if any, for their services as may be fixed or determined by resolution of the Board of Directors. Nothing herein contained shall be construed to preclude any director from serving the Corporation in any other capacity and receiving compensation therefor.

Section 3.15 Committees. The Board of Directors may, by resolution adopted by a majority of the authorized number of directors, designate one or more committees, each consisting of one (1) or more directors, to serve at the pleasure of the Board of Directors. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent member at any meeting of the committee. The appointment of members or alternate members of a committee requires the vote of a majority of the authorized number of directors. Any such committee, to the extent provided in the resolution of the Board of Directors, shall have all the authority of the Board of Directors in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers that may require it; but no such committee shall have the power or authority in reference to the following matters: (a) approving, adopting, or recommending to the stockholders any action or matter (other than the election or removal of members of the Board of Directors) expressly required by the DGCL to be submitted to stockholders for approval or (b) adopting, amending or repealing any bylaw of the Corporation. A quorum at all meetings of any committee of the Board of Directors shall be a majority of the authorized directors serving on such committee.

ARTICLE 4
OFFICERS; CHAIRMAN; LEAD INDEPENDENT DIRECTOR

Section 4.01 Number and Term. The officers of the Corporation shall include a Chief Executive Officer and/or a President, a Secretary and a Treasurer and may consist of such other officers, including a Chairman of the Board of Directors (if such person is to also function as an officer), Chief Financial Officer, one or more other Chief Officers (of such designation(s) as the Board of Directors may determine), one or more Vice Presidents, one or more Assistant Secretaries or Assistant Treasurers, as may from time to time be appointed by the Board of Directors. All officers shall be elected by the Board of Directors; provided, however, that the Board of Directors may empower the Chief Executive Officer of the Corporation to appoint any officer other than the Chairman of the Board of Directors, the Chief Executive Officer, a President, the Chief Financial Officer, Secretary or the Treasurer. Such officers shall be chosen in such manner and hold their offices for such terms as the Board of Directors may prescribe and shall serve at the pleasure of the Board of Directors.

Section 4.02 Inability to Act. In the case of absence or inability to act of any officer of the Corporation and of any person herein authorized to act in his or her place, the Board of Directors may from time to time delegate the powers or duties of such officer to any other officer, or any director or other person whom it may select.

Section 4.03 Removal and Resignation. Any officer may be removed at any time, with or without cause, by the affirmative vote of a majority of all the members of the Board of Directors.

Any officer may resign at any time by giving notice of said resignation to the Corporation. Unless a different time is specified therein, such resignation shall be effective upon its receipt by the Chairman of the Board of Directors, the Chief Executive Officer, the Secretary or the Board of Directors.

Section 4.04 Vacancies. A vacancy in any office because of any cause may be filled by the Board of Directors and the Board of Directors may, in its discretion, leave unfilled, for such period as it may determine, any offices. Each such successor shall hold office for the unexpired term of such officer's predecessor (if applicable) and until a successor is duly elected and qualified or until such officer's earlier resignation, death, disqualification or removal.

Section 4.05 Chairman of the Board. The Chairman of the Board of Directors shall have the power to preside at all meetings of the Board of Directors and shall have such other powers and duties as provided in these Bylaws and as the Board of Directors may from time to time prescribe. Unless provided otherwise by the Board of Directors, the Chairman of the Board of Directors shall not be deemed to be an officer of the Corporation by virtue of such appointment.

Section 4.06 Chief Executive Officer. The Chief Executive Officer shall be the general manager and chief executive officer of the Corporation, subject to the control of the Board of Directors, and as such shall have general supervision of the affairs of the Corporation, shall sign or countersign or authorize one or more other officers to sign all certificates, contracts, and other instruments of the Corporation as authorized by the Board of Directors, shall make reports to the Board of Directors and stockholders, and shall have all such other authority and perform all such other duties as are incident to such office or as may be delegated or assigned from time to time by the Board of Directors.

Section 4.07 Lead Independent Director. The Board of Directors may, in its discretion, elect a lead independent director (who shall not be deemed, by virtue thereof, to be an officer of the Corporation) by and from among its members that are Independent Directors (such director, the "***Lead Independent Director***"). He or she shall preside at all meetings at which the Chairman of the Board of Directors is not present and shall exercise such other powers and duties as may from time to time be assigned to him or her by the Board of Directors or as prescribed by these Bylaws. For purposes of these Bylaws, "Independent Director" has the meaning ascribed to such term under the rules of the primary stock exchange on which the Corporation's shares of common stock are traded.

Section 4.08 President. Each President shall have all such authority and perform all such duties as are incident to such office or as may be delegated or assigned from time to time by the Chief Executive Officer or by the Board of Directors. A President (or the Presidents in the order designated by the Board of Directors) may be designated by the Board of Directors to perform the duties of the Chief Executive Officer, and to have all the powers and be subject to all restrictions upon the Chief Executive Officer, in the absence of the Chief Executive

Officer, or in the event of his or her death, disability or refusal to act. The person holding the office of Chief Executive Officer shall be a President of the Corporation, unless the Board of Directors shall have designated at least one individual as the President and a different individual as the Chief Executive Officer of the Corporation.

Section 4.09 Chief Officer; Vice President. Each Chief Officer (however designated) and Vice President (however designated) shall have all such authority and perform all such duties as are incident to such office or as may be delegated or assigned from time to time by the Chief Executive Officer, a President or by the Board of Directors. A Chief Officer or Vice President (or the Vice Presidents in the order designated by the Board of Directors) may be designated by the Board of Directors to perform the duties of the Chief Executive Officer, and to have all the powers and be subject to all restrictions upon the Chief Executive Officer, in the absence of the Chief Executive Officer, or in the event of his or her death, disability or refusal to act.

Section 4.10 Secretary. The Secretary shall see that notices for all meetings are given in accordance with the provisions of these Bylaws and as required by law, shall keep minutes of all meetings, shall have charge of the seal and the corporate books, and shall have all such other authority and perform all such other duties as are incident to such office or as may be delegated or assigned from time to time by the Chief Executive Officer or by the Board of Directors.

The Assistant Secretary or the Assistant Secretaries, in the order of their seniority, shall, in the absence or disability of the Secretary, or in the event of such officer's refusal to act, perform the duties of Secretary and, when so acting, shall have all the powers of and be subject to all the restrictions upon the Secretary. Each Assistant Secretary shall have all such other authority and perform all such other duties as are incident to such office or as may be assigned or delegated from time to time by the Chief Executive Officer or by the Board of Directors.

Section 4.11 Chief Financial Officer. The person holding the office of Chief Financial Officer shall be the Treasurer of the Corporation unless the Board of Directors shall have designated another officer as the Treasurer of the Corporation. The Chief Financial Officer shall have all such authority and perform all such duties as are incident to such office or as may be delegated or assigned from time to time by the Chief Executive Officer or by the Board of Directors.

Section 4.12 Treasurer. The Treasurer shall have custody of all moneys and securities of the Corporation and shall keep regular books of account. Such officer shall disburse the funds of the Corporation in payment of the just demands against the Corporation, or as may be ordered by the Board of Directors, taking proper vouchers for such disbursements, and shall render to the Board of Directors from time to time as may be required of such officer, an account of all transactions as Treasurer and of the financial condition of the Corporation. Such officer shall have all such other authority and perform all such other duties as are incident to such office or as may be delegated or assigned by the Chief Executive Officer or by the Board of Directors.

The Assistant Treasurer or the Assistant Treasurers, in the order of their seniority, shall, in the absence or disability of the Treasurer, or in the event of such officer's refusal to act, perform the duties and exercise the powers of the Treasurer, and shall have all such other authority and perform all such other duties as are incident to such office or as may be delegated or assigned from time to time by the Chief Executive Officer or by the Board of Directors.

Section 4.13 Salaries. The salaries of the officers shall be fixed from time to time by the Board of Directors and no officer shall be prevented from receiving such salary by reason of the fact that such officer is also a director of the Corporation.

Section 4.14 Officers Holding More than One Office. Any two or more offices may be held by the same person.

ARTICLE 5
MISCELLANEOUS

Section 5.01 Severability. If any provision of these Bylaws shall be held to be invalid, illegal, unenforceable or in conflict with the provisions of the Certificate of Incorporation, then such provision shall nonetheless be enforced to the maximum extent possible consistent with such holding and the remaining provisions of these Bylaws (including without limitation, all portions of any section of these Bylaws containing

any such provision held to be invalid, illegal, unenforceable or in conflict with the Certificate of Incorporation, that are not themselves invalid, illegal, unenforceable or in conflict with the Certificate of Incorporation) shall remain in full force and effect.

Section 5.02 Certificates.

(a) Certificates; Uncertificated Shares. The shares of capital stock of the Corporation shall be certificated shares. Notwithstanding the foregoing, the Board of Directors may provide by resolution or resolutions that some or all of any or all classes or series of its stock shall be uncertificated shares (it being understood that, following any such determination of the Board of Directors that a class or series of stock shall be uncertificated, the Board of Directors may thereafter determine that such stock shall be certificated). Any determination that outstanding shares of capital stock of the Corporation shall be uncertificated shall not apply to shares represented by a certificate until such certificate is surrendered to the Corporation (or the transfer agent or registrar, as the case may be). Every holder of stock represented by certificates shall be entitled to have a certificate signed by, or in the name of two authorized officers of the Corporation (it being understood that each of the Chairman of the Board of Directors, the Chief Executive Officer, a President, a Vice President, the Treasurer, an Assistant Treasurer, the Secretary or an Assistant Secretary of the Corporation shall be an authorized officer for such purpose), representing the number of shares registered in certificate form. Any or all of the signatures on the certificate may be a facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if such person were an officer, transfer agent or registrar at the date of issue.

(b) Lost, Stolen or Destroyed Stock Certificates; Issuance of New Certificates or Uncertificated Shares. In the event that any certificate of stock previously issued by the Corporation is alleged to have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the person claiming the certificate of stock to be lost, stolen or destroyed, the Corporation may issue a new certificate of stock (or new uncertificated shares in the place of any certificate) and the Corporation may require the owner of the lost, stolen or destroyed certificate, or such owner's legal representative, to agree to indemnify the Corporation and/or to give the Corporation a bond sufficient to indemnify it, against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate (or new uncertificated shares).

(c) Other Regulations. Subject to applicable law, the Certificate of Incorporation and these Bylaws, the issue, transfer, conversion and registration of shares represented by certificates and of uncertificated shares shall be governed by such other regulations and procedures as the Board of Directors may establish.

Section 5.03 Fiscal Year. The fiscal year of the Corporation shall end on the last Saturday of July unless otherwise determined by resolution of the Board of Directors.

Section 5.04 Time Periods. In applying any provision of these Bylaws which requires that an act be done or not be done a specified number of days prior to an event or that an act be done during a period of a specified number of days prior to an event, calendar days shall be used, the day of the doing of the act shall be excluded, and the day of the event shall be included.

Section 5.05 Amendments. Bylaws may be adopted, amended, or repealed by the vote or the consent of stockholders entitled to exercise a majority of the voting power of the Corporation. In addition to the right of stockholders to adopt, amend, or repeal Bylaws, Bylaws may be adopted, amended, or repealed by the Board of Directors.

ARTICLE 6
INDEMNIFICATION AND ADVANCEMENT OF EXPENSES

Section 6.01 Indemnification of Officers and Directors. Each person who was or is made a party to, or is threatened to be made a party to, or is involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, legislative, investigative or any other type whatsoever, preliminary, informal or formal, including any arbitration or other alternative dispute resolution (including but not limited to giving testimony or responding to a subpoena) and including any appeal of any of the foregoing (a "***Proceeding***"), by reason of the fact that such person (or a person of whom such person is the legal representative), is or was a director or officer of the Corporation or a Reincorporated Predecessor (as defined

below) or is or was serving at the request of the Corporation as a director, officer, authorized signatory or trustee of another corporation, or of a partnership, joint venture, trust or other enterprise or non-profit entity, including service with respect to employee benefit plans (for purposes of this Article 6, an "***Indemnitee***"), shall be indemnified and held harmless by the Corporation to the fullest extent permitted by the DGCL as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than such law permitted the Corporation to provide prior to such amendment), against all expenses, costs, liability and loss (including attorneys' fees, judgments, fines, ERISA excise taxes and penalties and amounts paid or to be paid in settlement) reasonably incurred or suffered by such Indemnitee in connection therewith. Such indemnification shall continue as to an Indemnitee who has ceased to be a director or officer of the Corporation or a Reincorporated Predecessor (as defined below) or ceased to serve at the request of the Corporation as a director, officer, authorized signatory or trustee of another corporation, or of a partnership, joint venture, trust or other enterprise or non-profit entity, including service with respect to employee benefit plans and shall inure to the benefit of such Indemnitees' heirs, executors and administrators. Notwithstanding the foregoing, subject to Section 6.05 of this Article 6, the Corporation shall indemnify any such Indemnitee seeking indemnity in connection with a Proceeding (or part thereof) initiated by such Indemnitee only if such Proceeding (or part thereof) was authorized by the Board of Directors or such indemnification is authorized by an agreement approved by the Board of Directors. As used herein, the term the "***Reincorporated Predecessor***" means a corporation that is merged with and into the Corporation in a statutory merger where (a) the Corporation is the surviving corporation of such merger; (b) the primary purpose of such merger is to change the corporate domicile of the Reincorporated Predecessor to Delaware.

Section 6.02 Advancement of Expenses. Notwithstanding any other provision of these Bylaws, the Corporation (i) shall pay all reasonable expenses (including attorneys' fees) incurred by an Indemnitee that is or was a director or officer of the Corporation or a Reincorporated Predecessor in defending any Proceeding in advance of its final disposition and (ii) may pay all reasonable expenses (including attorneys' fees) incurred by any other Indemnitee in defending any Proceeding in advance of its final disposition; provided in each case, however, that if the DGCL then so requires, the advancement of such expenses (i.e., payment of such expenses as incurred or otherwise in advance of the final disposition of the Proceeding) shall be made only upon delivery to the Corporation of an undertaking, by or on behalf of such Indemnitee, to repay such amounts if it shall ultimately be determined by a court of competent jurisdiction in a final judgment not subject to appeal that such Indemnitee is not entitled to be indemnified under this Article 6 or otherwise. Any advances of expenses or undertakings to repay pursuant to this Section 6.02 shall be unsecured, interest free and without regard to Indemnitee's ability to pay.

Section 6.03 Non Exclusivity of Rights. The rights conferred on any person in this Article 6 shall not be exclusive of any other right that such person may have or hereafter acquire under any statute, provision of the Certificate of Incorporation, Bylaws, agreement, vote or consent of stockholders or disinterested directors, or otherwise. Additionally, nothing in this Article 6 shall limit the ability of the Corporation, in its discretion, to indemnify or advance expenses to persons whom the Corporation is not obligated to indemnify or advance expenses pursuant to this Article 6.

Section 6.04 Indemnification Contracts. The Board of Directors is authorized to cause the Corporation to enter into indemnification contracts with any director, officer, employee or agent of the Corporation, or any person serving at the request of the Corporation as a director, officer, employee, agent or trustee of another corporation, partnership, joint venture, trust or other enterprise or non-profit entity, including employee benefit plans, providing indemnification or advancement rights to such person. Such rights may be greater than those provided in this Article 6.

Section 6.05 Right of Indemnitee to Bring Suit.

(a) Right to Bring Suit. If a claim under Section 6.01 or 6.02 of this Article 6 is not paid in full by the Corporation within sixty (60) days after a written claim has been received by the Corporation, except in the case of a claim for an advancement of expenses, in which case the applicable period shall be twenty (20) days, the Indemnitee may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim. If the Indemnitee is successful in whole or in part in any such suit, or in a suit brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the Indemnitee also shall be entitled to be paid, to the fullest extent permitted by law, the expense of prosecuting or defending such suit.

(b) Effect of Determination. Neither the absence of a determination prior to the commencement of such suit that indemnification of or the providing of advancement to the Indemnitee is proper in the circumstances because the Indemnitee has met the applicable standard of conduct set forth in applicable law, nor an actual determination that the Indemnitee has not met such applicable standard of conduct, shall create a presumption that the Indemnitee has not met the applicable standard of conduct or, in the case of such a suit brought by the Indemnitee, be a defense to such suit.

(c) Burden of Proof. In any suit brought by the Indemnitee to enforce a right to indemnification or to an advancement of expenses hereunder, or brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the burden of proving that the Indemnitee is not entitled to be indemnified, or to such advancement of expenses, under this Article 6, or otherwise, shall be on the Corporation.

Section 6.06 Nature of Rights. The rights conferred upon Indemnitees in this Article 6 shall be contract rights and such rights shall continue as to an Indemnitee who has ceased to be a director or officer and shall inure to the benefit of the Indemnitee's heirs, executors and administrators.

Section 6.07 Amendment or Repeal. Any amendment, repeal or modification of any provision of this Article 6 that adversely affects any right of an Indemnitee or an Indemnitee's successors shall be prospective only, and shall not adversely affect any right or protection conferred on a person pursuant to this Article 6 and existing at the time of such amendment, repeal or modification.

Section 6.08 Insurance. The Corporation may purchase and maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the Corporation or another corporation, partnership, joint venture, trust or other enterprise or non-profit entity against any expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the DGCL.

ARTICLE 7
NOTICES

Section 7.01 Notice.

(a) Notice to Stockholders. Without limiting the manner by which notice otherwise may be given effectively to stockholders, any notice to stockholders given by the Corporation under any provision of the DGCL, the Certificate of Incorporation of the Corporation or these Bylaws may be given in writing directed to the stockholder's mailing address (or by electronic transmission directed to the stockholder's electronic mail address, as applicable) as it appears on the records of the Corporation. Notice shall be given (i) if mailed, when deposited in the United States mail, postage prepaid, (ii) if delivered by courier service, the earlier of when the notice is received or left at the stockholder's address, or (iii) if given by electronic mail, when directed to such stockholder's electronic mail address (unless the stockholder has notified the Corporation in writing or by electronic transmission of an objection to receiving notice by electronic mail or such notice is prohibited by the DGCL to be given by electronic transmission). A notice by electronic mail must include a prominent legend that the communication is an important notice regarding the Corporation. A notice by electronic mail will include any files attached thereto and any information hyperlinked to a website if such electronic mail includes the contact information of an officer or agent of the Corporation who is available to assist with accessing such files or information. Any notice to stockholders given by the Corporation under any provision of the DGCL, the Certificate of Incorporation of the Corporation or these Bylaws provided by means of electronic transmission (other than any such notice given by electronic mail) may only be given in a form consented to by such stockholder, and any such notice by such means of electronic transmission shall be deemed to be given as provided by the DGCL. The terms "electronic mail," "electronic mail address," "electronic signature" and "electronic transmission" as used herein shall have the meanings ascribed thereto in the DGCL.

(b) Affidavit of Giving Notice. An affidavit of the Secretary or an Assistant Secretary or of the transfer agent or other agent of the Corporation that the notice has been given in writing or by a form of electronic transmission shall, in the absence of fraud, be prima facie evidence of the facts stated therein.

Section 7.02 Waiver of Notice. Whenever notice is required to be given under any provision of the DGCL, the Certificate of Incorporation or these Bylaws, a written waiver of notice, signed by the person entitled to notice, or waiver by electronic transmission by such person, whether before or after the time stated therein, shall

be deemed equivalent to notice. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders, directors or members of a committee of directors need be specified in any waiver of notice.

ARTICLE 8
EXCLUSIVE FORUM

Section 8.01 Delaware Forum. Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware, to the fullest extent permitted by law, shall be the sole and exclusive forum for: (a) any derivative action or proceeding brought on behalf of the Corporation; (b) any action asserting a claim of breach of a fiduciary duty owed by, or other wrongdoing by, any director, officer, stockholder, employee or agent of the Corporation to the Corporation or the Corporation's stockholders; (c) any action asserting a claim against the Corporation arising pursuant to any provision of the DGCL, the Certificate of Incorporation of the Corporation or these Bylaws or as to which the DGCL confers jurisdiction on the Court of Chancery of the State of Delaware; (d) any action to interpret, apply, enforce or determine the validity of the Certificate of Incorporation of the Corporation or these Bylaws; or (e) any action asserting a claim against the Corporation governed by the internal affairs doctrine.

Section 8.02 Federal Forum. Unless the Corporation consents in writing to the selection of an alternative forum, to the fullest extent permitted by law, the federal district courts of the United States shall be the exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act.

Nothing in this Article 8 affects suits brought to enforce a duty or liability created by the Exchange Act or any other claim for which the federal courts have exclusive jurisdiction. Any person or entity purchasing or otherwise acquiring or holding any interest in any security of the Corporation shall be deemed to have notice of and consented to the provisions of this Article 8.

Appendix D

CISCO SYSTEMS, INC.
2005 STOCK INCENTIVE PLAN
AS AMENDED AND RESTATED
(Effective as of December 10, 2020)

SECTION 1. INTRODUCTION.

The Company's shareholders approved the Cisco Systems, Inc. 2005 Stock Incentive Plan, as amended and restated and effective on December 10, 2020.

The purpose of the Plan is to promote the long-term success of the Company and the creation of shareholder value by offering Key Employees an opportunity to share in such long-term success by acquiring a proprietary interest in the Company.

The Plan seeks to achieve this purpose by providing for discretionary long-term incentive Awards in the form of Options (which may constitute Incentive Stock Options or Nonstatutory Stock Options), Stock Appreciation Rights, Stock Grants, and Stock Units.

The Plan shall be governed by, and construed in accordance with, the laws of the State of California (except its choice-of-law provisions).

Capitalized terms shall have the meaning provided in Section 2 unless otherwise provided in this Plan or any related Stock Option Agreement, SAR Agreement, Stock Grant Agreement or Stock Unit Agreement.

SECTION 2. DEFINITIONS.

(a) "Affiliate" means any entity other than a Subsidiary, if the Company and/or one or more Subsidiaries own not less than 50% of such entity.

(b) "Award" means any award of an Option, SAR, Stock Grant or Stock Unit under the Plan.

(c) "Board" means the Board of Directors of the Company, as constituted from time to time.

(d) "Cashless Exercise" means, to the extent that a Stock Option Agreement so provides and as permitted by applicable law, a program approved by the Committee in which payment may be made all or in part by delivery (on a form prescribed by the Committee) of an irrevocable direction to a securities broker to sell Shares and to deliver all or part of the sale proceeds to the Company in payment of the aggregate Exercise Price and, if applicable, the amount necessary to satisfy the Company's withholding obligations at the minimum statutory withholding rates, including, but not limited to, U.S. federal and state income taxes, payroll taxes, and foreign taxes, if applicable.

(e) "Cause" means, except as may otherwise be provided in a Participant's employment agreement or Award agreement, a conviction of a Participant for a felony crime or the failure of a Participant to contest prosecution for a felony crime, or a Participant's misconduct, fraud or dishonesty (as such terms are defined by the Committee in its sole discretion), or any unauthorized use or disclosure of confidential information or trade secrets, in each case as determined by the Committee, and the Committee's determination shall be conclusive and binding.

(f) "Change In Control" except as may otherwise be provided in a Participant's employment agreement or Award agreement, means the occurrence of any of the following:

(i) A change in the composition of the Board over a period of thirty-six consecutive months or less such that a majority of the Board members ceases, by reason of one or more contested elections for Board membership, to be comprised of individuals who either (A) have been Board members continuously since the beginning of such period or (B) have been elected or nominated for election as Board members during such period by at least a majority of the Board members described in clause (A) who were still in office at the time the Board approved such election or nomination; or

(ii) The acquisition, directly or indirectly, by any person or related group of persons (other than the Company or a person that directly or indirectly controls, is controlled by, or is under common

control with, the Company) of beneficial ownership (within the meaning of Rule 13d-3 under the Exchange Act) of securities of the Company representing more than 35% of the total combined voting power of the Company's then outstanding securities pursuant to a tender or exchange offer made directly to the Company's shareholders which the Board does not recommend such shareholders accept.

(g) "Code" means the Internal Revenue Code of 1986, as amended, and the regulations and interpretations promulgated thereunder.

(h) "Committee" means a committee described in Section 3.

(i) "Common Stock" means the Company's common stock.

(j) "Company" means Cisco Systems, Inc., a California corporation.

(k) "Consultant" means an individual who performs bona fide services to the Company, a Parent, a Subsidiary or an Affiliate, other than as an Employee or Director or Non-Employee Director.

(l) "Corporate Transaction" except as may otherwise be provided in a Participant's employment agreement or Award agreement, means the occurrence of any of the following shareholder approved transactions:

(i) The consummation of a merger or consolidation of the Company with or into another entity or any other corporate reorganization, if more than 50% of the combined voting power of the continuing or surviving entity's securities outstanding immediately after such merger, consolidation or other reorganization is owned by persons who were not shareholders of the Company immediately prior to such merger, consolidation or other reorganization; or

(ii) The sale, transfer or other disposition of all or substantially all of the Company's assets.

A transaction shall not constitute a Corporate Transaction if its sole purpose is to change the state of the Company's incorporation or to create a holding company that will be owned in substantially the same proportions by the persons who held the Company's securities immediately before such transactions.

(m) "Director" means a member of the Board who is also an Employee.

(n) "Disability" means that the Key Employee is classified as disabled under a long-term disability policy of the Company or, if no such policy applies, the Key Employee is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.

(o) "Employee" means an individual who is a common-law employee of the Company, a Parent, a Subsidiary or an Affiliate.

(p) "Exchange Act" means the Securities Exchange Act of 1934, as amended.

(q) "Exercise Price" means, in the case of an Option, the amount for which a Share may be purchased upon exercise of such Option, as specified in the applicable Stock Option Agreement. "Exercise Price," in the case of a SAR, means an amount, as specified in the applicable SAR Agreement, which is subtracted from the Fair Market Value in determining the amount payable upon exercise of such SAR.

(r) "Fair Market Value" means the market price of a Share as determined in good faith by the Committee. The Fair Market Value shall be determined by the following:

(i) If the Shares were traded over-the-counter or listed with NASDAQ on the date in question, then the Fair Market Value shall be equal to the last transaction price quoted by the NASDAQ system for the date in question or (ii) if the Common Stock is listed on the New York Stock Exchange or the American Stock Exchange on the date in question, the Fair Market Value is the closing selling price for the Common Stock as such price is officially quoted in the composite tape of transactions on the exchange determined by the Committee to be the primary market for the Common Stock for the date in question; provided, however, that if there is no such reported price for the Common Stock for the date in question under (i) or (ii), then such price on the last preceding date for which such price exists shall be determinative of Fair Market Value.

If neither (i) or (ii) are applicable, then the Fair Market Value shall be determined by the Committee in good faith on such basis as it deems appropriate.

Whenever possible, the determination of Fair Market Value by the Committee shall be based on the prices reported in the Western Edition of The Wall Street Journal. Such determination shall be conclusive and binding on all persons.

(s) "Fiscal Year" means the Company's fiscal year.

(t) "Grant" means any grant of an Award under the Plan.

(u) "Incentive Stock Option" or "ISO" means an incentive stock option described in Code Section 422.

(v) "Key Employee" means an Employee, Director, Non-Employee Director or Consultant who has been selected by the Committee to receive an Award under the Plan.

(w) "Non-Employee Director" means a member of the Board who is not an Employee.

(x) "Nonstatutory Stock Option" or "NSO" means a stock option that is not an ISO.

(y) "Option" means an ISO or NSO granted under the Plan entitling the Optionee to purchase Shares.

(z) "Optionee" means an individual, estate or other entity that holds an Option.

(aa) "Parent" means any corporation (other than the Company) in an unbroken chain of corporations ending with the Company, if each of the corporations other than the Company owns stock possessing 50% or more of the total combined voting power of all classes of stock in one of the other corporations in such chain. A corporation that attains the status of a Parent on a date after the adoption of the Plan shall be considered a Parent commencing as of such date.

(bb) "Participant" means an individual or estate or other entity that holds an Award.

(cc) "Performance Goal" means an objective formula or standard determined by the Committee with respect to each Performance Period utilizing one or more of the following factors and any objectively verifiable adjustment(s) thereto permitted and pre-established by the Committee: (i) operating income, operating cash flow and operating expense; (ii) earnings before interest, taxes, depreciation and amortization; (iii) earnings; (iv) cash flow; (v) market share; (vi) sales; (vii) revenue; (viii) profits before interest and taxes; (ix) expenses; (x) cost of goods sold; (xi) profit/loss or profit margin; (xii) working capital; (xiii) return on capital, equity or assets; (xiv) earnings per share; (xv) economic value added; (xvi) stock price; (xvii) price/earnings ratio; (xviii) debt or debt-to-equity; (xix) accounts receivable; (xx) writeoffs; (xxi) cash; (xxii) assets; (xxiii) liquidity; (xxiv) operations; (xxv) intellectual property (e.g., patents); (xxvi) product development; (xxvii) regulatory activity; (xxviii) manufacturing, production or inventory; (xxix) mergers and acquisitions or divestitures; (xxx) financings; (xxxi) customer satisfaction; (xxxii) total shareholder return; and/or (xxxiii) any other performance factor selected by the Committee, each with respect to the Company and/or one or more of its affiliates or operating units.

(dd) "Performance Period" means any period not exceeding 36 months as determined by the Committee, in its sole discretion. The Committee may establish different Performance Periods for different Participants, and the Committee may establish concurrent or overlapping Performance Periods.

(ee) "Plan" means this Cisco Systems, Inc. 2005 Stock Incentive Plan as amended and restated, and as it may be further amended from time to time.

(ff) "Previous Plan Award" means any award of an Option, SAR, Stock Grant or Stock Unit under the Cisco Systems, Inc. 1996 Stock Incentive Plan, the Cisco Systems, Inc. SA Acquisition Long-Term Incentive Plan or the Cisco Systems, Inc. WebEx Acquisition Long-Term Incentive Plan.

(gg) "Re-Price" means that the Company has (i) lowered or reduced the Exercise Price of outstanding Options and/or outstanding SARs for any Participant(s), whether through amendment, cancellation, or replacement grants, or any other means, (ii) repurchased for cash outstanding Options and/or outstanding SARs when the Exercise Price is greater than the Fair Market Value of the underlying Shares, or (iii) any other action that is treated as a "repricing" under generally accepted accounting principles.

(hh) "SAR Agreement" means the agreement described in Section 8 evidencing each Award of a Stock Appreciation Right.

(ii) "SEC" means the Securities and Exchange Commission.

(jj) "Section 16 Persons" means those officers, directors or other persons who are subject to Section 16 of the Exchange Act.

(kk) "Securities Act" means the Securities Act of 1933, as amended.

(ll) "Service" means service as an Employee, Director, Non-Employee Director or Consultant. A Participant's Service does not terminate when continued service crediting is required by applicable law. However, for purposes of determining whether an Option is entitled to continuing ISO status, a common-law employee's Service will be treated as terminating ninety (90) days after such Employee went on leave, unless such Employee's right to return to active work is guaranteed by law or by a contract. Service terminates in any event when the approved leave ends, unless such Employee immediately returns to active work. The Committee determines which leaves count toward Service, and when Service terminates for all purposes under the Plan. Further, unless otherwise determined by the Committee, a Participant's Service shall not be deemed to have terminated merely because of a change in the capacity in which the Participant provides service to the Company, a Parent, Subsidiary or Affiliate, or a transfer between entities (the Company or any Parent, Subsidiary, or Affiliate); provided that there is no interruption or other termination of Service.

(mm) "Share" means one share of Common Stock.

(nn) "Stock Appreciation Right" or "SAR" means a stock appreciation right awarded under the Plan.

(oo) "Stock Grant" means Shares awarded under the Plan.

(pp) "Stock Grant Agreement" means the agreement described in Section 9 evidencing each Award of a Stock Grant.

(qq) "Stock Option Agreement" means the agreement described in Section 6 evidencing each Award of an Option.

(rr) "Stock Unit" means a bookkeeping entry representing the equivalent of one Share, as awarded under the Plan.

(ss) "Stock Unit Agreement" means the agreement described in Section 10 evidencing each Award of a Stock Unit.

(tt) "Subsidiary" means any corporation (other than the Company) in an unbroken chain of corporations beginning with the Company, if each of the corporations other than the last corporation in the unbroken chain owns stock possessing 50% or more of the total combined voting power of all classes of stock in one of the other corporations in such chain. A corporation that attains the status of a Subsidiary on a date after the adoption of the Plan shall be considered a Subsidiary commencing as of such date.

(uu) "10-Percent Shareholder" means an individual who owns more than 10% of the total combined voting power of all classes of outstanding stock of the Company, its Parent or any of its Subsidiaries. In determining stock ownership, the attribution rules of Section 424(d) of the Code shall be applied.

SECTION 3. ADMINISTRATION.

(a) Committee Composition. The Board or a Committee appointed by the Board shall administer the Plan. Unless the Board provides otherwise, the Company's Compensation & Management Development Committee shall be the Committee. Members of the Committee shall serve for such period of time as the Board may determine and shall be subject to removal by the Board at any time. The Board may also at any time terminate the functions of the Committee and reassume all powers and authority previously delegated to the Committee.

The Committee shall have membership composition which enables Awards to Section 16 Persons to qualify as exempt from liability under Section 16(b) of the Exchange Act.

The Board may also appoint one or more separate committees of the Board, each composed of two or more directors of the Company who need not qualify under Rule 16b-3, that may administer the Plan with respect to Key Employees who are not Section 16 Persons, may grant Awards under the Plan to such Key Employees and may determine all terms of such Awards.

Notwithstanding the foregoing, the Board shall constitute the Committee and shall administer the Plan with respect to Non-Employee Directors, shall grant Awards under the Plan to such Non-Employee Directors, and shall determine all terms of such Awards.

(b) Authority of the Committee. Subject to the provisions of the Plan, the Committee shall have full authority and sole discretion to take any actions it deems necessary or advisable for the administration of the Plan. Such actions shall include:

(i) selecting Key Employees who are to receive Awards under the Plan;

(ii) determining the type, number, vesting requirements and other features and conditions of such Awards and amending such Awards;

(iii) correcting any defect, supplying any omission, or reconciling any inconsistency in the Plan or any Award agreement;

(iv) accelerating the vesting, or extending the post-termination exercise term, of Awards at any time and under such terms and conditions as it deems appropriate;

(v) interpreting the Plan;

(vi) making all other decisions relating to the operation of the Plan; and

(vii) adopting such plans or subplans as may be deemed necessary or appropriate to provide for the participation by Key Employees of the Company and its Subsidiaries and Affiliates who reside outside the U.S., which plans and/or subplans shall be attached hereto as Appendices.

The Committee may adopt such rules or guidelines as it deems appropriate to implement the Plan. The Committee's determinations under the Plan shall be final and binding on all persons.

(c) Indemnification. To the maximum extent permitted by applicable law, each member of the Committee, or of the Board, shall be indemnified and held harmless by the Company against and from (i) any loss, cost, liability, or expense that may be imposed upon or reasonably incurred by him or her in connection with or resulting from any claim, action, suit, or proceeding to which he or she may be a party or in which he or she may be involved by reason of any action taken or failure to act under the Plan or any Stock Option Agreement, SAR Agreement, Stock Grant Agreement or Stock Unit Agreement, and (ii) from any and all amounts paid by him or her in settlement thereof, with the Company's approval, or paid by him or her in satisfaction of any judgment in any such claim, action, suit, or proceeding against him or her, provided he or she shall give the Company an opportunity, at its own expense, to handle and defend the same before he or she undertakes to handle and defend it on his or her own behalf. The foregoing right of indemnification shall not be exclusive of any other rights of indemnification to which such persons may be entitled under the Company's Articles of Incorporation or Bylaws, by contract, as a matter of law, or otherwise, or under any power that the Company may have to indemnify them or hold them harmless.

SECTION 4. GENERAL.

(a) General Eligibility. Only Employees, Directors, Non-Employee Directors and Consultants shall be eligible for designation as Key Employees by the Committee, in its sole discretion.

(b) Incentive Stock Options. Only Key Employees who are common-law employees of the Company, a Parent or a Subsidiary shall be eligible for the grant of ISOs. In addition, a Key Employee who is a 10-Percent Shareholder shall not be eligible for the grant of an ISO unless the requirements set forth in Section 422(c)(5) of the Code are satisfied.

(c) Restrictions on Shares. Any Shares issued pursuant to an Award shall be subject to such rights of repurchase, rights of first refusal and other transfer restrictions as the Committee may determine, in its sole discretion. Such restrictions shall apply in addition to any restrictions that may apply to holders of Shares generally and shall also comply to the extent necessary with applicable law. In no event shall the Company be required to issue fractional Shares under this Plan.

(d) Beneficiaries. Unless stated otherwise in an Award agreement, a Participant may designate one or more beneficiaries with respect to an Award by timely filing the prescribed form with the Company. A beneficiary designation may be changed by filing the prescribed form with the Company at any time before

the Participant's death. If no beneficiary was designated or if no designated beneficiary survives the Participant, then after a Participant's death any vested Award(s) shall be transferred or distributed to the Participant's estate.

(e) Performance Conditions. The Committee may, in its discretion, include Performance Goals in an Award or grant an Award upon the satisfaction of Performance Goals.

(f) No Rights as a Shareholder. A Participant, or a transferee of a Participant, shall have no rights as a shareholder with respect to any Common Stock covered by an Award until such person has satisfied all of the terms and conditions to receive such Common Stock, has satisfied any applicable withholding or tax obligations relating to the Award and the Shares have been issued (as evidenced by an appropriate entry on the books of the Company or a duly authorized transfer agent of the Company).

(g) Termination of Service. Unless the applicable Award agreement or, with respect to Participants who reside in the U.S., the applicable employment agreement provides otherwise, the following rules shall govern the vesting, exercisability and term of outstanding Awards held by a Participant in the event of termination of such Participant's Service (in all cases subject to the expiration term of the Option or SAR as applicable): (i) upon termination of Service for any reason, all unvested portions of any outstanding Awards shall be immediately forfeited without consideration and the vested portions of any outstanding Stock Units shall be settled upon termination; (ii) if the Service of a Participant is terminated for Cause, then all unexercised Options and SARs, unvested portions of Stock Units and unvested portions of Stock Grants shall terminate and be forfeited immediately without consideration; (iii) if the Service of a Participant is terminated for any reason other than for Cause, death, or Disability, then the vested portion of his or her then-outstanding Options and/or SARs may be exercised by such Participant or his or her personal representative within three months after the date of such termination; or (iv) if the Service of a Participant is terminated due to death or Disability, the vested portion of his or her then-outstanding Options and/or SARs may be exercised within eighteen months after the date of termination of Service.

(h) Director Fees. Each Non-Employee Director may elect to receive a Stock Grant or Stock Unit under the Plan in lieu of payment of a portion of his or her regular annual retainer, additional retainer paid in connection with service on any committee of the Board, or other cash fees based on the Fair Market Value of the Shares on the date any such retainers or cash fees would otherwise be paid. Such an election may be for any dollar or percentage amount specified by the Company (up to a limit of 100% of the Non-Employee Director's retainers or cash fees). The election must be made prior to the beginning of the annual board of directors cycle which shall be any twelve month continuous period designated by the Board. Any amount of the retainers or cash fees that is not elected to be received as a Stock Grant or Stock Unit shall be payable in cash in accordance with the Company's standard payment procedures. Shares granted under this Section 4(h) shall otherwise be subject to the terms of the Plan applicable to Non-Employee Directors or to Participants generally (other than provisions specifically applying only to Employees).

(i) Dividends and Dividend Equivalents. No dividends may be paid to a Participant with respect to an Award prior to the vesting of such Award. An Award other than Option or SAR may provide for dividends or dividend equivalents to accrue on behalf of a Participant as of each dividend payment date during the period between the date the Award is granted and the date the Award is exercised, vested, expired, credited or paid, and to be converted to vested cash or Shares at the same time and in all events subject to the same restrictions and risk of forfeiture to the same extent as the Award with respect to which such dividend or dividend equivalents have been credited and shall not be paid until and unless the underlying Award vests. For the avoidance of doubt, no dividend or dividend equivalent rights shall be granted with respect to Options or SARs.

SECTION 5. SHARES SUBJECT TO PLAN AND SHARE LIMITS.

(a) Basic Limitations. The stock issuable under the Plan shall be authorized but unissued Shares. The aggregate number of Shares reserved for Awards under the Plan shall not exceed 789,975,000 Shares, subject to adjustment pursuant to Section 11. Shares issued as Stock Grants, pursuant to Stock Units or pursuant to the settlement of dividend equivalents will count against the Shares available for issuance under the Plan as 1.5 Shares for every 1 Share issued in connection with the Award or dividend equivalent.

(b) Additional Shares. If Awards are forfeited or are terminated for any other reason before being exercised or settled, then the Shares underlying such Awards, plus the number of additional Shares, if any,

that counted against Shares available for issuance under the Plan in respect thereof at the time of Grant, shall again become available for Awards under the Plan. If a Previous Plan Award is forfeited or is terminated for any other reason before being exercised or settled, then the Shares underlying such Previous Plan Award shall again become available for Awards under this Plan. SARs shall be counted in full against the number of Shares available for issuance under the Plan, regardless of the number of Shares issued upon settlement of the SARs. In the event that withholding tax liabilities arising from an Award other than an Option or SAR are satisfied by the withholding of Shares by the Company, then the Shares so withheld, plus the number of additional Shares, if any, that counted against Shares available for issuance under the Plan in respect thereof at the time of Grant, shall again become available for Awards under the Plan. In the event that withholding tax liabilities arising from an Option or SAR are satisfied by the withholding of Shares by the Company, then the Shares so withheld shall not be added to the Shares available for Awards under the Plan. In addition, Shares that are exchanged by a Participant or withheld by the Company as full or partial payment in connection with the exercise or settlement of an Option or SAR shall not be available for subsequent Awards under the Plan and Shares repurchased on the open market with the proceeds of an Option exercise shall not again be made available for issuance under the Plan.

(c) Dividend Equivalents. Any dividend equivalents settled in Shares under the Plan shall be applied against the number of Shares available for Awards.

(d) Share Limits.

(i) **Limits on Options**. Subject to adjustment pursuant to Section 11, no Key Employee shall receive Options to purchase Shares during any Fiscal Year covering in excess of 5,000,000 Shares and the aggregate maximum number of Shares that may be issued in connection with ISOs shall be 789,975,000 Shares.

(ii) **Limits on SARs**. Subject to adjustment pursuant to Section 11, no Key Employee shall receive Awards of SARs during any Fiscal Year covering in excess of 5,000,000 Shares and the aggregate maximum number of Shares that may be issued in connection with SARs shall be 789,975,000 Shares.

(iii) **Limits on Stock Grants and Stock Units**. Subject to adjustment pursuant to Section 11, no Key Employee shall receive Stock Grants or Stock Units during any Fiscal Year covering, in the aggregate, in excess of 5,000,000 Shares.

(iv) **Limits on Awards to Non-Employee Directors**. Notwithstanding any other provision of the Plan to the contrary, the maximum value of Awards granted under the Plan during a Fiscal Year to a Non-Employee Director for services on the Board, taken together with any cash fees paid by the Company to such Non-Employee Director during such Fiscal Year for services on the Board, shall not exceed $800,000 in total value (calculating the value of any such Awards based on the grant date fair value of such Awards under applicable financial accounting standards), including for this purpose the value of any Awards that are received in lieu of payment of all or a portion of his or her regular annual retainer, additional retainer paid in connection with service on any committee of the Board, or other cash fees (such as Awards received pursuant to an election under Section 4(h)). For the avoidance of doubt, neither Awards granted or compensation paid to a Non-Employee Director for services as an Employee or Consultant nor any amounts paid to a Non-Employee Director as a reimbursement of an expense shall count against the foregoing limitation.

SECTION 6. TERMS AND CONDITIONS OF OPTIONS.

(a) Stock Option Agreement. Each Grant of an Option under the Plan shall be evidenced and governed exclusively by a Stock Option Agreement between the Optionee and the Company. Such Option shall be subject to all applicable terms and conditions of the Plan and may be subject to any other terms and conditions that are not inconsistent with the Plan and that the Committee deems appropriate for inclusion in a Stock Option Agreement (including without limitation any performance conditions). The provisions of the various Stock Option Agreements entered into under the Plan need not be identical. The Stock Option Agreement shall also specify whether the Option is an ISO or an NSO.

(b) Number of Shares. Each Stock Option Agreement shall specify the number of Shares that are subject to the Option and shall be subject to adjustment of such number in accordance with Section 11.

(c) Exercise Price. An Option's Exercise Price shall be established by the Committee and set forth in a Stock Option Agreement. The Exercise Price of an Option shall not be less than 100% of the Fair Market Value (110% for ISO grants to 10-Percent Shareholders) on the date of Grant.

(d) Exercisability and Term. Each Stock Option Agreement shall specify the date when all or any installment of the Option is to become exercisable. The Stock Option Agreement shall also specify the term of the Option; provided that the term of an Option shall in no event exceed ten years from the date of Grant. Unless the applicable Stock Option Agreement provides otherwise, each Option shall vest and become exercisable with respect to 20% of the Shares subject to the Option upon completion of one year of Service measured from the vesting commencement date, the balance of the Shares subject to the Option shall vest and become exercisable in forty-eight equal installments upon completion of each month of Service thereafter, and the term of the Option shall be ten years from the date of Grant. A Stock Option Agreement may provide for accelerated vesting in the event of the Participant's death, Disability, or other events. Notwithstanding any other provision of the Plan, no Option can be exercised after the expiration date provided in the applicable Stock Option Agreement and no Option may provide that, upon exercise of the Option, a new Option will automatically be granted.

(e) Modifications or Assumption of Options. Within the limitations of the Plan, the Committee may modify, extend or assume outstanding options or may accept the cancellation of outstanding options (whether granted by the Company or by another issuer) in return for the grant of new Options for the same or a different number of Shares, at the same or a different Exercise Price, and with the same or different vesting provisions. Notwithstanding the preceding sentence or anything to the contrary herein, the Committee may not Re-Price outstanding Options unless there is approval by the Company shareholders and, unless a modification is necessary or desirable to comply with any applicable law, regulation or rule, such modification of an Option shall not, without the consent of the Optionee, impair his or her rights or obligations under such Option.

(f) Assignment or Transfer of Options. Except as otherwise provided in the applicable Stock Option Agreement and then only to the extent permitted by applicable law, no Option shall be transferable by the Optionee other than by will or by the laws of descent and distribution. For the avoidance of doubt, in no event may an Option be transferred for value and any Option transferred in accordance with a Stock Option Agreement, if permitted, shall continue to be subject to the same terms and conditions as were applicable to the Option immediately before the transfer. Except as otherwise provided in the applicable Stock Option Agreement, an Option may be exercised during the lifetime of the Optionee only by the Optionee or by the guardian or legal representative of the Optionee. No Option or interest therein may be assigned, pledged or hypothecated by the Optionee during his or her lifetime, whether by operation of law or otherwise, or be made subject to execution, attachment or similar process.

SECTION 7. PAYMENT FOR OPTION SHARES**.**

The entire Exercise Price of Shares issued upon exercise of Options shall be payable in cash at the time when such Shares are purchased, except as follows and if so provided for in an applicable Stock Option Agreement:

(i) Surrender of Stock. Payment for all or any part of the Exercise Price or Options may be made with Shares which have already been owned by the Optionee; provided that the Committee may, in its sole discretion, require that Shares tendered for payment be previously held by the Optionee for a minimum duration. Such Shares shall be valued at their Fair Market Value.

(ii) Cashless Exercise. Payment for all or any part of the Exercise Price may be made through Cashless Exercise at the Committee's sole discretion.

(iii) Other Forms of Payment. Payment for all or any part of the Exercise Price may be made in any other form that is consistent with applicable laws, regulations and rules and approved by the Committee.

In the case of an ISO granted under the Plan, payment shall be made only pursuant to the express provisions of the applicable Stock Option Agreement. The Stock Option Agreement may specify that payment may be made in any form(s) described in this

Section 7. In the case of an NSO granted under the Plan, the Committee may, in its discretion at any time, accept payment in any form(s) described in this Section 7.

SECTION 8. TERMS AND CONDITIONS OF STOCK APPRECIATION RIGHTS.

(a) SAR Agreement. Each Grant of a SAR under the Plan shall be evidenced and governed exclusively by a SAR Agreement between the Participant and the Company. Such SAR shall be subject to all applicable terms and conditions of the Plan and may be subject to any other terms and conditions that are not inconsistent with the Plan and that the Committee deems appropriate for inclusion in a SAR Agreement (including without limitation any performance conditions). A SAR Agreement may provide for a maximum limit on the amount of any payout notwithstanding the Fair Market Value on the date of exercise of the SAR. The provisions of the various SAR Agreements entered into under the Plan need not be identical. SARs may be granted in consideration of a reduction in the Participant's compensation.

(b) Number of Shares. Each SAR Agreement shall specify the number of Shares to which the SAR pertains and shall be subject to adjustment of such number in accordance with Section 11.

(c) Exercise Price. Each SAR Agreement shall specify the Exercise Price which shall be established by the Committee. The Exercise Price of a SAR shall not be less than 100% of the Fair Market Value on the date of Grant.

(d) Exercisability and Term. Each SAR Agreement shall specify the date when all or any installment of the SAR is to become exercisable. The SAR Agreement shall also specify the term of the SAR which shall not exceed ten years from the date of Grant. Unless the applicable SAR Agreement provides otherwise, each SAR shall vest and become exercisable with respect to 20% of the Shares subject to the SAR upon completion of one year of Service measured from the vesting commencement date, the balance of the Shares subject to the SAR shall vest and become exercisable in forty-eight equal installments upon completion of each month of Service thereafter, and the term of the SAR shall be ten years from the date of Grant. A SAR Agreement may provide for accelerated vesting in the event of the Participant's death, Disability, or other events. SARs may be awarded in combination with Options or Stock Grants, and such an Award shall provide that the SARs will not be exercisable unless the related Options or Stock Grants are forfeited. A SAR may be included in an ISO only at the time of Grant but may be included in an NSO at the time of Grant or at any subsequent time, but not later than six months before the expiration of such NSO. No SAR may provide that, upon exercise of the SAR, a new SAR will automatically be granted.

(e) Exercise of SARs. If, on the date when a SAR expires, the Exercise Price under such SAR is less than the Fair Market Value on such date but any portion of such SAR has not been exercised or surrendered, then such SAR shall automatically be deemed to be exercised as of such date with respect to such portion. Upon exercise of a SAR, the Participant (or any person having the right to exercise the SAR) shall receive from the Company (i) Shares, (ii) cash or (iii) any combination of Shares and cash, as the Committee shall determine at the time of Grant of the SAR, in its sole discretion. The amount of cash and/or the Fair Market Value of Shares received upon exercise of SARs shall, in the aggregate, be equal to the amount by which the Fair Market Value (on the date of exercise) of the Shares subject to the SARs exceeds the Exercise Price of those Shares.

(f) Modification or Assumption of SARs. Within the limitations of the Plan, the Committee may modify, extend or assume outstanding stock appreciation rights or may accept the cancellation of outstanding stock appreciation rights (including stock appreciation rights granted by another issuer) in return for the grant of new SARs for the same or a different number of Shares, at the same or a different Exercise Price, and with the same or different vesting provisions. Notwithstanding the preceding sentence or anything to the contrary herein, the Committee may not Re-Price outstanding SARs unless there is approval by the Company shareholders and, unless a modification is necessary or desirable to comply with any applicable law, regulation or rule, such modification of a SAR shall not**,** without the consent of the Participant, impair his or her rights or obligations under such SAR.

(g) Assignment or Transfer of SARs. Except as otherwise provided in the applicable SAR Agreement and then only to the extent permitted by applicable law, no SAR shall be transferable by the Participant other than by will or by the laws of descent and distribution. For the avoidance of doubt, in no event may a SAR be transferred for value and any SAR transferred in accordance with a SAR Agreement, if permitted, shall continue to be subject to the same terms and conditions as were applicable to the SAR immediately before the transfer. Except as otherwise provided in the applicable SAR Agreement, a SAR may be exercised during the lifetime of the Participant only by the Participant or by the guardian or legal representative of the Participant. No SAR or interest therein may be assigned, pledged or hypothecated by the Participant during

his or her lifetime, whether by operation of law or otherwise, or be made subject to execution, attachment or similar process.

SECTION 9. TERMS AND CONDITIONS FOR STOCK GRANTS.

(a) Amount and Form of Awards. Awards under this Section 9 may be granted in the form of a Stock Grant. Each Stock Grant Agreement shall specify the number of Shares to which the Stock Grant pertains and shall be subject to adjustment of such number in accordance with Section 11. A Stock Grant may also be awarded in combination with NSOs, and such an Award may provide that the Stock Grant will be forfeited in the event that the related NSOs are exercised.

(b) Stock Grant Agreement. Each Stock Grant awarded under the Plan shall be evidenced and governed exclusively by a Stock Grant Agreement between the Participant and the Company. Each Stock Grant shall be subject to all applicable terms and conditions of the Plan and may be subject to any other terms and conditions that are not inconsistent with the Plan and that the Committee deems appropriate for inclusion in the applicable Stock Grant Agreement (including without limitation any performance conditions). The provisions of the various Stock Grant Agreements entered into under the Plan need not be identical.

(c) Payment for Stock Grants. Stock Grants may be issued with or without cash consideration or any other form of legally permissible consideration approved by the Committee.

(d) Vesting Conditions. Each Stock Grant may or may not be subject to vesting. Any such vesting provision may provide that Shares shall vest based on Service over time or shall vest, in full or in installments, upon satisfaction of performance conditions specified in the Stock Grant Agreement which may include Performance Goals pursuant to Section 4(e). Unless the applicable Stock Grant Agreement provides otherwise, each Stock Grant shall vest with respect to 20% of the Shares subject to the Stock Grant upon completion of each year of Service on each of the first through fifth annual anniversaries of the vesting commencement date. A Stock Grant Agreement may provide for accelerated vesting in the event of the Participant's death, Disability, or other events.

(e) Assignment or Transfer of Stock Grants. Except as provided in the applicable Stock Grant Agreement, and then only to the extent permitted by applicable law, a Stock Grant awarded under the Plan shall not be anticipated, assigned, attached, garnished, optioned, transferred or made subject to any creditor's process, whether voluntarily, involuntarily or by operation of law. Any act in violation of this Section 9(e) shall be void. However, this Section 9(e) shall not preclude a Participant from designating a beneficiary who will receive any vested outstanding Stock Grant Awards in the event of the Participant's death, nor shall it preclude a transfer of vested Stock Grant Awards by will or by the laws of descent and distribution.

(f) Voting and Dividend Rights. Subject to Section 4(i), the holder of a Stock Grant awarded under the Plan shall have the same voting, dividend and other rights as the Company's other shareholders, except that in the case of any unvested Shares that are subject to the Stock Grant, the holder shall not be entitled to any dividends and other distributions paid or distributed by the Company on the equivalent number of vested Shares. Notwithstanding the foregoing, at the Committee's discretion, the holder of unvested Shares may be credited with such dividends and other distributions, provided that such dividends and other distributions shall be paid or distributed to the Participant only if, when and to the extent such Shares vest. The value of dividends and other distributions payable or distributable with respect to any Shares that do not vest shall be forfeited. For the avoidance of doubt, other than with respect to the right to receive dividends and other distributions, the holders of unvested Shares shall have the same voting rights and other rights as the Company's other shareholders in respect of such unvested Shares.

(g) Modification or Assumption of Stock Grants. Within the limitations of the Plan, the Committee may modify or assume outstanding stock grants or may accept the cancellation of outstanding stock grants (including stock granted by another issuer) in return for the grant of new Stock Grants for the same or a different number of Shares and with the same or different vesting provisions. Notwithstanding the preceding sentence or anything to the contrary herein, the Committee may not modify an outstanding Stock Grant such that the modification shall, without the consent of the Participant, impair his or her rights or obligations under such Stock Grant, unless such modification is necessary or desirable to comply with any applicable law, regulation or rule.

SECTION 10. TERMS AND CONDITIONS OF STOCK UNITS.

(a) Stock Unit Agreement. Each grant of Stock Units under the Plan shall be evidenced and governed exclusively by a Stock Unit Agreement between the Participant and the Company. Such Stock Units shall be subject to all applicable terms and conditions of the Plan and may be subject to any other terms and conditions that are not inconsistent with the Plan and that the Committee deems appropriate for inclusion in the applicable Stock Unit Agreement (including without limitation any performance conditions). The provisions of the various Stock Unit Agreements entered into under the Plan need not be identical. Stock Units may be granted in consideration of a reduction in the Participant's other compensation.

(b) Number of Shares. Each Stock Unit Agreement shall specify the number of Shares to which the Stock Unit Grant pertains and shall be subject to adjustment of such number in accordance with Section 11.

(c) Payment for Stock Units. Stock Units shall be issued without consideration.

(d) Vesting Conditions. Each Award of Stock Units may or may not be subject to vesting. Any such vesting provision may provide that Shares shall vest based on Service over time or shall vest, in full or in installments, upon satisfaction of performance conditions specified in the Stock Unit Agreement which may include Performance Goals pursuant to Section 4(e). Unless the applicable Stock Unit Agreement provides otherwise, each Stock Unit shall vest with respect to 20% of the Shares subject to the Stock Unit upon completion of each year of Service on each of the first through fifth annual anniversaries of the vesting commencement date. A Stock Unit Agreement may provide for accelerated vesting in the event of the Participant's death, Disability, or other events.

(e) Voting and Dividend Rights. The holders of Stock Units shall have no voting rights. Prior to settlement or forfeiture, any Stock Unit awarded under the Plan may, at the Committee's discretion and subject to Section 4(i), carry with it a right to dividend equivalents. Such right entitles the holder to be credited with an amount equal to all dividends and other distributions (whether in cash or other property) paid on one Share while the Stock Unit is outstanding. Dividend equivalents may be converted into additional Stock Units. Settlement of dividend equivalents may be made in the form of cash, in the form of Shares, or in a combination of both. Dividend equivalents shall not be distributed prior to settlement of the Stock Unit to which the dividend equivalents pertain. Prior to distribution, any dividend equivalents shall be subject to the same conditions and restrictions (including, without limitation, any forfeiture conditions) as the Stock Units to which they attach. The value of dividend equivalents payable or distributable with respect to Stock Units that do not vest shall be forfeited.

(f) Form and Time of Settlement of Stock Units. Settlement of vested Stock Units may be made in the form of (a) cash, (b) Shares or (c) any combination of both, as determined by the Committee at the time of the grant of the Stock Units, in its sole discretion. Methods of converting Stock Units into cash may include (without limitation) a method based on the average Fair Market Value of Shares over a series of trading days. Vested Stock Units may be settled in a lump sum or in installments. The distribution may occur or commence when the vesting conditions applicable to the Stock Units have been satisfied or have lapsed, or it may be deferred, in accordance with applicable law, to any later date. The amount of a deferred distribution may be increased by an interest factor or by dividend equivalents. Until an Award of Stock Units is settled, the number of such Stock Units shall be subject to adjustment pursuant to Section 11.

(g) Creditors' Rights. A holder of Stock Units shall have no rights other than those of a general creditor of the Company. Stock Units represent an unfunded and unsecured obligation of the Company, subject to the terms and conditions of the applicable Stock Unit Agreement.

(h) Modification or Assumption of Stock Units. Within the limitations of the Plan, the Committee may modify or assume outstanding stock units or may accept the cancellation of outstanding stock units (including stock units granted by another issuer) in return for the grant of new Stock Units for the same or a different number of Shares and with the same or different vesting provisions. Notwithstanding the preceding sentence or anything to the contrary herein, the Committee may not modify an outstanding Stock Unit such that the modification shall, without the consent of the Participant, impair his or her rights or obligations under such Stock Unit, unless such modification is necessary or desirable to comply with any applicable law, regulation or rule.

(i) Assignment or Transfer of Stock Units. Except as provided in the applicable Stock Unit Agreement, and then only to the extent permitted by applicable law, Stock Units shall not be anticipated, assigned,

attached, garnished, optioned, transferred or made subject to any creditor's process, whether voluntarily, involuntarily or by operation of law. Any act in violation of this Section 10(i) shall be void. However, this Section 10(i) shall not preclude a Participant from designating a beneficiary who will receive any outstanding vested Stock Units in the event of the Participant's death, nor shall it preclude a transfer of vested Stock Units by will or by the laws of descent and distribution.

SECTION 11. PROTECTION AGAINST DILUTION.

(a) Adjustments. In the event of a subdivision of the outstanding Shares, a declaration of a dividend payable in Shares, a declaration of a dividend payable in a form other than Shares in an amount that has a material effect on the price of Shares, a combination or consolidation of the outstanding Shares (by reclassification or otherwise) into a lesser number of Shares, a recapitalization, a spin-off or a similar occurrence, the Committee shall make appropriate adjustments to the following:

(i) the number of Shares and the kind of shares or securities available for future Awards under Section 5;

(ii) the limits on Awards specified in Section 5;

(iii) the number of Shares and the kind of shares or securities covered by each outstanding Award; or

(iv) the Exercise Price under each outstanding SAR or Option.

(b) Participant Rights. Except as provided in this Section 11, a Participant shall have no rights by reason of any issue by the Company of stock of any class or securities convertible into stock of any class, any subdivision or consolidation of shares of stock of any class, the payment of any stock dividend or any other increase or decrease in the number of shares of stock of any class. If by reason of an adjustment pursuant to this Section 11 a Participant's Award covers additional or different shares of stock or securities, then such additional or different shares and the Award in respect thereof shall be subject to all of the terms, conditions and restrictions which were applicable to the Award and the Shares subject to the Award prior to such adjustment.

(c) Fractional Shares. Any adjustment of Shares pursuant to this Section 11 shall be rounded down to the nearest whole number of Shares. Under no circumstances shall the Company be required to authorize or issue fractional shares and no consideration shall be provided as a result of any fractional shares not being issued or authorized.

SECTION 12. EFFECT OF A CORPORATE TRANSACTION.

(a) Corporate Transaction. In the event that the Company is a party to a Corporate Transaction, outstanding Awards shall be subject to the applicable agreement of merger, reorganization, or sale of assets. Such agreement may provide, without limitation, for the assumption or substitution of outstanding Options, SARs, or Stock Units by the surviving corporation or its parent, for the assumption of outstanding Stock Grant Agreements by the surviving corporation or its parent, for the replacement of outstanding Options, SARs, and Stock Units with a cash incentive program of the surviving corporation which preserves the spread existing on the unvested portions of such outstanding Awards at the time of the transaction and provides for subsequent payout in accordance with the same vesting provisions applicable to those Awards, for accelerated vesting of outstanding Awards, or for the cancellation of outstanding Options, SARs, and Stock Units, with or without consideration, in all cases without the consent of the Participant.

(b) Acceleration. The Committee may determine, at the time of grant of an Award or thereafter, that such Award shall become fully vested as to all Shares subject to such Award in the event that a Corporate Transaction or a Change in Control occurs. Unless otherwise provided in the applicable Award agreement, in the event that a Corporate Transaction occurs and any outstanding Options, SARs or Stock Units are not assumed, substituted, or replaced with a cash incentive program pursuant to Section 12(a) or any outstanding Stock Grant Agreements are not assumed pursuant to Section 12(a), then such Awards shall fully vest and be fully exercisable immediately prior to such Corporate Transaction. Immediately following the consummation of a Corporate Transaction, all outstanding Options, SARs and Stock Units shall terminate and cease to be outstanding, except to the extent that they are assumed by the surviving corporation or its parent.

(c) Dissolution. To the extent not previously exercised or settled, Options, SARs and Stock Units shall terminate immediately prior to the dissolution or liquidation of the Company.

SECTION 13. LIMITATIONS ON RIGHTS.

(a) No Entitlements. A Participant's rights, if any, in respect of or in connection with any Award is derived solely from the discretionary decision of the Company to permit the individual to participate in the Plan and to benefit from a discretionary Award. By accepting an Award under the Plan, a Participant expressly acknowledges that there is no obligation on the part of the Company to continue the Plan and/or grant any additional Awards. Any Award granted hereunder is not intended to be compensation of a continuing or recurring nature, or part of a Participant's normal or expected compensation, and in no way represents any portion of a Participant's salary, compensation, or other remuneration for purposes of pension benefits, severance, redundancy, resignation or any other purpose.

Neither the Plan nor any Award granted under the Plan shall be deemed to give any individual a right to remain an employee, consultant or director of the Company, a Parent, a Subsidiary or an Affiliate. The Company and its Parents and Subsidiaries and Affiliates reserve the right to terminate the Service of any person at any time, and for any reason, subject to applicable laws, the Company's Articles of Incorporation and Bylaws and a written employment agreement (if any), and such terminated person shall be deemed irrevocably to have waived any claim to damages or specific performance for breach of contract or dismissal, compensation for loss of office, tort or otherwise with respect to the Plan or any outstanding Award that is forfeited and/or is terminated by its terms or to any future Award.

(b) Shareholders' Rights. A Participant shall have no dividend rights, voting rights or other rights as a shareholder with respect to any Shares covered by his or her Award prior to the issuance of such Shares (as evidenced by an appropriate entry on the books of the Company or a duly authorized transfer agent of the Company). No adjustment shall be made for cash dividends or other rights for which the record date is prior to the date when such Shares are issued, except as expressly provided in Section 11.

(c) Regulatory Requirements. Any other provision of the Plan notwithstanding, the obligation of the Company to issue Shares or other securities under the Plan shall be subject to all applicable laws, rules and regulations and such approval by any regulatory body as may be required. The Company reserves the right to restrict, in whole or in part, the delivery of Shares or other securities pursuant to any Award prior to the satisfaction of all legal requirements relating to the issuance of such Shares or other securities, to their registration, qualification or listing or to an exemption from registration, qualification or listing.

SECTION 14. WITHHOLDING TAXES.

(a) General. A Participant shall make arrangements satisfactory to the Company for the satisfaction of any withholding tax obligations that arise in connection with his or her Award. The Company shall not be required to issue any Shares or make any cash payment under the Plan until such obligations are satisfied.

(b) Share Withholding. If a public market for the Company's Shares exists, the Committee may permit a Participant to satisfy all or part of his or her withholding or income tax obligations by having the Company withhold all or a portion of any Shares that otherwise would be issued to him or her or by surrendering or attesting to all or a portion of any Shares that he or she previously acquired. Such Shares shall be valued based on the value of the actual trade or, if there is none, the Fair Market Value as of the previous day. Any payment of taxes by assigning Shares to the Company may be subject to restrictions, including, but not limited to, any restrictions required by rules of the SEC. The Committee may, in its discretion, also permit a Participant to satisfy withholding or income tax obligations related to an Award through Cashless Exercise or through a sale of Shares underlying the Award.

SECTION 15. DURATION AND AMENDMENTS.

(a) Term of the Plan. To the extent the Board approves an amendment to the Plan that requires shareholder approval, the amendment to the Plan shall become effective upon its approval by Company shareholders. The Plan shall terminate at the Company's 2030 Annual Meeting of Shareholders and may be terminated on any earlier date pursuant to this Section 15.

(b) Right to Amend or Terminate the Plan. The Board may amend or terminate the Plan at any time and for any reason. The termination of the Plan, or any amendment thereof, shall not impair the rights or obligations of any Participant under any Award previously granted under the Plan without the Participant's consent, unless such modification is necessary or desirable to comply with any applicable law, regulation or rule. No Awards shall be granted under the Plan after the Plan's termination. An amendment of the Plan shall be subject to the approval of the Company's shareholders only to the extent such approval is otherwise required by applicable laws, regulations or rules.

CISCO SYSTEMS, INC.
C/O PROXY SERVICES
P.O. BOX 9142
FARMINGDALE, NY 11735

VOTE BY INTERNET
Before The Meeting - Go to **www.proxyvote.com**

Use the Internet to transmit your voting instructions and for electronic delivery of information up until 11:59 P.M. Eastern Time the day before the cut-off date or meeting date. Have your proxy card in hand when you access the web site and follow the instructions to obtain your records and to create an electronic voting instruction form.

During The Meeting - Go to **www.virtualshareholdermeeting.com/CSCO2020**

You may attend the meeting via the Internet and vote during the meeting. Have the information that is printed in the box marked by the arrow available and follow the instructions.

VOTE BY PHONE - 1-800-690-6903
Use any touch-tone telephone to transmit your voting instructions up until 11:59 P.M. Eastern Time the day before the cut-off date or meeting date. Have your proxy card in hand when you call and then follow the instructions.

VOTE BY MAIL
Mark, sign and date your proxy card and return it in the postage-paid envelope we have provided or return it to Vote Processing, c/o Broadridge, 51 Mercedes Way, Edgewood, NY 11717.

TO VOTE, MARK BLOCKS BELOW IN BLUE OR BLACK INK AS FOLLOWS:

D25173-P45526

KEEP THIS PORTION FOR YOUR RECORDS
DETACH AND RETURN THIS PORTION ONLY

THIS PROXY CARD IS VALID ONLY WHEN SIGNED AND DATED.

CISCO SYSTEMS, INC.

The Board of Directors recommends you vote FOR Proposals 1, 2, 3, 4 and 5:

1. Election of Directors

Nominees:		For	Against	Abstain
1a.	M. Michele Burns	☐	☐	☐
1b.	Wesley G. Bush	☐	☐	☐
1c.	Michael D. Capellas	☐	☐	☐
1d.	Mark Garrett	☐	☐	☐
1e.	Dr. Kristina M. Johnson	☐	☐	☐
1f.	Roderick C. McGeary	☐	☐	☐
1g.	Charles H. Robbins	☐	☐	☐
1h.	Arun Sarin	☐	☐	☐
1i.	Brenton L. Saunders	☐	☐	☐
1j.	Dr. Lisa T. Su	☐	☐	☐

		For	Against	Abstain
2.	Approval of the reincorporation of Cisco from California to Delaware.	☐	☐	☐
3.	Approval of amendment and restatement of the 2005 Stock Incentive Plan.	☐	☐	☐
4.	Approval, on an advisory basis, of executive compensation.	☐	☐	☐
5.	Ratification of PricewaterhouseCoopers LLP as Cisco's independent registered public accounting firm for fiscal 2021.	☐	☐	☐

The Board of Directors recommends you vote AGAINST Proposal 6 submitted by a shareholder:

6.	Approval to have Cisco's Board adopt a policy to have an independent Board chairman.	☐	☐	☐

To act upon such other matters as may properly come before the annual meeting or any adjournment or postponement thereof.

NOTE: Please sign as name appears hereon. Joint owners should each sign. When signing as attorney, executor, administrator, trustee or guardian, please give full title as such.

Signature [PLEASE SIGN WITHIN BOX] Date

Signature (Joint Owners) Date

Important Notice Regarding the Availability of Proxy Materials for the Annual Meeting:
The Notice and Proxy Statement and Annual Report are available at www.proxyvote.com.

D25174-P45526

CISCO

PROXY FOR ANNUAL MEETING OF SHAREHOLDERS TO BE HELD ON DECEMBER 10, 2020

THIS PROXY IS SOLICITED ON BEHALF OF THE BOARD OF DIRECTORS

The undersigned revokes all previous proxies, acknowledges receipt of the notice of the shareholders' annual meeting to be held December 10, 2020 and the proxy statement, and appoints Charles H. Robbins and Evan Sloves or either of them the proxy of the undersigned, with full power of substitution, to vote all shares of Common Stock of Cisco Systems, Inc. that the undersigned is entitled to vote, either on his or her own behalf or on behalf of an entity or entities, at the Annual Meeting of Shareholders of Cisco to be held on December 10, 2020 at 8:00 a.m. Pacific Time, and at any adjournment or postponement thereof, with the same force and effect as the undersigned might or could do if personally present thereat.

THIS PROXY, WHEN PROPERLY EXECUTED AND RETURNED IN A TIMELY MANNER, WILL BE VOTED AS SPECIFIED. IF NO CHOICE IS SPECIFIED, THEN THIS PROXY WILL BE VOTED FOR THE ELECTION OF THE TEN NOMINEES NOTED HEREON TO THE BOARD OF DIRECTORS, FOR PROPOSALS 2, 3, 4 AND 5, AND AGAINST PROPOSAL 6. IN THEIR DISCRETION, THE PROXIES ARE AUTHORIZED TO VOTE UPON SUCH OTHER BUSINESS AS MAY PROPERLY COME BEFORE THE MEETING OR ANY POSTPONEMENT OR ADJOURNMENT THEREOF.

PLEASE MARK, SIGN, DATE AND RETURN THIS PROXY CARD PROMPTLY USING THE ENCLOSED REPLY ENVELOPE

Continued and to be signed on reverse side

AGENDA SUMMARY PAGE
City Council
Meeting of: December 2, 2020

Agenda Item No.:
14

DEPARTMENT: Planning **CONSENT**
DIRECTOR: Robert Summerfield

SUBJECT:
For possible action to approve an Adult-Use Cannabis Distributor License for SERENITY WELLNESS PRODUCTS, LLC dba SERENITY WELLNESS PRODUCTS, LLC at 203 East Mayflower Avenue - North Las Vegas, Nevada

FISCAL IMPACT:
None

PURPOSE/BACKGROUND:
For possible action to approve an Adult-Use Cannabis Distributor License.

RECOMMENDATION:
Staff recommends APPROVAL, subject to the following condition:

1. If product is not able to be delivered same day, the product must be stored at a state licensed marijuana establishment.

BACKUP DOCUMENTATION:
1. Ownership
2. Location Map

City of Las Vegas

AGENDA MEMO

CITY COUNCIL MEETING DATE: DECEMBER 2, 2020
DEPARTMENT: PLANNING
ITEM DESCRIPTION: For possible action to approve an Adult-Use Cannabis Distributor License for SERENITY WELLNESS PRODUCTS, LLC dba SERENITY WELLNESS PRODUCTS, LLC at 203 East Mayflower Avenue - North Las Vegas, Nevada

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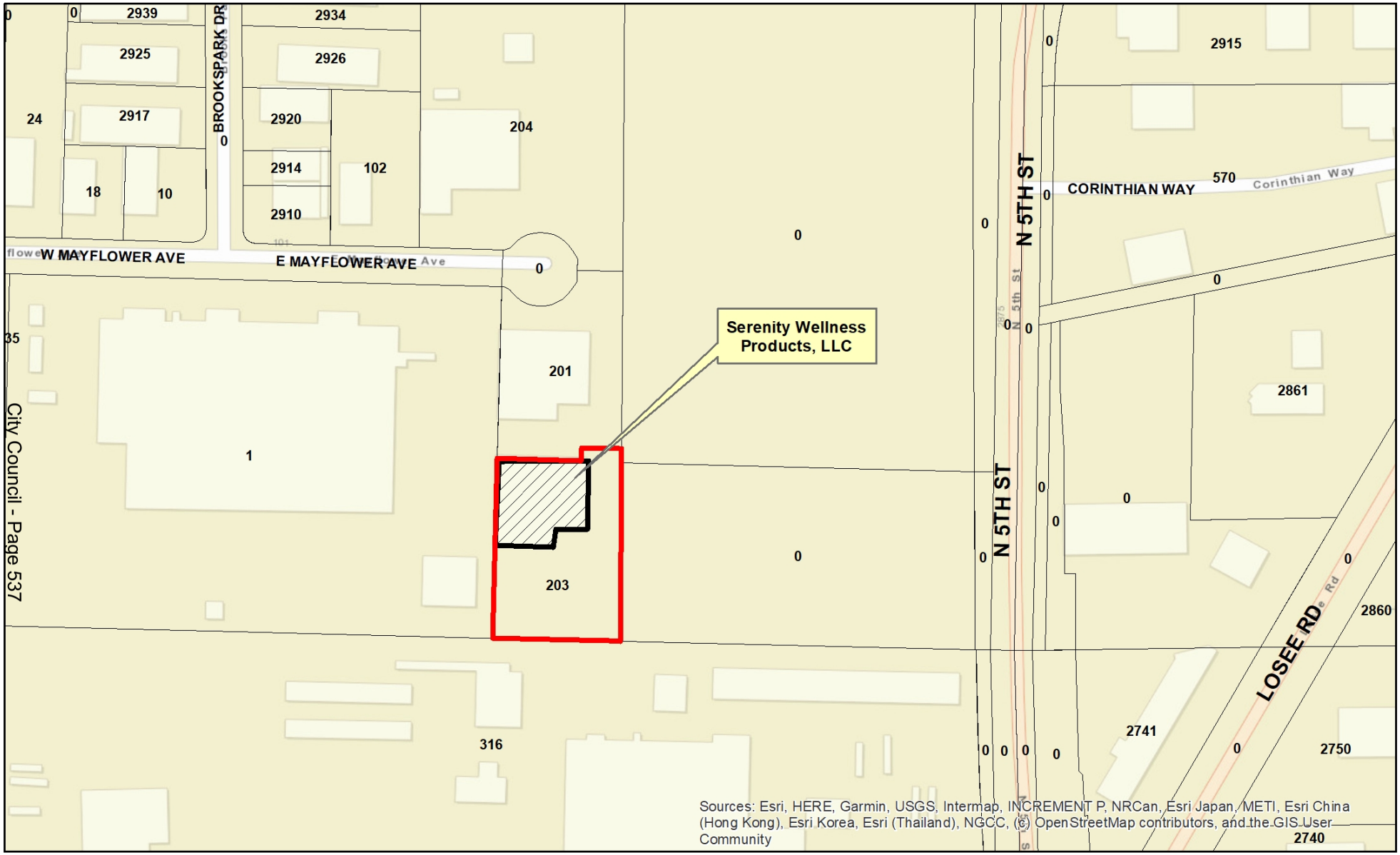
OWNERSHIP:

SERENITY WELLNESS PRODUCTS, LLC
CLS Holdings USA, Inc., Managing Member
Jeffrey Binder, Chief Executive Officer, Director, Shareholder
Frank Koretsky, Director, Shareholder
Andrew Glashow, President, Chief Operating Officer, Director



Serenity Wellness Products, LLC

203 East Mayflower Avenue

(North Las Vegas, Nevada)

Freeways
Subject Property
City Limits
Site Location

N

GIS maps are normally produced only to meet the needs of the City. Due to continuous development activity this map is for reference only.
Geographic Information System
Planning & Development Dept.
702-229-6301

Date: Wednesday, October 21, 2020

AGENDA SUMMARY PAGE

City Council
Meeting of: December 2, 2020

Agenda Item No.:
15

DEPARTMENT: Planning **CONSENT**
DIRECTOR: Robert Summerfield

SUBJECT:
For possible action to approve a Liquor Manufacturer License for LOST SPIRITS DISTILLERY, INC. dba LOST SPIRITS DISTILLERY at 3202 West Desert Inn Road - Ward 1 (Knudsen)

FISCAL IMPACT:
None

PURPOSE/BACKGROUND:
For possible action to approve a Liquor Manufacturer License.

RECOMMENDATION:
Staff recommends APPROVAL, subject to City of Las Vegas Fire Department, City of Las Vegas Building and Safety Department, Southern Nevada Health District, and Nevada Department of Taxation approvals.

BACKUP DOCUMENTATION:
1. Ownership
2. Location Map

City of Las Vegas

AGENDA MEMO

CITY COUNCIL MEETING DATE: DECEMBER 2, 2020
DEPARTMENT: PLANNING
ITEM DESCRIPTION: For possible action to approve a Liquor Manufacturer License for LOST SPIRITS DISTILLERY, INC. dba LOST SPIRITS DISTILLERY at 3202 West Desert Inn Road - Ward 1 (Knudsen)

OWNERSHIP:

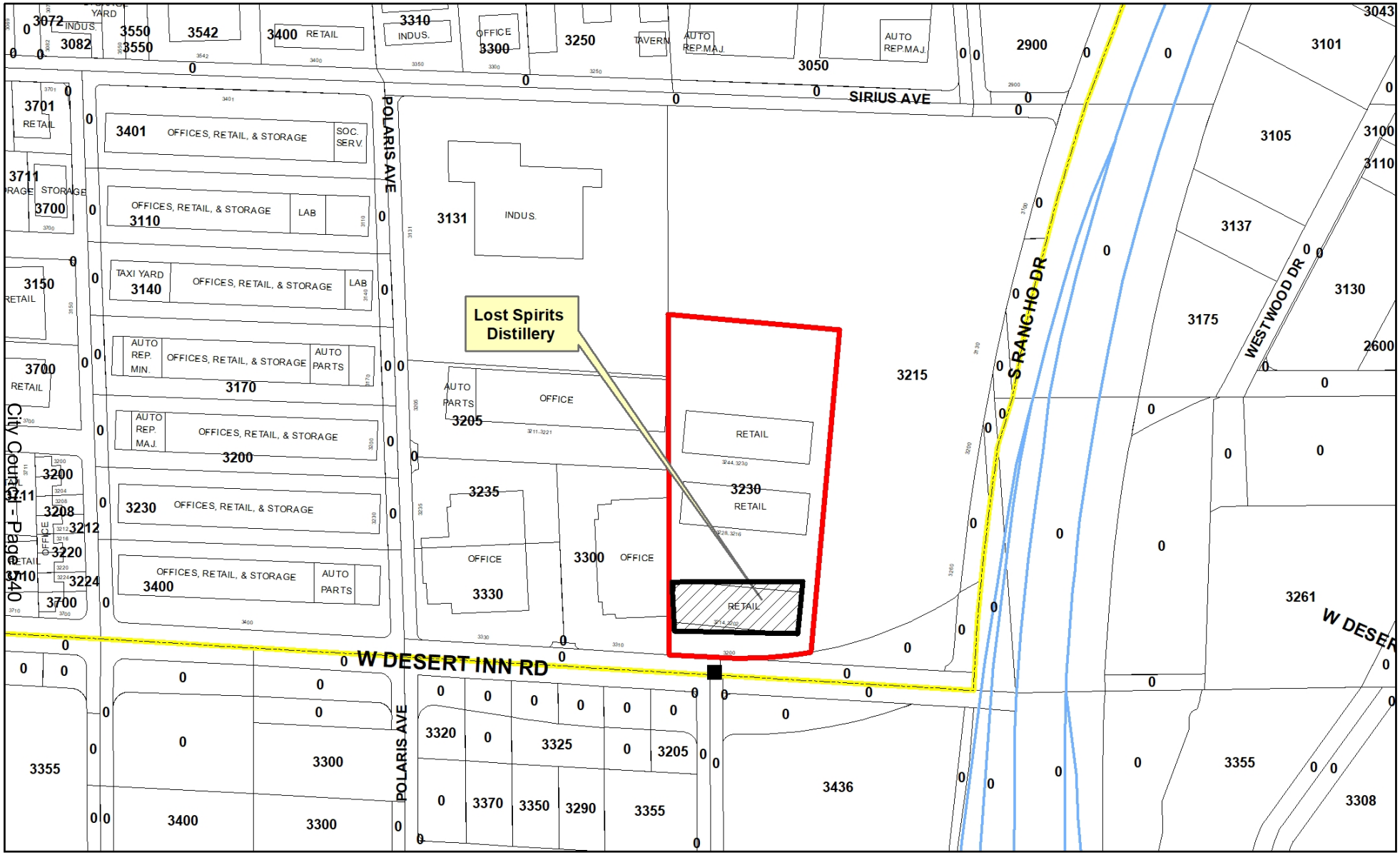
LOST SPIRITS DISTILLERY, INC.

Bryan A. Davis, President, Secretary, Treasurer, Director, Shareholder
Joanne Haruta, Director, Shareholder
Wynn Sanders, Director, Shareholder
Roshini Jaiswal, Director
John Berry, Director
Ronald Daignault, Director, Shareholder
Todd Martin, Director
LPJ Holdings, PVT, Limited, Shareholder
- Roshini Jaiswal, Member

SCP LST, LLC, Shareholder
- Sutherlin-Martin Partners, Limited, Managing Member
  - Todd Martin, General Partner
  - Martha Martin, General Partner
  - Todd Martin, Limited Partner
  - Martha Martin, Limited Partner

Brandersson, LLC, Shareholder
- Mats Andersson, Manager
- Cemab AB, Member
  - Mats Andersson, Managing Member
- Chester Brandes, Managing Member

Multiple Shareholders, less than 10% ownership



Lost Spirits Distillery

3202 West Desert Inn Road

Ward #1

Freeways

Subject Property

City Limits

Site Location

N

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Geographic Information System
Planning & Development Dept.
702-229-6301

Date: Monday, November 9, 2020

AGENDA SUMMARY PAGE

City Council
Meeting of: December 2, 2020

Agenda Item No.:
16

DEPARTMENT: Planning **CONSENT**
DIRECTOR: Robert Summerfield

SUBJECT:
For possible action to approve an Ancillary Craft Distillery License for LOST SPIRITS DISTILLERY, INC. dba LOST SPIRITS DISTILLERY at 3202 West Desert Inn Road - Ward 1 (Knudsen)

FISCAL IMPACT:
None

PURPOSE/BACKGROUND:
For possible action to approve an Ancillary Craft Distillery License.

RECOMMENDATION:
Staff recommends APPROVAL, subject to City of Las Vegas Fire Department, City of Las Vegas Building and Safety Department, Southern Nevada Health District, and Nevada Department of Taxation approvals.

BACKUP DOCUMENTATION:
1. Ownership
2. Location Map

City of Las Vegas

AGENDA MEMO

CITY COUNCIL MEETING DATE: DECEMBER 2, 2020
DEPARTMENT: PLANNING
ITEM DESCRIPTION: For possible action to approve an Ancillary Craft Distillery License for LOST SPIRITS DISTILLERY, INC. dba LOST SPIRITS DISTILLERY at 3202 West Desert Inn Road - Ward 1 (Knudsen)

OWNERSHIP:

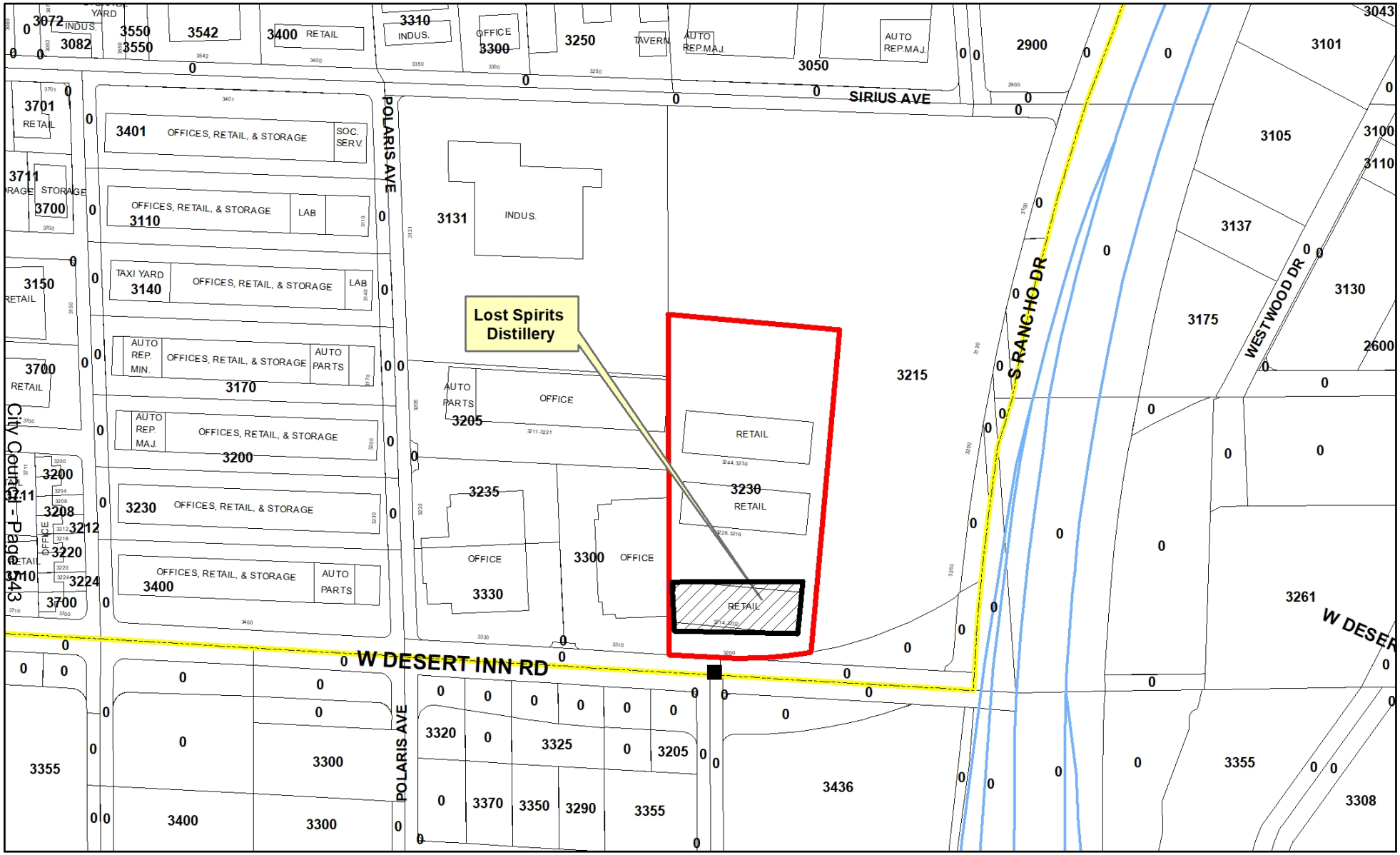
LOST SPIRITS DISTILLERY, INC.

Bryan A. Davis, President, Secretary, Treasurer, Director, Shareholder
Joanne Haruta, Director, Shareholder
Wynn Sanders, Director, Shareholder
Roshini Jaiswal, Director
John Berry, Director
Ronald Daignault, Director, Shareholder
Todd Martin, Director
LPJ Holdings, PVT, Limited, Shareholder
- Roshini Jaiswal, Member

SCP LST, LLC, Shareholder
- Sutherlin-Martin Partners, Limited, Managing Member
  - Todd Martin, General Partner
  - Martha Martin, General Partner
  - Todd Martin, Limited Partner
  - Martha Martin, Limited Partner

Brandersson, LLC, Shareholder
- Mats Andersson, Manager
- Cemab AB, Member
  - Mats Andersson, Managing Member
- Chester Brandes, Managing Member

Multiple Shareholders, less than 10% ownership



Lost Spirits Distillery

3202 West Desert Inn Road

Ward #1

Freeways
Subject Property
City Limits
Site Location

N

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Geographic Information System
Planning & Development Dept.
702-229-6301

Date: Monday, November 9, 2020

AGENDA SUMMARY PAGE
City Council
Meeting of: December 2, 2020

Agenda Item No.:
17

DEPARTMENT: Planning **CONSENT**

DIRECTOR: Robert Summerfield

SUBJECT:
For possible action to approve a Temporary Tavern License for a Change of Ownership FROM: GRANITE GAMING GROUP I, LLC TO: MAKE IT HAPPEN HOSPITALITY, LLC dba BARRY'S DOWNTOWN PRIME at 8 Fremont Street - Ward 5 (Crear)

FISCAL IMPACT:
None

PURPOSE/BACKGROUND:
For possible action to approve a Temporary Tavern License for a Change of Ownership.

RECOMMENDATION:
Staff recommends APPROVAL of a temporary tavern license with the authority of the Director or designee to issue a permanent license upon receipt of a favorable investigative report.

BACKUP DOCUMENTATION:
1. Ownership
2. Location Map

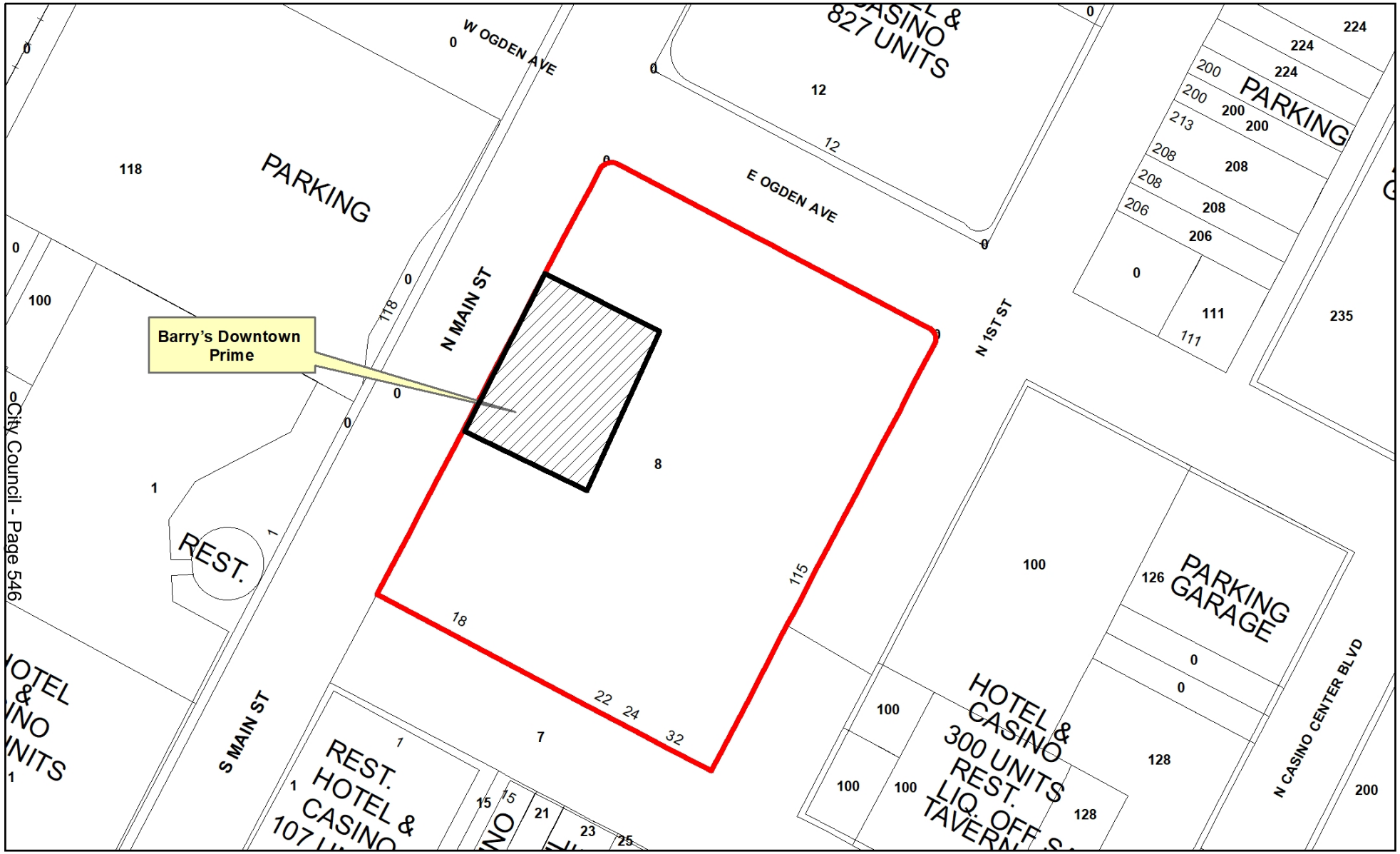
City of Las Vegas

AGENDA MEMO

CITY COUNCIL MEETING DATE: DECEMBER 2, 2020
DEPARTMENT: PLANNING
ITEM DESCRIPTION: For possible action to approve a Temporary Tavern License for a Change of Ownership FROM: GRANITE GAMING GROUP I, LLC TO: MAKE IT HAPPEN HOSPITALITY, LLC dba BARRY'S DOWNTOWN PRIME at 8 Fremont Street - Ward 5 (Crear)

OWNERSHIP:

MAKE IT HAPPEN HOSPITALITY, LLC
Barry Steven Dakake, Member
Marco Paolo Cicione, Managing Member
Yassmine (NMN) Lyoubi, Managing Member
Donald Paul Rihn, Managing Member



Barry's Downtown Prime
8 Fremont Street
Ward #5

Freeways
Subject Property
City Limits
Site Location

N

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Geographic Information System
Planning & Development Dept.
702-229-6301

Date: Monday, October 5, 2020

AGENDA SUMMARY PAGE
City Council
Meeting of: December 2, 2020

Agenda Item No.:
18

DEPARTMENT: Planning **CONSENT**
DIRECTOR: Robert Summerfield

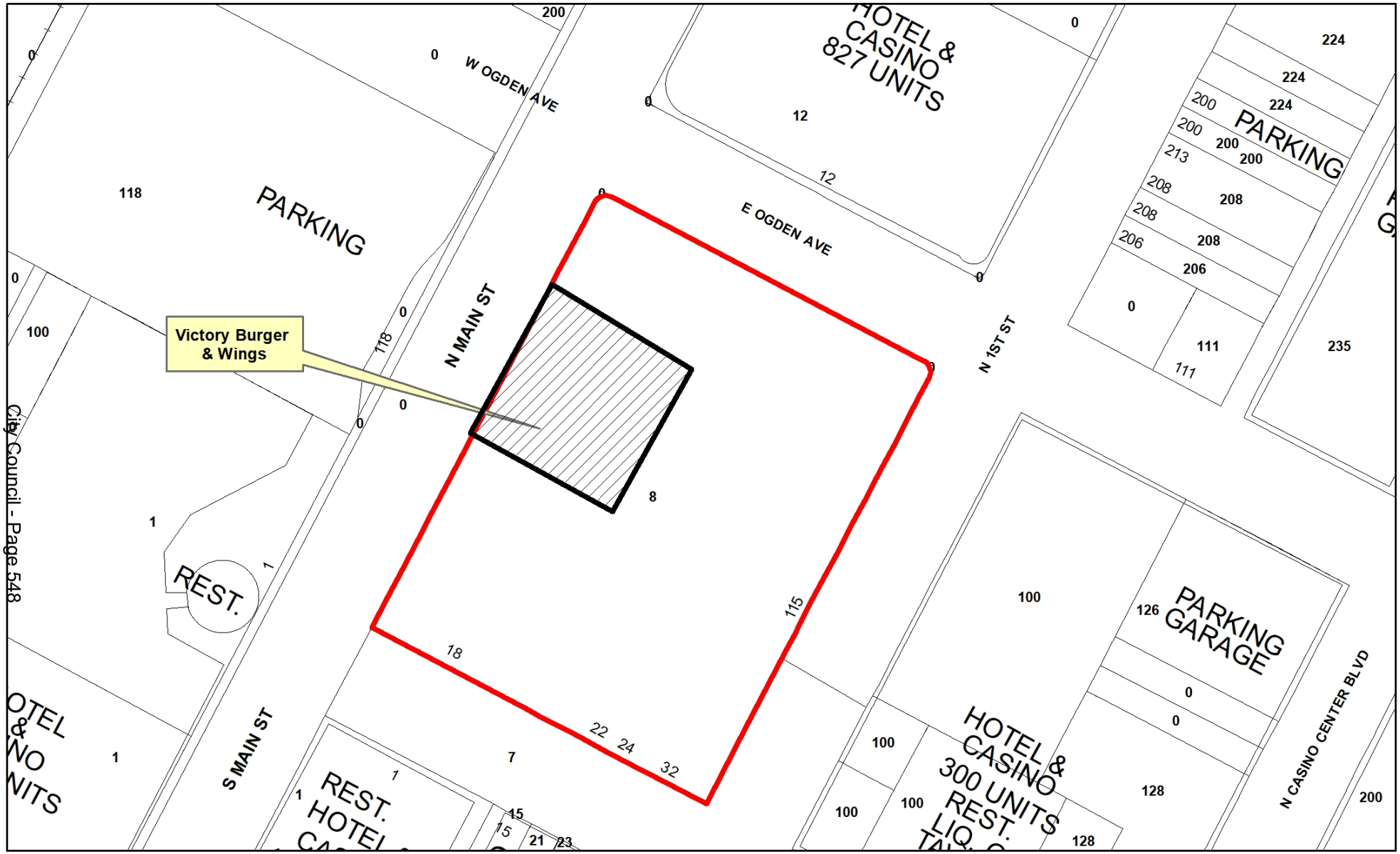
SUBJECT:
For possible action to approve a Temporary Tavern License for a Change of Ownership FROM: GRANITE GAMING GROUP II, LLC TO: VICTORY BURGER & WINGS COMPANY, LLC dba VICTORY BURGER & WINGS at 8 Fremont Street [Christopher Constentine Sotiropoulos, Managing Member] - Ward 5 (Crear)

FISCAL IMPACT:
None

PURPOSE/BACKGROUND:
For possible action to approve a Temporary Tavern License for a Change of Ownership.

RECOMMENDATION:
Staff recommends APPROVAL of a temporary tavern license with the authority of the Director or designee to issue a permanent license upon receipt of a favorable investigative report.

BACKUP DOCUMENTATION:
1. Location Map



Victory Burger & Wings
8 Fremont Street
Ward #5

Freeways
Subject Property
City Limits
Site Location

N

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Geographic Information System
Planning & Development Dept.
702-229-6301

Date: Monday, October 5, 2020

AGENDA SUMMARY PAGE
City Council
Meeting of: December 2, 2020

Agenda Item No.:
19

DEPARTMENT: Planning **CONSENT**
DIRECTOR: Robert Summerfield

SUBJECT:
For possible action to approve a Temporary Restaurant with Alcohol License for a Change of Ownership FROM: APPLE NEVADA, LLC TO: LAS VEGAS 3684, INC. dba IHOP at 1809 South Las Vegas Boulevard - Ward 3 (Diaz)

FISCAL IMPACT:
None

PURPOSE/BACKGROUND:
For possible action to approve a Temporary Restaurant with Alcohol License for a Change of Ownership.

RECOMMENDATION:
Staff recommends APPROVAL of a temporary restaurant with alcohol license with the authority of the Director or designee to issue a permanent license upon receipt of a favorable investigative report.

BACKUP DOCUMENTATION:
1. Ownership
2. Location Map

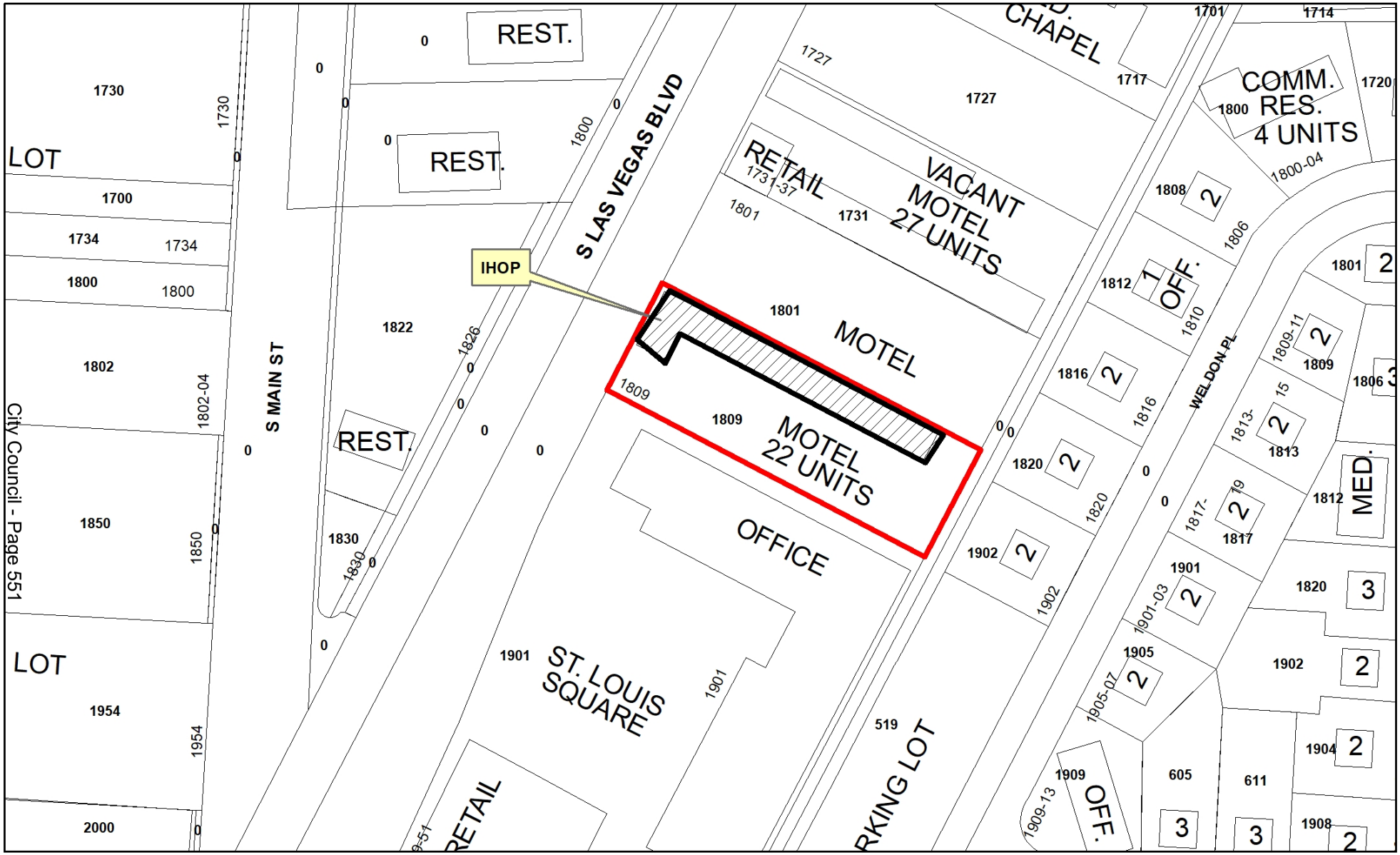
City of Las Vegas

AGENDA MEMO

CITY COUNCIL MEETING DATE: DECEMBER 2, 2020
DEPARTMENT: PLANNING
ITEM DESCRIPTION: For possible action to approve a Temporary Restaurant with Alcohol License for a Change of Ownership FROM: APPLE NEVADA, LLC TO: LAS VEGAS 3684, INC. dba IHOP at 1809 South Las Vegas Boulevard - Ward 3 (Diaz)

OWNERSHIP:

LAS VEGAS 3684, INC.
Farshad Ashoori, President, Treasurer, Shareholder
Steven Ashoori, Secretary, Shareholder
Sean Ashoori, Vice President, Shareholder



City Council - Page 551

IHOP
1809 South Las Vegas Boulevard
Ward #3

Freeways
Subject Property
City Limits
Site Location

N

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Geographic Information System
Planning & Development Dept.
702-229-6301

Date: Monday, October 5, 2020

AGENDA SUMMARY PAGE
City Council
Meeting of: December 2, 2020

Agenda Item No.:
20

DEPARTMENT: Planning **CONSENT**

DIRECTOR: Robert Summerfield

SUBJECT:
For possible action to approve an Alcoholic Beverage Caterer License for GET COZY OF LAS VEGAS, LLC dba BUBBLE AND BREWS VEGAS at 4255 Dean Martin Drive - Clark County, Nevada

FISCAL IMPACT:
None

PURPOSE/BACKGROUND:
For possible action to approve an Alcoholic Beverage Caterer License.

RECOMMENDATION:
Staff recommends APPROVAL.

BACKUP DOCUMENTATION:
1. Ownership
2. Location Map

City of Las Vegas

AGENDA MEMO

CITY COUNCIL MEETING DATE: DECEMBER 2, 2020
DEPARTMENT: PLANNING
ITEM DESCRIPTION: For possible action to approve an Alcoholic Beverage Caterer License for GET COZY OF LAS VEGAS, LLC dba BUBBLE AND BREWS VEGAS at 4255 Dean Martin Drive - Clark County, Nevada

OWNERSHIP:

GET COZY OF LAS VEGAS, LLC
Linda Valdespino, Managing Member
Get Cozy Holdings, LLC, Member
Jon Lintvet, Managing Member
The Daniel A. Gordon and Bonnie P. Gordon Family Trust, Member
Daniel Gordon, Trustee

Bubble and Brews
4255 Dean Martin Drive
(Clark County, Nevada)

Freeways
Subject Property
City Limits
Site Location

N

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Geographic Information System
Planning & Development Dept.
702-229-6301

Date: Wednesday, November 4, 2020

AGENDA SUMMARY PAGE

City Council
Meeting of: December 2, 2020

Agenda Item No.:
21

DEPARTMENT: Planning **CONSENT**
DIRECTOR: Robert Summerfield

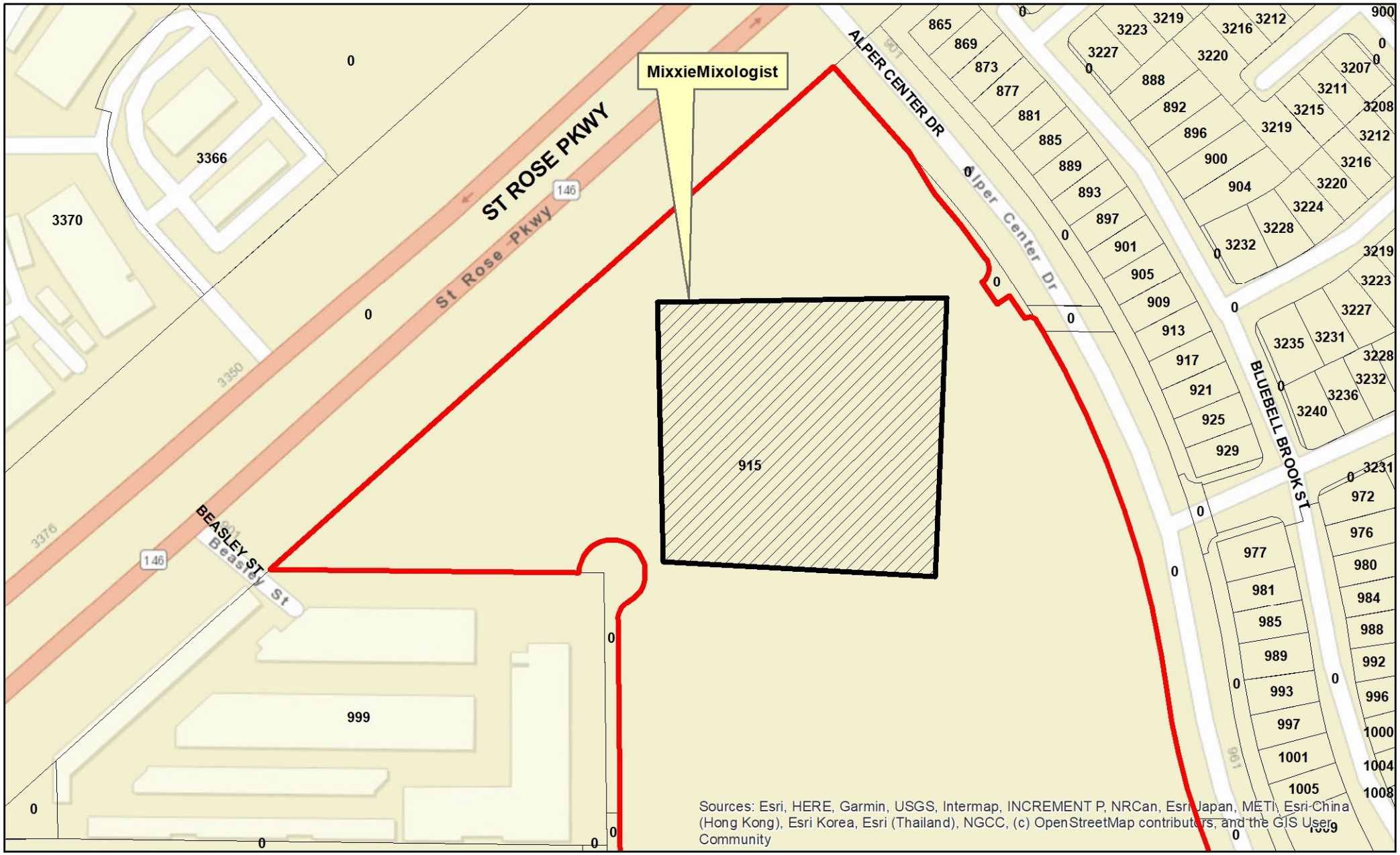
SUBJECT:
For possible action to approve a Temporary Alcoholic Beverage Caterer License for MIXXIEMIXOLOGIST, LLC dba MIXXIEMIXOLOGIST at 915 Alper Center Drive, Suite #18108 [Jahlisa Nyiel-Hazel Williams, Managing Member] - Henderson, Nevada

FISCAL IMPACT:
None

PURPOSE/BACKGROUND:
For possible action to approve a Temporary Alcoholic Beverage Caterer License.

RECOMMENDATION:
Staff recommends APPROVAL of a temporary alcoholic beverage caterer license with the authority of the Director or designee to issue a permanent license upon receipt of a favorable investigative report.

BACKUP DOCUMENTATION:
1. Location Map



MixxieMixologist
915 Alper Center Drive, Suite #18108
(Henderson, Nevada)

Freeways
Subject Property
City Limits
Site Location

N

GIS maps are normally produced only to meet the needs of the City. Due to continuous development activity this map is for reference only.
Geographic Information System
Planning & Development Dept.
702-229-6301

Date: Tuesday, October 6, 2020

AGENDA SUMMARY PAGE
City Council
Meeting of: December 2, 2020

Agenda Item No.:
22

DEPARTMENT: Planning **CONSENT**
DIRECTOR: Robert Summerfield

SUBJECT:
For possible action to approve a Temporary Beer/Wine/Cooler On-Sale License for SE MITTEN GROUP, LLC dba SAGINAW'S DELICATESSEN at 8 Fremont Street - Ward 5 (Crear)

FISCAL IMPACT:
None

PURPOSE/BACKGROUND:
For possible action to approve a Temporary Beer/Wine/Cooler On-Sale License.

RECOMMENDATION:
Staff recommends APPROVAL of a temporary beer/wine/cooler on-sale license with the authority of the Director or designee to issue a permanent license upon receipt of a favorable investigative report.

BACKUP DOCUMENTATION:
1. Ownership
2. Location Map

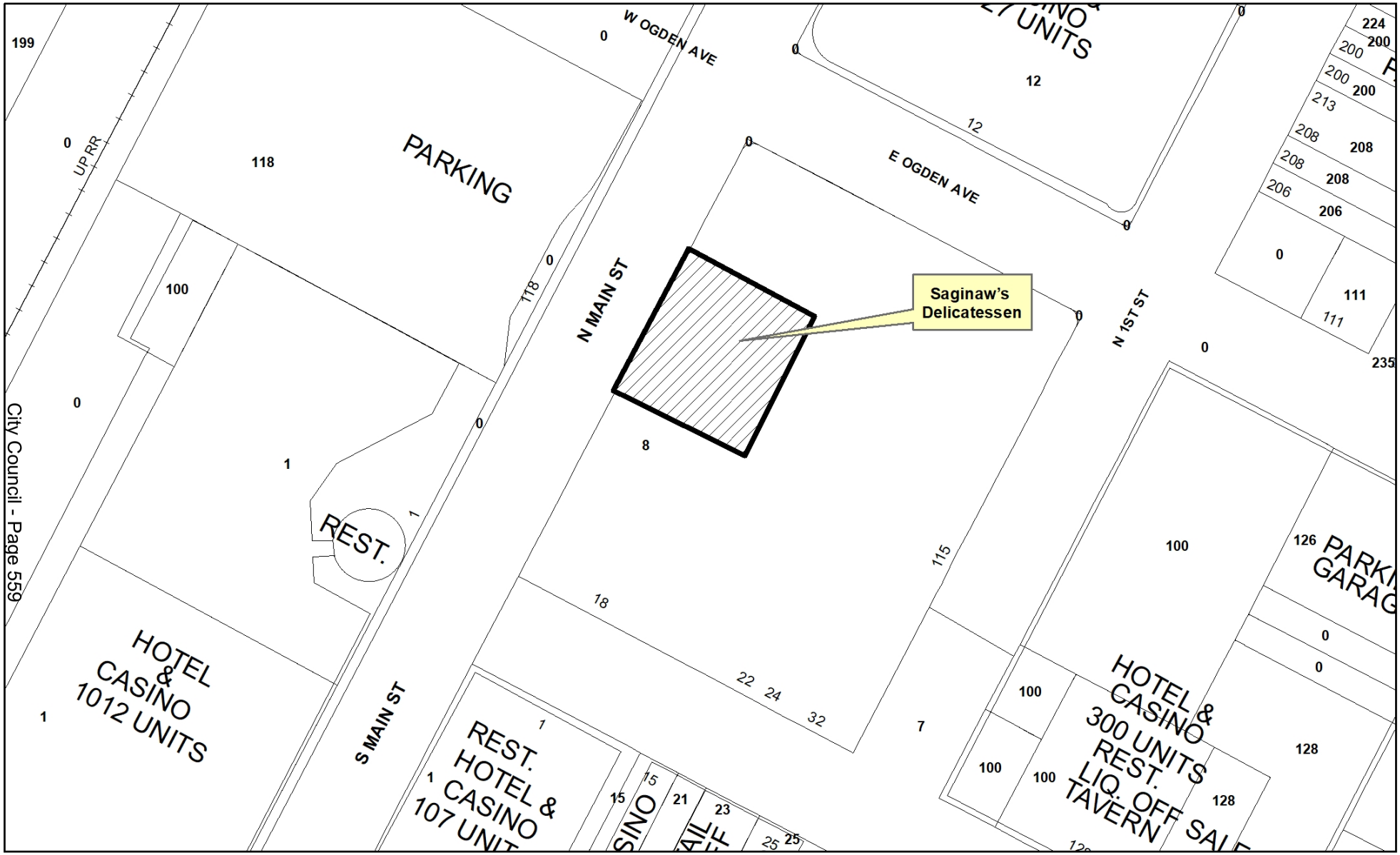
City of Las Vegas

AGENDA MEMO

CITY COUNCIL MEETING DATE: DECEMBER 2, 2020
DEPARTMENT: PLANNING
ITEM DESCRIPTION: For possible action to approve a Temporary Beer/Wine/Cooler On-Sale License for SE MITTEN GROUP, LLC dba SAGINAW'S DELICATESSEN at 8 Fremont Street - Ward 5 (Crear)

OWNERSHIP:

SE MITTEN GROUP, LLC
Bald Brothers, LLC, Member
Paul Saginaw, Managing Member
Steven Magigian, Managing Member
Golden Beach, LLC, Member
Ann Elizabeth Lofgren
The Richard A. Soble Trust U/A/D 12/17/2001, Member
Richard A. Soble, Trustee
Reinstatement of the Arn and Nancy Tellem Living Trust
Arn Tellem, Co-Trustee
Nany Tellem, Co-Trustee
Najia, LLC, Member
Ghanem Ghannam, Managing Member
The Maurer Family Trust, U/A/D 7/1/2019, Member
Ronald G. Maurer, Co-Trustee
Julie L. Maurer, Co-Trustee
Peanut Partners, LLC, Member
David Katz, Managing Member
George Azar, Member
Gary A. Bruder Revocable Trust U/A/D 6/15/2005, Member
Gary A. Bruder, Trustee
Vernor Clark, LLC
Jason Jabra Ghanannam, Managing Member
Antoinette Morell, Member
Thomas Root Jr., Member
Ann Lofgren, Manager
Paul Gerald Saginaw, Manager
Steve Mangigian, Manager
Richard Alan Soble, Manager
Jason J. Ghanannam, Manager



Saginaw's Delicatessen
8 Fremont Street
Ward #5

Freeways
Subject Property
City Limits
Site Location

N

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Geographic Information System
Planning & Development Dept.
702-229-6301

Date: Monday, October 5, 2020

AGENDA SUMMARY PAGE
City Council
Meeting of: December 2, 2020

Agenda Item No.:
23

DEPARTMENT: Planning **CONSENT**
DIRECTOR: Robert Summerfield

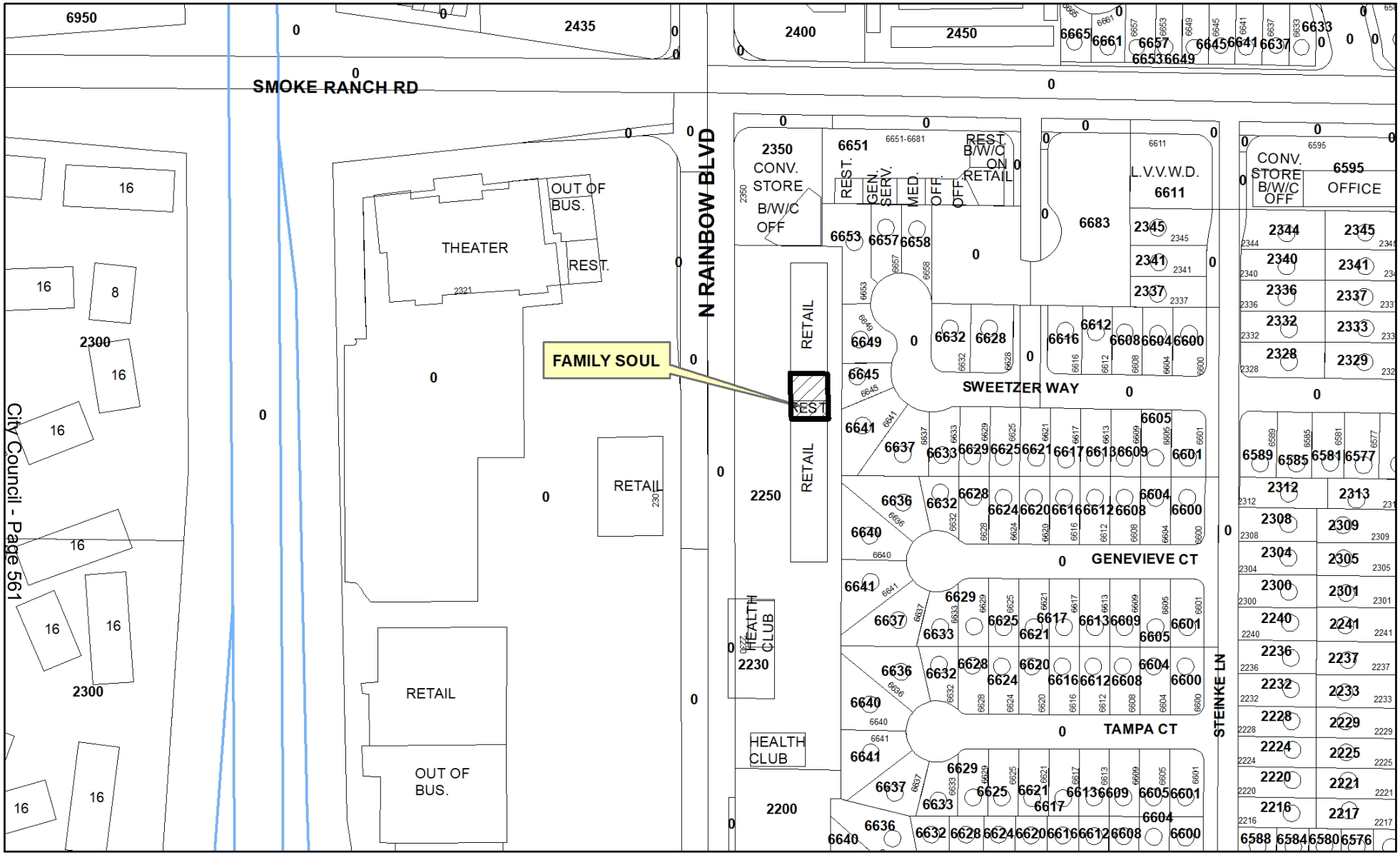
SUBJECT:
For possible action to approve a Temporary Beer/Wine/Cooler On-Sale License SOUL FOOD CAFE EXPRESS, LLC dba FAMILY SOUL at 2300 North Rainbow Boulevard, Suite #108 [Daniel David Chatman, Managing Member] - Ward 5 (Crear)

FISCAL IMPACT:
None

PURPOSE/BACKGROUND:
For possible action to approve a Temporary Beer/Wine/Cooler On-Sale License.

RECOMMENDATION:
Staff recommends APPROVAL of a temporary beer/wine/cooler on-sale license with the authority of the Director or designee to issue a permanent license upon receipt of a favorable investigative report.

BACKUP DOCUMENTATION:
1. Location Map



Freeways
Subject Property
City Limits
Site Location

FAMILY SOUL

2300 North Rainbow Boulevard, Suite #108

Ward #5

N

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Geographic Information System
Planning & Development Dept.
702-229-6301

Date: Monday, November 9, 2020

AGENDA SUMMARY PAGE
City Council
Meeting of: December 2, 2020

Agenda Item No.:
24

DEPARTMENT: Planning **CONSENT**
DIRECTOR: Robert Summerfield

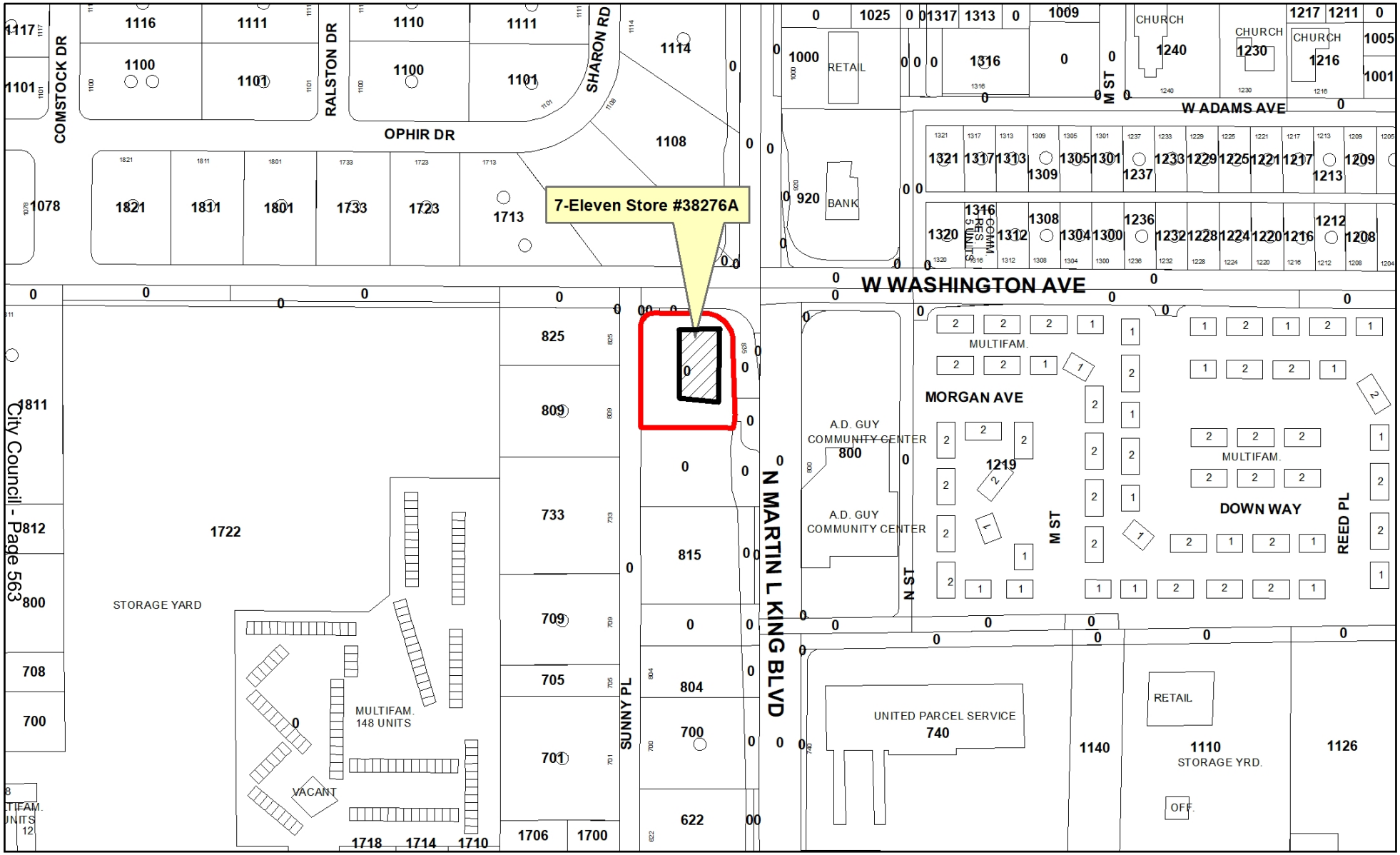
SUBJECT:
For possible action to approve a Restricted Gaming License for VIR SOHI, INC. dba 7-ELEVEN STORE #38276A at 835 North Martin Luther King Boulevard [Tanvir Singh Sohi, President, Treasurer, Secretary, Director, Shareholder] - Ward 5 (Crear)

FISCAL IMPACT:
None

PURPOSE/BACKGROUND:
For possible action to approve a Restricted Gaming License for 5 Slots.

RECOMMENDATION:
Staff recommends APPROVAL.

BACKUP DOCUMENTATION:
1. Location Map



7-Eleven Store #38276A

835 North Martin Luther King Boulevard

Ward #5

Freeways

Subject Property

City Limits

Site Location

N

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Geographic Information System

Planning & Development Dept.

702-229-6301

Date: Wednesday, October 21, 2020

AGENDA SUMMARY PAGE
City Council
Meeting of: December 2, 2020

Agenda Item No.:
25

DEPARTMENT: Planning **CONSENT**
DIRECTOR: Robert Summerfield

SUBJECT:
For possible action to approve a Banquet or Event Establish-Liquor License for RAINBOW GARDENS, INC. dba RAINBOW GARDENS at 4125 West Charleston Boulevard - Ward 1 (Knudsen)

FISCAL IMPACT:
None

PURPOSE/BACKGROUND:
For possible action to approve a Banquet or Event Establish-Liquor License.

RECOMMENDATION:
Staff recommends APPROVAL.

BACKUP DOCUMENTATION:
1. Ownership
2. Location Map

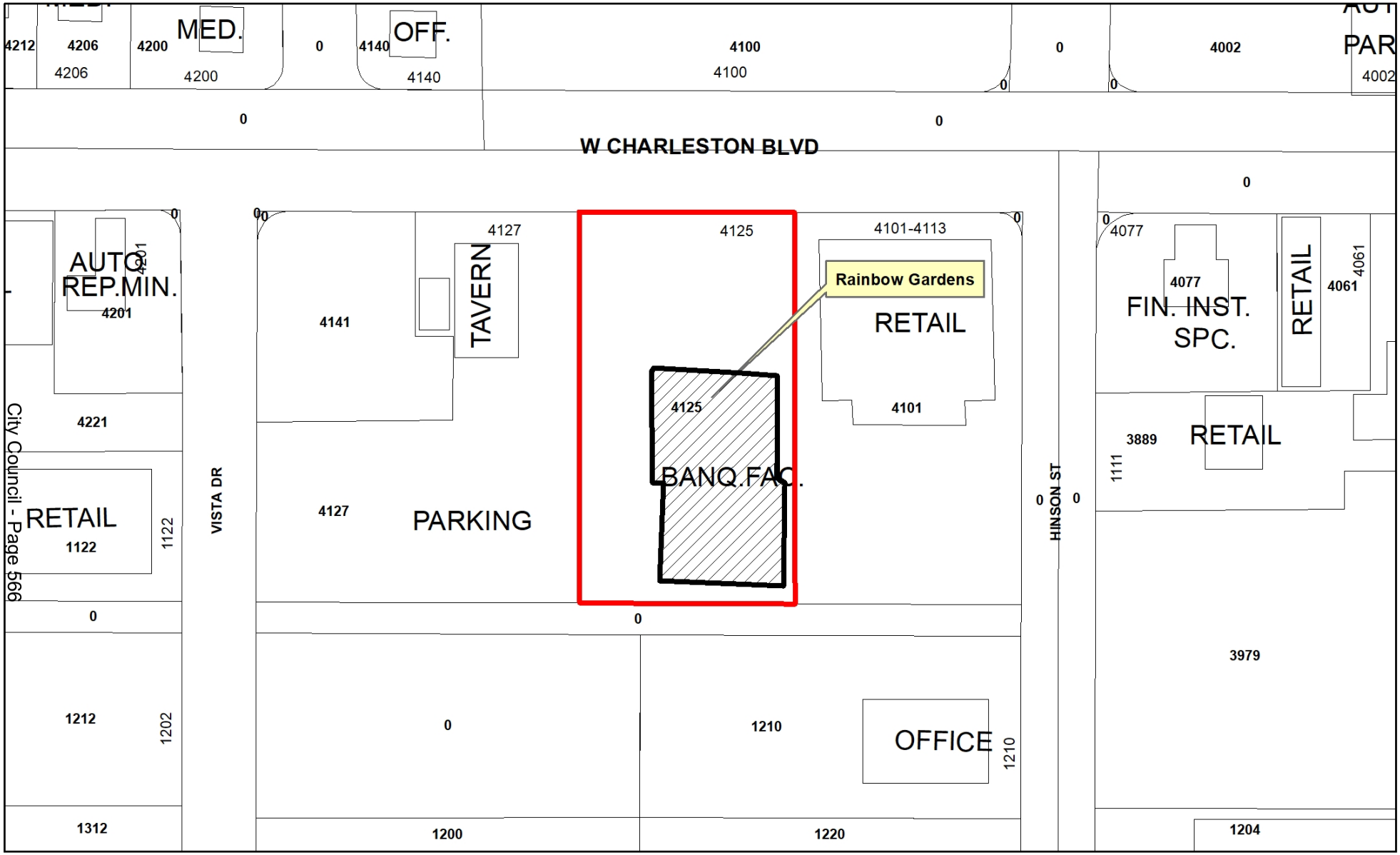
City of Las Vegas

AGENDA MEMO

CITY COUNCIL MEETING DATE: DECEMBER 2, 2020
DEPARTMENT: PLANNING
ITEM DESCRIPTION: For possible action to approve a Banquet or Event Establish-Liquor License for RAINBOW GARDENS, INC. dba RAINBOW GARDENS at 4125 West Charleston Boulevard - Ward 1 (Knudsen)

OWNERSHIP:

RAINBOW GARDENS, INC.
Kelly Hulsey, President, Treasurer, Shareholder
Iwona Hulsey, Director, Secretary, Shareholder



Rainbow Gardens
4125 West Charleston Boulevard
Ward #1

Freeways
Subject Property
City Limits
Site Location

N

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Geographic Information System
Planning & Development Dept.
702-229-6301

Date: Wednesday, October 21, 2020

AGENDA SUMMARY PAGE

City Council
Meeting of: December 2, 2020

Agenda Item No.:
26

DEPARTMENT: Public Works **CONSENT**
DIRECTOR: Mike Janssen

SUBJECT:
For possible action to approve Interlocal Agreement No. 137480-A between the City of Las Vegas (CLV) and the Las Vegas Valley Water District (LVVWD) for water commitment services to be provided for the Health & Wellness Center Project generally located on Foremaster Lane, east of Main Street ($54,101 - General Capital Project Fund [CPF]) - Ward 5 (Crear)

FISCAL IMPACT:
Budget Funds Available
Amount: $54,101
Funding Source: General CPF
Dept./Division: Public Works/City Engineer

PURPOSE/BACKGROUND:
A necessary part of this project is the installation of water service. Before LVVWD will sign the service connection documents and allow the CLV to install the water service, this interlocal agreement with conditional water commitment must be executed and the required fees paid.

RECOMMENDATION:
Approval

BACKUP DOCUMENTATION:
1. Interlocal Agreement No. 137480-A

INTERLOCAL AGREEMENT FOR
CITY OF LAS VEGAS
HEALTH & WELLNESS CENTER

THIS AGREEMENT made and entered into by and between the CITY OF LAS VEGAS, a municipal corporation of the State of Nevada, hereinafter called "CITY", and the LAS VEGAS VALLEY WATER DISTRICT, a political subdivision of the State of Nevada, hereinafter called "DISTRICT".

RECITALS

WHEREAS, the DISTRICT is engaged in the business of distributing potable water in the City of Las Vegas, Nevada, and portions of the County of Clark, Nevada; and

WHEREAS, the CITY is engaged in the development of a health and wellness center, generally located on Foremaster Lane, east of Main Street, and is desirous of receiving potable water from the DISTRICT, further referenced as Clark County Assessor's Parcel Number 139-27-504-001, and has made application for water service to said project; and

WHEREAS, the CITY is engaged in the construction of a city building, and has authorized a distribution of water for the development subject to the DISTRICT'S Service Rules; and

WHEREAS, DISTRICT is willing to serve said property with water pursuant to its Service Rules as adopted by its Board of Directors and subject to the CITY performing all of the terms, conditions and provisions hereinafter set forth and required of the CITY; and

WHEREAS, the CITY is willing to construct at its sole cost and expense the required water service connections and appurtenances for the purpose of providing water service to said real property; and

WHEREAS, both the CITY and the DISTRICT are authorized to enter into interlocal agreements pursuant to NRS 277.180.

NOW, this Agreement WITNESSETH:

ARTICLE I

CITY AGREES:

A. This Agreement provides a water commitment on a conditional basis only for a city building on Foremaster Lane, east of Main Street, further referenced as Clark County Assessor Parcel Number 139-27-504-001. The conditional water commitment is provided in accordance with the DISTRICT'S Service Rules, which are made a part of the Agreement by reference and applies only to the development identified in this paragraph.

B. The water commitment will be conditional until all water facilities identified in paragraph E of this Article I are constructed by the CITY and accepted by the DISTRICT for the complete development described in paragraph A of this Article I.

C. In the event the use of the property changes and modifications to the water facilities are required, the CITY will be required to either obtain a new conditional water commitment from the DISTRICT, or at the option of the DISTRICT, to amend the Agreement.

D. The CITY has had the opportunity to review the Service Rules and agrees to comply with the Service Rules that are in force on the effective date of this Agreement including those sections pertaining to the water commitment process.

E. At CITY'S sole cost and expense, the CITY shall furnish all necessary materials, labor, and equipment for the construction of the service connections and appurtenances which may include, but not be limited to, the connection to the main and the lateral pipe, a meter, or battery thereof, a meter box or vault, valves, and backflow prevention assembly hereinafter called "WATER FACILITIES", from the main to the point where the water being delivered leaves the piping owned by the DISTRICT. The location and type of said WATER FACILITIES are identified on the plan entitled:

HEALTH & WELLNESS CENTER
Utility Plan

F. Said WATER FACILITIES may be sized to ultimately provide water service to development other than described herein; however, the conditional water commitment is only for that portion of the project described herein and any additional construction requires a separate and additional conditional water commitment from the DISTRICT.

G. Said WATER FACILITIES shall be constructed in the location shown, in accordance with the above-mentioned plan, as approved by the DISTRICT, and in conformance with DISTRICT specifications.

H. All work shall be subject to inspection and approval by an authorized representative of the DISTRICT; and the DISTRICT shall be notified a minimum of 48 hours in advance of actual construction start and 24 hours prior to an inspection of any part of the work, in order that necessary inspection can be arranged.

I. The CITY shall comply with the DISTRICT'S Service Rules that are in force on the effective date of this Agreement including those sections pertaining to the water commitment process and construction of the WATER FACILITIES identified in Article I, paragraph E above.

J. At CITY'S sole cost and expense, the CITY shall perform all survey work necessary to ensure installation of the WATER FACILITIES to the location and grades called for in the plans.

K. At CITY'S sole cost and expense, the CITY shall disinfect and pressure test the WATER FACILITIES to the satisfaction of the DISTRICT and the health authorities having jurisdiction.

L. Connections to existing mains shall be made only in the presence of an authorized representative of the DISTRICT and at the times specified by the DISTRICT.

M. The WATER FACILITIES shall be located outside of driveways, driveway approaches, or other areas subject to vehicular traffic. In the event the WATER FACILITIES are located within those areas either inadvertently or otherwise, the CITY shall cause such WATER FACILITIES to be relocated outside of the driveways, driveway approaches or other areas described above, in accordance with DISTRICT'S requirements, or shall reimburse the DISTRICT for the cost of relocating said WATER FACILITIES. If extraordinary conditions exist that would prevent compliance with this requirement, the CITY may submit to the DISTRICT a written request for a waiver of this requirement pursuant to the DISTRICT'S Service Rules.

N. The CITY shall furnish to the DISTRICT easements, in a form satisfactory to the DISTRICT, where WATER FACILITIES are approved to be installed in other than dedicated street or alleys. Said easements shall conform to the requirements as indicated on the approved water plans and be perpetual. The conditions of said easements shall be such that no buildings, structures, trees, shrubs, or other improvements which would interfere with its use by DISTRICT can be placed upon it, that DISTRICT will have the right to operate, maintain, repair, replace, and/or change the size and/or number of WATER FACILITIES; and that proper access to all parts of the easement by DISTRICT forces and equipment is provided. The conditions of said easements shall further provide that the property owner agrees to pay any and all costs incurred by the DISTRICT to make and/or maintain said easements accessible to the DISTRICT. It may be provided that other utility lines can be installed in said easement, so long as they do not interfere with its use by DISTRICT, and are in compliance with state laws and regulations.

O. Should any defective material or workmanship affecting the WATER FACILITIES installed by the CITY be disclosed within one (1) year of the date of completion and acceptance of the WATER FACILITIES by the DISTRICT, the CITY shall immediately cause the defect to be corrected, or shall reimburse DISTRICT for its cost to correct said defect. For the purpose of this Agreement, failures including, but not limited to, any leak or break in the WATER FACILITIES, or any pavement settlement, shall be considered conclusive evidence of defective materials and/or workmanship.

P. Upon completion of construction of the work and acceptance of the work by the DISTRICT, the CITY will provide final acceptance of all work associated with the project and the final acceptance shall include providing the DISTRICT with all its right, title, and interest, in and to the WATER FACILITIES. The CITY will warrant at the time of said final acceptance that there are no encumbrances for material and labor claims.

Q. Installation of said WATER FACILITIES does not assure or guarantee that a complete water service will be available in the future. Until such time as a complete service connection is approved by the DISTRICT and a water commitment is obtained from the DISTRICT, no water may be taken from the new WATER FACILITIES installed under this Agreement.

R. All water will be taken through metered service connections, in accordance with DISTRICT'S Service Rules. The CITY will require its contractor to install the meters in a timely manner.

S. The CITY shall require its contractor to protect all existing water facilities during construction and to promptly undertake the repair of damaged facilities upon authorization of the DISTRICT.

T. If required as a condition of the DISTRICT'S Service Rules, the CITY will pay any additional Regional Connection Charges based on a confirmed audit of annual water usage by the above-described property within the first three (3) years of operation. All assessments will be based on the Regional Connection Charge Rates paid at time of project approval.

U. All of the water facilities installed under this Agreement, once disinfected and tested to the satisfaction of the DISTRICT and once connected to existing DISTRICT facilities, must maintain established water quality standards throughout the installed system. Should the DISTRICT determine that water quality standards are not being maintained following the connection of the approved facilities to the DISTRICT's system, a Water Quality Mitigation Plan (WQ Plan) will be required for review and implementation at the sole expense of the CITY.

ARTICLE II

DISTRICT AGREES:

A. Upon completion of construction of the WATER FACILITIES, acceptance of same by the DISTRICT, and fulfillment by the CITY of all requirements of this Agreement, the DISTRICT shall supply water to, and to thereafter operate and maintain the WATER FACILITIES installed pursuant to this Agreement in accordance with the DISTRICT'S Service Rules as the same are established and amended.

B. Construction water may be provided to the CITY at the CITY'S sole cost through metered fire hydrants and/or metered service connections in accordance with the DISTRICT'S Service Rules.

C. If required as a condition of the DISTRICT'S Service Rules, the DISTRICT shall refund to the CITY any overpayment of Regional Connection Charges based on a confirmed audit of annual water usage by the above-described property within the first three (3) years of operation. All payments will be based on the Regional Connection Charge Rates paid at the time of project approval.

ARTICLE III

IT IS MUTUALLY AGREED:

A. The Parties understand that this Agreement does not create "water rights", but only rights to conditional water service as a potential customer. This Agreement does not create a property interest in such water service and the CITY is not deemed a DISTRICT water customer until the water facilities and development identified herein are completed as specified.

B. The WATER FACILITIES installed under this Agreement shall be and remain the exclusive property of the DISTRICT and shall become a part of the DISTRICT'S general water distribution system after acceptance by the DISTRICT.

C. In the event a portion of the WATER FACILITIES are constructed but this Agreement terminates, the above-described property shall have no water commitment by virtue of the installation of the WATER FACILITIES. Requests for future use of said WATER FACILITIES if retained in place, shall require that a new water commitment be obtained before the WATER FACILITIES can be utilized.

D. This Agreement shall terminate and the conditional commitment shall be void if any of the following occurs:

   a. Construction of the WATER FACILITIES covered by the plan or plans identified in Article I, paragraph E of this Agreement is not commenced within one (1) year from the date of DISTRICT approval of said plan or plans; or

   b. If active construction work is discontinued for a period of one (1) year; or if such construction is commenced within said one (1) year period, but is not diligently prosecuted to completion in a manner acceptable to the DISTRICT.

E. If this Agreement terminates in accordance with its terms, right, title and interest of all or any portion of the WATER FACILITIES installed, as determined solely and exclusively by the DISTRICT, shall become the exclusive property of the DISTRICT for the DISTRICT to use, modify, or to dispose of as the DISTRICT deems appropriate.

F. Noncompliance or violation of the DISTRICT'S Service Rules or any provision of this Agreement by the CITY or its officers, employees, agents, contractors, licensees or invitees shall be cause for the DISTRICT, at its sole discretion, to discontinue water service to CITY'S project without challenge by CITY and without liability for any damages caused by said discontinuation.

G. The CITY will be responsible for any loss, damage, liability, cost or expense, except those exempted by law, caused by the actions or inactions of its employees, consultants, contractors, or agents arising under this Agreement. Without waiving the limitations on governmental liability set forth in NRS Chapter 41, as amended, the CITY shall protect, indemnify, and hold the DISTRICT, its officers, employees, and agents harmless from and against any and all claims, damages, losses, expenses, suits, actions, judgements, and awards including attorney's fees and court costs which may be brought against it or them as a result of or by reason of or arising out of or as a consequence of the construction of the WATER FACILITIES contemplated in this Agreement.

H. This Agreement shall not be deemed to be for the benefit of any entity or person who is not a party hereto, and is not a commitment for water service, and neither this Agreement, nor any interest therein, may be assigned without the prior written consent of the non-assigning party. This Agreement is not intended by the Parties to create any right in or benefit to parties other than the DISTRICT and the CITY. This Agreement does not create any third-party beneficiary rights or causes of action.

I. This Agreement represents the entire understanding of the CITY and the DISTRICT relative to the installation of the WATER FACILITIES in conjunction with the CITY'S project.

J. Should any part of this Agreement be rendered void, invalid, or unenforceable by any court of law, for any reason, such determination shall not render void, invalid, or unenforceable, any other part of this Agreement.

K. The laws of the State of Nevada will govern as to the interpretation, validity, and effect of this Agreement.

L. Each party shall not discriminate against employees or applicants based on race, color, religion, sexual orientation, sex, age, or national origin, and shall take affirmative action to ensure that applicants are employed and employees are treated without regard to the above-mentioned factors and agrees to post in conspicuous places for employees and applicants' notices provided by the Equal Employment Opportunity Commission setting forth these provisions. Each Party further agrees that solicitation for employees shall state that qualified applicants will receive consideration without regard to the above-mentioned factors and will send to labor unions or collectives with which he/it has an agreement a notice of the commitments required herein and each party will comply with all local, state and federal laws prohibiting discrimination in hiring or employment opportunities.

IN WITNESS WHEREOF, the parties hereto have entered into this Interlocal Agreement on the _____ day of _____, 20_____.

CITY OF LAS VEGAS

Carolyn G. Goodman, Mayor

ATTEST:

LuAnn D. Holmes, City Clerk

APPROVED AS TO FORM:

John S. Ridilla 11/3/2020

Deputy City Attorney

John S. Ridilla
Deputy City Attorney

LAS VEGAS VALLEY WATER DISTRICT

Marilyn Kirkpatrick, President
Board of Directors

APPROVED AS TO FORM:

for

Gregory J. Walch, General Counsel
Las Vegas Valley Water District

10/20/2020

THIS DOCUMENT AND SUBSEQUENT PAYMENT OF FEES DOES NOT AFFECT THE OUTCOME OF THE REQUIREMENT TO OBTAIN A WATER COMMITMENT FOR THE PROJECT. A WATER COMMITMENT MUST BE OBTAINED FROM THE DISTRICT THROUGH THE PROCESS DESCRIBED IN THE DISTRICT SERVICE RULES. THIS DOCUMENT AND PAYMENT OF FEES IS NOT A COMMITMENT FOR WATER SERVICE.

Las Vegas Valley Water District
APPLICATION FOR CONNECTION AND REQUEST FOR SERVICE

AGREEMENT NO. 137480 SERVICE POINT #
BY: Debbie S 10/30/2020
CHECKED BY:
JOB ORDER # F/A# DATE

Project Name: CLV - HEALTH & WELLNESS CENTER

Service Location(s): Foremaster Ln - 200 blk

Service Address: 1501 N. Las Vegas Blvd

Developer: City of Las Vegas (3)

Social Security or Tax I.D. No.: 88-6000198

Billing Address: 495 S. Main Street
Las Vegas, NV 89101-6318

Telephone No. (702) 229-1046

Property Owner: City of Las Vegas

FEES, CHARGES AND DEPOSITS

SERVICE CONNECTION INSTALLATION

COMPLETE SERVICE / SERVICE EXCLUDING METER (27301)
SIZE: $

METERS ONLY (25700)
1 2 "@ $ 300. / ea. $ 300.
"@ $ / ea. $
"@ $ / ea. $

AUTOMATED METER READING DEVICE (AMR) (27301 R-7723)
2 @ $ 104. / ea. $ 208.

SERVICES > 2" INSTALLED BY PRIVATE CONTRACTOR
1 8 " TYPE: RPDA $ - 0 -
" TYPE: $ - 0 -

BACKFLOW PREVENTION (27301) (BY PRIVATE CONTRACTOR)
2 2 " TYPE: RPPA $ -0-
" TYPE: $

INSTALLATIONS/REMOVALS ON ACTUAL COST BASIS - DEPOSIT (25703)
SIZE: " TYPE: $

FACILITIES CONNECTION CHARGE (27312)
1 2 "@ $ 15,384. / ea. $ 15,384.
"@ $ / ea. $ (9,616.)
"@ $ / ea. $

FRONTAGE CONNECTION CHARGE*
LF @ $ / ea. $
LF @ $ / ea. $
LF @ $ / ea. $

OVERSIZING CHARGE (27313)
1 2 "@ $ 2,000. / ea. $ 2,000.
"@ $ / ea. $
"@ $ / ea. $

APPLICATION FEE (41300)
"@ $ / ea. $
"@ $ / ea. $
"@ $ / ea. $

INSPECTION FEE (41301)
1 2 "@ $ 185. / ea. $ 185.
1 RPDA "@ $ 550. / ea. $ 550.
"@ $ / ea. $

OTHER CHARGES / CREDITS:
$

SUBTOTAL: $ 9,011.

REGIONAL CONNECTION CHARGE (30601) **ADD ONE:**
BY 12/31/2020 $ 64,260 (19,170.)
BY $
BY $

TOTAL: $54,110.00

ACKNOWLEDGEMENT

Developer and Property Owner understand and agree:

1. Water service will be provided in accordance with the Las Vegas Valley Water District Service Rules.
2. All water delivered through a service connection will be metered and billed to the Developer until the Developer requests that the service be shut off. The use of idlers is prohibited. Meters must be installed by the Developers' contractor before any water is drawn through the service connection.
3. In the event of abandonment or cessation of construction, prepaid installation and connection charges may be used by the District to pursue completion of all or part of the project.
4. Location and elevation of service connections to be installed by the District must be identified (staked) by owner prior to installation. The cost of adjustment to location or elevation after installation will be borne by owner.
5. Service connection(s) identified on this application to be installed or removed on an actual cost basis are subject to audit of final cost. If final costs exceed the deposit amount, the property owner promises to pay the difference within 30 days after receipt of notice.
6. Failure to pay any charges when due will subject the property to a lien and/or discontinuance of water service.
7. If box is marked see attached form for special pressure advisement. ☐

Developer:

X
Signature

X
Print or Type Name and Title

Property Owner:

X
Signature

X
Print or Type Name and Title

General Comments: APN 139-27-504-01
DUAL RPPA

OFFICE USE

Fees Paid By:
Customer Will Stake By: M/R #
Cross Street: E/O N Las Vegas Blvd
Cross Street:
Side of Street: South P.Z.: 2055
Q.S.: 139-27-NE Land Use: 14-20/336
Main Size / Type / Loc / DWG
Service Removal Requested For:
Service No. Meter Size:
Service No. Meter Size:
Service No. Meter Size:
STATUS COMMENTS:

*FRONTAGE CONNECTION CHARGE DISTRIBUTION

23113	$	Refundable	
27306	$	Retainable	SRM NO.
24111	$		
24111	$		
24111	$		
27309	$	District	

CASHIER'S VALIDATION

Original-Development Services
White-Customer, Cashier, Inspection, Accounting, Engineering Services, Water Quality
Pink-Distribution

AGENDA SUMMARY PAGE
City Council
Meeting of: December 2, 2020

Agenda Item No.:
27

DEPARTMENT: Public Works **CONSENT**
DIRECTOR: Mike Janssen

SUBJECT:
For possible action to approve Interlocal Agreement No. 137453-A between the City of Las Vegas (CLV) and the Las Vegas Valley Water District (LVVWD) for water commitment services to be provided for the Charleston Heights Community Center and Park Project generally located on Maverick Street, north of Eugene Avenue ($83,796 - Parks and Recreation Capital Project Fund [CPF]) - Ward 5 (Crear)

FISCAL IMPACT:
Budget Funds Available
Amount: $83,796
Funding Source: Parks and Recreation CPF
Dept./Division: Public Works/City Engineer

PURPOSE/BACKGROUND:
A necessary part of this project is the installation of water service. Before LVVWD will sign the service connection documents and allow the CLV to install the water service, this interlocal agreement with conditional water commitment must be executed and the required fees paid.

RECOMMENDATION:
Approval

BACKUP DOCUMENTATION:
1. Interlocal Agreement No. 137453-A

INTERLOCAL AGREEMENT FOR
CITY OF LAS VEGAS
CHARLESTON HEIGHTS COMMUNITY CENTER & PARK

THIS AGREEMENT made and entered into by and between the CITY OF LAS VEGAS, a municipal corporation of the State of Nevada, hereinafter called "CITY", and the LAS VEGAS VALLEY WATER DISTRICT, a political subdivision of the State of Nevada, hereinafter called "DISTRICT".

RECITALS

WHEREAS, the DISTRICT is engaged in the business of distributing potable water in the City of Las Vegas, Nevada, and portions of the County of Clark, Nevada; and

WHEREAS, the CITY is engaged in the re-development of an existing park to add a community center, generally located on Maverick Street, north of Eugene Avenue, and is desirous of receiving potable water from the DISTRICT, further referenced as Clark County Assessor's Parcel Number 138-23-516-045, and has made application for water service to said project; and

WHEREAS, the CITY is engaged in the construction of a community center and park re-development, and has authorized a distribution of water for the development subject to the DISTRICT'S Service Rules; and

WHEREAS, DISTRICT is willing to serve said property with water pursuant to its Service Rules as adopted by its Board of Directors and subject to the CITY performing all of the terms, conditions and provisions hereinafter set forth and required of the CITY; and

WHEREAS, the CITY is willing to construct at its sole cost and expense the required water service connections and appurtenances for the purpose of providing water service to said real property; and

WHEREAS, both the CITY and the DISTRICT are authorized to enter into interlocal agreements pursuant to NRS 277.180.

NOW, this Agreement WITNESSETH:

ARTICLE I

CITY AGREES:

A. This Agreement provides a water commitment on a conditional basis only for a community center and park re-development on Maverick Street, north of Eugene Avenue, further referenced as Clark County Assessor Parcel Number 138-23-516-045. The conditional water commitment is provided in accordance with the DISTRICT'S Service Rules, which are made a part of the Agreement by reference and applies only to the development identified in this paragraph.

B. The water commitment will be conditional until all water facilities identified in paragraph E of this Article I are constructed by the CITY and accepted by the DISTRICT for the complete development described in paragraph A of this Article I.

C. In the event the use of the property changes and modifications to the water facilities are required, the CITY will be required to either obtain a new conditional water commitment from the DISTRICT, or at the option of the DISTRICT, to amend the Agreement.

D. The CITY has had the opportunity to review the Service Rules and agrees to comply with the Service Rules that are in force on the effective date of this Agreement including those sections pertaining to the water commitment process.

E. At CITY'S sole cost and expense, the CITY shall furnish all necessary materials, labor, and equipment for the construction of the service connections and appurtenances which may include, but not be limited to, the connection to the main and the lateral pipe, a meter, or battery thereof, a meter box or vault, valves, and backflow prevention assembly hereinafter called "WATER FACILITIES", from the main to the point where the water being delivered leaves the piping owned by the DISTRICT. The location and type of said WATER FACILITIES are identified on the plan entitled:

CHARLESTON HEIGHTS COMMUNITY CENTER & PARK
Utility Plans

F. Said WATER FACILITIES may be sized to ultimately provide water service to development other than described herein; however, the conditional water commitment is only for that portion of the project described herein and any additional construction requires a separate and additional conditional water commitment from the DISTRICT.

G. Said WATER FACILITIES shall be constructed in the location shown, in accordance with the above-mentioned plan, as approved by the DISTRICT, and in conformance with DISTRICT specifications.

H. All work shall be subject to inspection and approval by an authorized representative of the DISTRICT; and the DISTRICT shall be notified a minimum of 48 hours in advance of actual construction start and 24 hours prior to an inspection of any part of the work, in order that necessary inspection can be arranged.

I. The CITY shall comply with the DISTRICT'S Service Rules that are in force on the effective date of this Agreement including those sections pertaining to the water commitment process and construction of the WATER FACILITIES identified in Article I, paragraph E above.

J. At CITY'S sole cost and expense, the CITY shall perform all survey work necessary to ensure installation of the WATER FACILITIES to the location and grades called for in the plans.

K. At CITY'S sole cost and expense, the CITY shall disinfect and pressure test the WATER FACILITIES to the satisfaction of the DISTRICT and the health authorities having jurisdiction.

L. Connections to existing mains shall be made only in the presence of an authorized representative of the DISTRICT and at the times specified by the DISTRICT.

M. The WATER FACILITIES shall be located outside of driveways, driveway approaches, or other areas subject to vehicular traffic. In the event the WATER FACILITIES are located within those areas either inadvertently or otherwise, the CITY shall cause such WATER FACILITIES to be relocated outside of the driveways, driveway approaches or other areas described above, in accordance with DISTRICT'S requirements, or shall reimburse the DISTRICT for the cost of relocating said WATER FACILITIES. If extraordinary conditions exist that would prevent compliance with this requirement, the CITY may submit to the DISTRICT a written request for a waiver of this requirement pursuant to the DISTRICT'S Service Rules.

N. The CITY shall furnish to the DISTRICT easements, in a form satisfactory to the DISTRICT, where WATER FACILITIES are approved to be installed in other than dedicated street or alleys. Said easements shall conform to the requirements as indicated on the approved water plans and be perpetual. The conditions of said easements shall be such that no buildings, structures, trees, shrubs, or other improvements which would interfere with its use by DISTRICT can be placed upon it, that DISTRICT will have the right to operate, maintain, repair, replace, and/or change the size and/or number of WATER FACILITIES; and that proper access to all parts of the easement by DISTRICT forces and equipment is provided. The conditions of said easements shall further provide that the property owner agrees to pay any and all costs incurred by the DISTRICT to make and/or maintain said easements accessible to the DISTRICT. It may be provided that other utility lines can be

installed in said easement, so long as they do not interfere with its use by DISTRICT, and are in compliance with state laws and regulations.

O. Should any defective material or workmanship affecting the WATER FACILITIES installed by the CITY be disclosed within one (1) year of the date of completion and acceptance of the WATER FACILITIES by the DISTRICT, the CITY shall immediately cause the defect to be corrected, or shall reimburse DISTRICT for its cost to correct said defect. For the purpose of this Agreement, failures including, but not limited to, any leak or break in the WATER FACILITIES, or any pavement settlement, shall be considered conclusive evidence of defective materials and/or workmanship.

P. Upon completion of construction of the work and acceptance of the work by the DISTRICT, the CITY will provide final acceptance of all work associated with the project and the final acceptance shall include providing the DISTRICT with all its right, title, and interest, in and to the WATER FACILITIES. The CITY will warrant at the time of said final acceptance that there are no encumbrances for material and labor claims.

Q. Installation of said WATER FACILITIES does not assure or guarantee that a complete water service will be available in the future. Until such time as a complete service connection is approved by the DISTRICT and a water commitment is obtained from the DISTRICT, no water may be taken from the new WATER FACILITIES installed under this Agreement.

R. All water will be taken through metered service connections, in accordance with DISTRICT'S Service Rules. The CITY will require its contractor to install the meters in a timely manner.

S. The CITY shall require its contractor to protect all existing water facilities during construction and to promptly undertake the repair of damaged facilities upon authorization of the DISTRICT.

T. If required as a condition of the DISTRICT'S Service Rules, the CITY will pay any additional Regional Connection Charges based on a confirmed audit of annual water usage by the above-described property within the first three (3) years of operation. All assessments will be based on the Regional Connection Charge Rates paid at time of project approval.

U. All of the water facilities installed under this Agreement, once disinfected and tested to the satisfaction of the DISTRICT and once connected to existing DISTRICT facilities, must maintain established water quality standards throughout the installed system. Should the DISTRICT determine that water quality standards are not being maintained following the connection of the approved facilities to the DISTRICT's system, a Water Quality Mitigation Plan (WQ Plan) will be required for review and implementation at the sole expense of the CITY.

ARTICLE II

DISTRICT AGREES:

A. Upon completion of construction of the WATER FACILITIES, acceptance of same by the DISTRICT, and fulfillment by the CITY of all requirements of this Agreement, the DISTRICT shall supply water to, and to thereafter operate and maintain the WATER FACILITIES installed pursuant to this Agreement in accordance with the DISTRICT'S Service Rules as the same are established and amended.

B. Construction water may be provided to the CITY at the CITY'S sole cost through metered fire hydrants and/or metered service connections in accordance with the DISTRICT'S Service Rules.

C. If required as a condition of the DISTRICT'S Service Rules, the DISTRICT shall refund to the CITY any overpayment of Regional Connection Charges based on a confirmed audit of annual water usage by the above-described property within the first three (3) years of operation. All payments will be based on the Regional Connection Charge Rates paid at the time of project approval.

ARTICLE III

IT IS MUTUALLY AGREED:

A. The Parties understand that this Agreement does not create "water rights", but only rights to conditional water service as a potential customer. This Agreement does not create a property interest in such water service and the CITY is not deemed a DISTRICT water customer until the water facilities and development identified herein are completed as specified.

B. The WATER FACILITIES installed under this Agreement shall be and remain the exclusive property of the DISTRICT and shall become a part of the DISTRICT'S general water distribution system after acceptance by the DISTRICT.

C. In the event a portion of the WATER FACILITIES are constructed but this Agreement terminates, the above-described property shall have no water commitment by virtue of the installation of the WATER FACILITIES. Requests for future use of said WATER FACILITIES if retained in place, shall require that a new water commitment be obtained before the WATER FACILITIES can be utilized.

D. This Agreement shall terminate and the conditional commitment shall be void if any of the following occurs:

   a. Construction of the WATER FACILITIES covered by the plan or plans identified in Article I, paragraph E of this Agreement is not commenced within one (1) year from the date of DISTRICT approval of said plan or plans; or

   b. If active construction work is discontinued for a period of one (1) year; or if such construction is commenced within said one (1) year period, but is not diligently prosecuted to completion in a manner acceptable to the DISTRICT.

E. If this Agreement terminates in accordance with its terms, right, title and interest of all or any portion of the WATER FACILITIES installed, as determined solely and exclusively by the DISTRICT, shall become the exclusive property of the DISTRICT for the DISTRICT to use, modify, or to dispose of as the DISTRICT deems appropriate.

F. Noncompliance or violation of the DISTRICT'S Service Rules or any provision of this Agreement by the CITY or its officers, employees, agents, contractors, licensees or invitees shall be cause for the DISTRICT, at its sole discretion, to discontinue water service to CITY'S project without challenge by CITY and without liability for any damages caused by said discontinuation.

G. The CITY will be responsible for any loss, damage, liability, cost or expense, except those exempted by law, caused by the actions or inactions of its employees, consultants, contractors, or agents arising under this Agreement. Without waiving the limitations on governmental liability set forth in NRS Chapter 41, as amended, the CITY shall protect, indemnify, and hold the DISTRICT, its officers, employees, and agents harmless from and against any and all claims, damages, losses, expenses, suits, actions, judgements, and awards including attorney's fees and court costs which may be brought against it or them as a result of or by reason of or arising out of or as a consequence of the construction of the WATER FACILITIES contemplated in this Agreement.

H. This Agreement shall not be deemed to be for the benefit of any entity or person who is not a party hereto, and is not a commitment for water service, and neither this Agreement, nor any interest therein, may be assigned without the prior written consent of the non-assigning party. This Agreement is not intended by the Parties to create any right in or benefit to parties other than the DISTRICT and the CITY. This Agreement does not create any third party beneficiary rights or causes of action.

I. This Agreement represents the entire understanding of the CITY and the DISTRICT relative to the installation of the WATER FACILITIES in conjunction with the CITY'S project.

J. Should any part of this Agreement be rendered void, invalid, or unenforceable by any court of law, for any reason, such determination shall not render void, invalid, or unenforceable, any other part of this Agreement.

K. The laws of the State of Nevada will govern as to the interpretation, validity, and effect of this Agreement.

L. Each party shall not discriminate against employees or applicants based on race, color, religion, sexual orientation, sex, age, or national origin, and shall take affirmative action to ensure that applicants are employed and employees are treated without regard to the above-mentioned factors and agrees to post in conspicuous places for employees and applicants' notices provided by the Equal Employment Opportunity Commission setting forth these provisions. Each Party further agrees that solicitation for employees shall state that qualified applicants will receive consideration without regard to the above-mentioned factors and will send to labor unions or collectives with which he/it has an agreement a notice of the commitments required herein and each party will comply with all local, state and federal laws prohibiting discrimination in hiring or employment opportunities.

IN WITNESS WHEREOF, the parties hereto have entered into this Interlocal Agreement on the _____ day of _____, 20_____.

CITY OF LAS VEGAS

Carolyn G. Goodman, Mayor

ATTEST:

LuAnn D. Holmes, City Clerk

APPROVED AS TO FORM:

John S. Ridilla 10/28/2020

Deputy City Attorney

John S. Ridilla
Deputy City Attorney

LAS VEGAS VALLEY WATER DISTRICT

Marilyn Kirkpatrick, President
Board of Directors

APPROVED AS TO FORM:

for

Gregory J. Walch, General Counsel
Las Vegas Valley Water District

10/20/2020

THIS DOCUMENT AND SUBSEQUENT PAYMENT OF FEES DOES NOT AFFECT THE OUTCOME OR THE REQUIREMENT TO OBTAIN A WATER COMMITMENT FOR THE PROJECT. A WATER COMMITMENT MUST BE OBTAINED FROM THE DISTRICT THROUGH THE PROCESS DESCRIBED IN THE DISTRICT SERVICE RULES. THIS DOCUMENT AND PAYMENT OF FEES IS NOT A COMMITMENT FOR WATER SERVICE.

Las Vegas Valley Water District
APPLICATION FOR CONNECTION AND REQUEST FOR SERVICE

AGREEMENT NO. 137453 SERVICE POINT # _____
BY: Debbie S 10/30/2020 _____
CHECKED BY: _____ (#120631)
JOB ORDER # _____ F/A# _____ DATE _____

Project Name: CLV - CHARLESTON HEIGHTS COMMUNITY CENTER & PARK

Service Location(s): Maverick St - 2200 blk

Service Address: 2221 Maverick St

Developer: City of Las Vegas (3)

Social Security or Tax I.D. No.: 88-6000198

Billing Address: 495 S. Main Street
Las Vegas, NV 89101-6318

Telephone No. (702) 229-1046

Property Owner: City of Las Vegas

FEES, CHARGES AND DEPOSITS

SERVICE CONNECTION INSTALLATION
COMPLETE SERVICE / SERVICE EXCLUDING METER (27301)
SIZE: _____ $ _____

METERS ONLY (25700)

1	2	"@ $ 300.	/ ea.	$	300.
1	1 1/2	"@ $ 250.	/ ea.	$	250.
		"@ $	/ ea.	$	

AUTOMATED METER READING DEVICE (AMR) (27301 R-7723)
3 @ $ 104. / ea. $ 316.

SERVICES > 2" INSTALLED BY PRIVATE CONTRACTOR
1 4 " TYPE: RPDA $ - 0 -
" TYPE: $ - 0 -

BACKFLOW PREVENTION (27301) (BY PRIVATE CONTRACTOR)
1 2 " TYPE: RPPA $ -0-
1 1 1/2 " TYPE: RPPA $

INSTALLATIONS/REMOVALS ON ACTUAL COST BASIS - DEPOSIT (25703)
SIZE: _____ " TYPE: _____ $ _____

FACILITIES CONNECTION CHARGE (27312)

1	2	"@ $ 15,384.	/ ea.	$	15,384.
		"@ $	/ ea.	$	
		"@ $	/ ea.	$	

FRONTAGE CONNECTION CHARGE*
LF @ $ / ea. $
LF @ $ / ea. $
LF @ $ / ea. $

OVERSIZING CHARGE (27313)

1	2	"@ $ 2,000.	/ ea.	$	2,000.
		"@ $	/ ea.	$	
		"@ $	/ ea.	$	

APPLICATION FEE (41300)

1	2	"@ $ 1,120.	/ ea.	$	1,120.
PREV PAID FEE		"@ $	/ ea.	$	(750.)
		"@ $	/ ea.	$	

INSPECTION FEE (41301)

1	2	"@ $ 185.	/ ea.	$	185.
1	RPDA	"@ $ 550.	/ ea.	$	550.
1	1 1/2	"@ $ 185.	/ ea.	$	185.

OTHER CHARGES / CREDITS:
_____ $ _____

SUBTOTAL: $ 19,536.

REGIONAL CONNECTION CHARGE (30601) **ADD ONE:**
BY 12/31/2020 $ 64,260
BY _____ $ _____
BY _____ $ _____

TOTAL: $83,796.00

ACKNOWLEDGEMENT

Developer and Property Owner understand and agree:

1. Water service will be provided in accordance with the Las Vegas Valley Water District Service Rules.
2. All water delivered through a service connection will be metered and billed to the Developer until the Developer requests that the service be shut off. The use of idlers is prohibited. Meters must be installed by the Developers' contractor before any water is drawn through the service connection.
3. In the event of abandonment or cessation of construction, prepaid installation and connection charges may be used by the District to pursue completion of all or part of the project.
4. Location and elevation of service connections to be installed by the District must be identified (staked) by owner prior to installation. The cost of adjustment to location or elevation after installation will be borne by owner.
5. Service connection(s) identified on this application to be installed or removed on an actual cost basis are subject to audit of final cost. If final costs exceed the deposit amount, the property owner promises to pay the difference within 30 days after receipt of notice.
6. Failure to pay any charges when due will subject the property to a lien and/or discontinuance of water service.
7. If box is marked see attached form for special pressure advisement. ☐

Developer:

X _____
Signature

X _____
Print or Type Name and Title

Property Owner:

X _____
Signature

X _____
Print or Type Name and Title

General Comments: APN 138-23-516-045
Upgrade Exist 1 1/2" SP #120631 - remove mtr #585008
Install new 1 1/2" meter & 1 1/2 RPPA
Per Jan 2014 Federal Lead Law

OFFICE USE

Fees Paid By: _____
Customer Will Stake By: _____ M/R # _____
Cross Street: N/O Caprino Ave
Cross Street: _____
Side of Street: East P.Z.: 2420
Q.S.: 138-23-NE Land Use: 14-20/440
Main Size / Type / Loc / DWG _____
Service Removal Requested For:
Service No. _____ Meter Size: _____
Service No. _____ Meter Size: _____
Service No. _____ Meter Size: _____
STATUS COMMENTS: _____

***FRONTAGE CONNECTION CHARGE DISTRIBUTION**

23113	$ _____	Refundable	
27306	$ _____	Retainable	SRM NO. _____
24111	$ _____		
24111	$ _____		
24111	$ _____		
27309	$ _____	District	

CASHIER'S VALIDATION

Original-Development Services
White-Customer, Cashier, Inspection, Accounting, Engineering Services, Water Quality and Distribution

AGENDA SUMMARY PAGE

City Council
Meeting of: December 2, 2020

Agenda Item No.:
28

DEPARTMENT: Public Works **CONSENT**
DIRECTOR: Mike Janssen

SUBJECT:
For possible action to approve First Supplemental Interlocal Contract LAS25C20 between the City of Las Vegas (CLV) and the Clark County Regional Flood Control District (CCRFCD) to increase funding for the Las Vegas Wash - Stewart, Las Vegas Wash to Lamb Boulevard Project ($656,324 - Road and Flood Capital Project Fund [CPF]) - Ward 3 (Diaz)

FISCAL IMPACT:
Budget Funds Available
Amount: $656,324
Funding Source: Road and Flood CPF
Dept./Division: Public Works/City Engineer

PURPOSE/BACKGROUND:
On September 10, 2020, the CCRFCD entered into an interlocal contract with the CLV to provide funding for the engineering design, right-of-way, environmental mitigation and entity design labor costs for the Las Vegas Wash - Stewart, Las Vegas Wash to Lamb Boulevard Project. This First Supplemental Interlocal Contract LAS25C20 will increase project funding. Additional funding is needed to cover negotiated design cost and entity design labor costs. The CCRFCD approved this agreement at their October 8, 2020 Board Meeting.

RECOMMENDATION:
Approval

BACKUP DOCUMENTATION:
1. First Supplemental Interlocal Contract LAS25C20

FIRST SUPPLEMENTAL INTERLOCAL CONTRACT
LAS VEGAS WASH – STEWART, LAS VEGAS WASH TO LAMB BLVD

THIS FIRST SUPPLEMENTAL INTERLOCAL CONTRACT made and entered into as of the 8th day of October, 2020 by and between the Clark County Regional Flood Control District, hereinafter referred to as "DISTRICT", and the City of Las Vegas hereinafter referred to as "CITY".

W I T N E S S E T H

WHEREAS, pursuant to Chapter 543 of the Nevada Revised Statutes, the DISTRICT may approve a project to design and construct flood control improvements, and;

WHEREAS, the flood control improvements proposed herein are the same as those generally identified in the 2018 Master Plan Update as Facility Number LVST 0000, hereinafter referred to as "PROJECT"; and

WHEREAS, the PROJECT is identified and shown on the attached Exhibit "A"; and

WHEREAS, the PROJECT has been approved by the DISTRICT on its Ten Year Construction Program; and

WHEREAS, the PROJECT has regional flood control significance and is located in the same hydrographic area as the Las Vegas Valley.

WHEREAS, the Interlocal Contract dated September 10, 2020 was entered into between the DISTRICT and the CITY; and,

WHEREAS, the City desires to increase project funding.

NOW, THEREFORE, in consideration of the covenants, conditions, contracts, and promises of the parties hereto, the DISTRICT and the CITY agree to the following:

SECTION II – PROJECT COSTS shall be revised to read as follows:

The DISTRCT agrees to fund project costs within the limits specified below:

1. Engineering Design at a cost not exceed $1,491,190.

2. Entity Design Labor Costs at a cost not to exceed $180,000.

3. Right of Way at a cost not to exceed $2,000.

4. Environmental at a cost not to exceed $2,000.

5. The total cost of the contract shall not exceed $1,675,190 which includes all of the items described in the paragraphs above.

6. A written request must be made to the DISTRICT and approved by the Board to reallocate funds between phases of the project. No other approval by the Lead Entity is required.

7. A written request must be made to the DISTRICT and a Supplemental Interlocal Contract approved by the Board to increase the total cost of the contract noted above prior to payment of any additional funds.

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The remainder of the original Interlocal Contract dated September 10, 2020 shall remain unchanged.

IN WITNESS WHEREOF, the Parties have caused this First Supplemental Interlocal Contract to be executed by their duly authorized representatives the day and year first above written.

Date of Council Action

_____

City of Las Vegas

By: _____
Carolyn G. Goodman, Mayor

Attest

By: _____
LuAnn Holmes, MMC
City Clerk

Approved as to Form

By: John S. Ridilla 10/28/2020
Deputy City Attorney Date

John S. Ridilla
Deputy City Attorney

Date of District Action

October 8, 2020

Regional Flood Control District

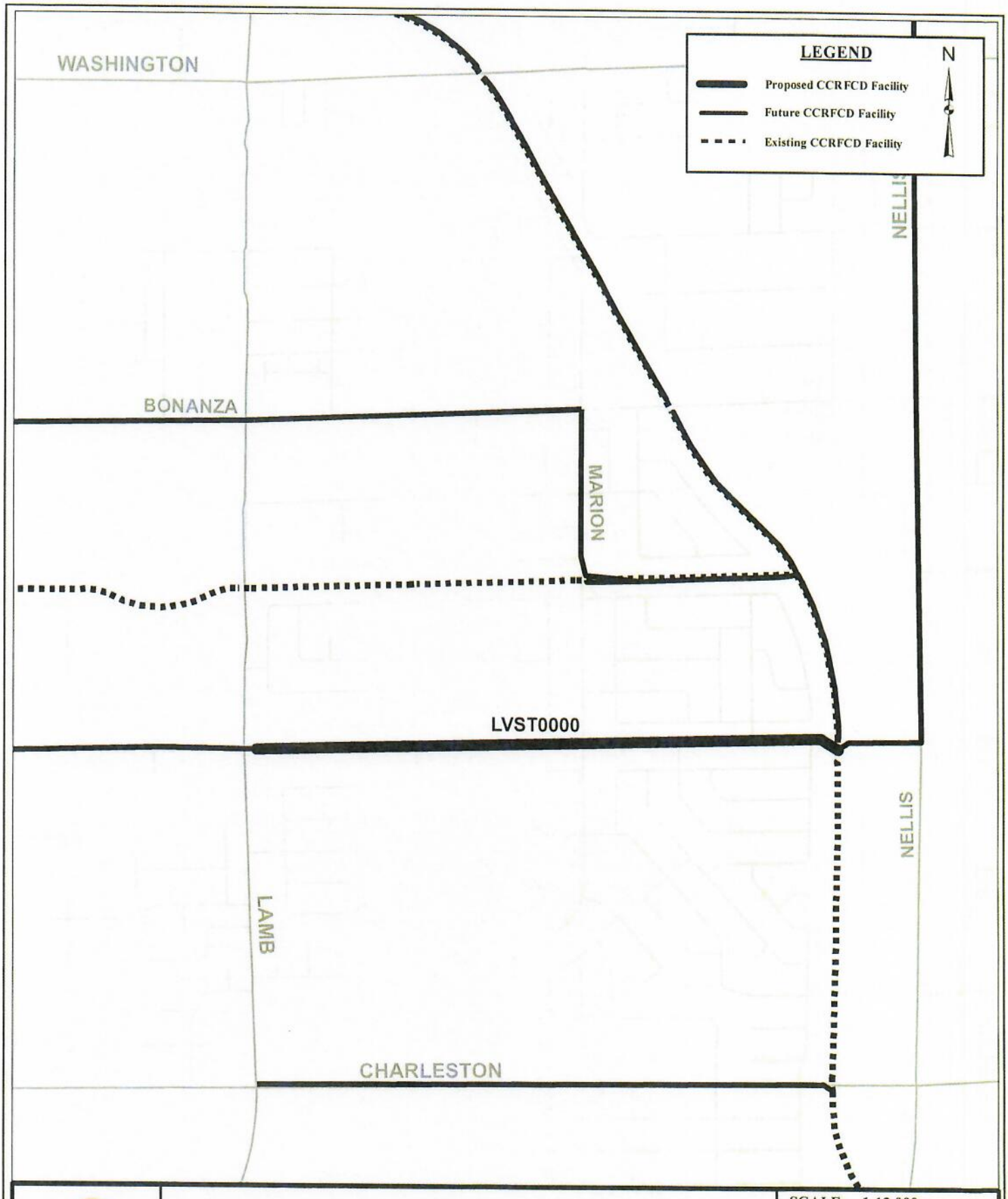
By: Lawrence L Brown III
LAWRENCE L. BROWN, III,
Chair

Attest

By: Tammy McMahon for
Deanna Hughes
Secretary to the Board

Approved as to Form

By: Lisa Logsdon 10/8/2020
Lisa Logsdon Date
Deputy District Attorney



Public Works
Flood Control Planning

EXHIBIT A
LAS VEGAS WASH - STEWART, LAS VEGAS WASH TO LAMB BLVD
(LAS25C20)

SCALE: 1:12,000
DRAWING NAME: LasVegasWash_Stewart_LVWash_Lamb.mxd
DRAWN BY: C. JONES
DATE: 08/13/2020
SHEET NUMBER 1 OF 1

Document Path: N:\EXHIBIT_PROJECTS\RFCD\LasVegasWash_Stewart_LVWash_Lamb.mxd

Due to continuous development activity, this map is for reference only

AGENDA SUMMARY PAGE
City Council
Meeting of: December 2, 2020

Agenda Item No.:
29

DEPARTMENT: Youth Development & Social Innovation **CONSENT**
DIRECTOR: Tammy Malich

SUBJECT:
For possible action to approve the ratification of the City Manager's acceptance of a grant award in the amount of $950,000 from the Nevada Governor's Office of Science, Innovation and Technology to the City of Las Vegas for the Advanced Connectivity for Community and Economic Development (ACCED) Program, which will focus on providing wireless service to individuals within the Historic Westside neighborhood, the Corridor of Hope (home to social service facilities) and the Medical District who are seeking education, employment and job training to connect to these services at no charge - All Wards

FISCAL IMPACT:
None

PURPOSE/BACKGROUND:
The city of Las Vegas has received a grant award in the amount of $950,000 from the Nevada Governor's Office of Science, Innovation and Technology through the state coronavirus relief act funding to complete the Phase I component of the overall ACCED project. Advanced Connectivity for Community and Economic Development (ACCED) is a city of Las Vegas-provided wireless network project which will enable individuals within the Historic Westside neighborhood, the Corridor of Hope (home to social service facilities) and the Medical District who are seeking education, employment and job training to connect to these services at no charge. The grant funding period will expire on December 31, 2020.

RECOMMENDATION:
Staff recommends City Council ratify the City Manager's acceptance of the grant award subject to the terms and conditions of the State grant requirements, including any federal requirements related to Cares Relief Fund allocation and authorize the City Manager to sign any and all additional applicable agreements following approval of the City Attorney.

BACKUP DOCUMENTATION:
1. Agenda Memo
2. State of Nevada Coronavirus Relief Fund Terms and Conditions for Allocations (11-18-2020), Risk Assessment Questionnaire and Allocation Notice

City of Las Vegas

AGENDA MEMO

CITY COUNCIL MEETING DATE: DECEMBER 2, 2020
DEPARTMENT: YOUTH DEVELOPMENT AND SOCIAL INNOVATION
ITEM DESCRIPTION: For possible action to approve the ratification of the City Manager's acceptance of a grant award in the amount of $950,000 from the Nevada Governor's Office of Science, Innovation and Technology to the City of Las Vegas for the Advanced Connectivity for Community and Economic Development (ACCED) Program, which will focus on providing wireless service to individuals within the Historic Westside neighborhood, the Corridor of Hope (home to social service facilities) and the Medical District who are seeking education, employment and job training to connect to these services at no charge - All Wards

Budget

Component	Phase I
Radio Equipment & Materials	$ 450,000
Power Equipment & Materials	$ 100,000
Backhaul Equipment & Materials	$ 100,000
Installation	$ 100,000
Core Network Equipment & Materials	$ 100,000
End-user equipment	$ 100,000
TOTAL PROJECT	**$ 950,000**

Project Timeline

Date	Milestone
11/9/2020	Site selection and preparation work begins
11/24/2020	Order equipment for Phase I
11/30/2020	Coordinate student deployment with YDSI
12/01/202	Installation begins for Phase I equipment
12/02/2020	City Council approval of grant acceptance
12/7/2020	Testing of Phase I sites (CLV and CCSD)
12/09/2020	YDSI and CCSD to identify and deploy connectivity kits
12/17/2020	Phase I students actively using system
12/30/2020	Performance tuning of sites
12/31/2020	Project completed

Coronavirus Relief Fund
Terms and Conditions
For Allocations

State of Nevada

Administered by the Governor's Finance Office, Budget Division

November 18, 2020

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Overview

Under the federal Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act"), the Coronavirus Relief Fund ("Fund") may be used to reimburse expenditures in response to the COVID-19 public health emergency. The federal awarding agency is the U.S. Department of Treasury. The Inspector General of the United States Department of the Treasury ("Treasury") conducts monitoring and oversight of the receipt, disbursement and use of these funds.

The CARES Act authorized $150 billion through the Fund for state and local governments, including $1.25 billion for Nevada. A portion of the State's total allotment was reserved for local governments that have a population in excess of 500,000. As a result, the City of Las Vegas and Clark County elected to receive direct allocations from the Treasury. The State of Nevada received $836 million from the Fund, of which $148.5 million was allocated to counties and incorporated cities outside of Clark County with populations of less than 500,000.

Funds may NOT be used to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify under the statute. Although a broad range of uses is allowed, revenue replacement is not a permissible use of Fund payments.

About This Document

In this document, those entities that are receiving Fund allocations will find the terms and conditions applicable to payments distributed in the form of "other financial assistance" under 2 C.F.R. § 200.40 from the Coronavirus Relief Fund (CFDA 21.019), established within section 601 (a) of the Social Security Act, as added by section 5001 of the CARES Act.

The agreement is subject to additional terms, conditions, and requirements of other laws, rules, regulations and plans recited herein. It is intended to be the full and complete expression of and constitutes the entire agreement between the parties. All prior and contemporaneous understandings, agreements, promises, representations, terms and conditions, both oral and written, are superseded and replaced by this agreement. Notwithstanding any expiration or termination of this agreement, the rights and obligations pertaining to the close-out, cooperation and provision of additional information, return of funds, audit rights, records retention, public information, and any other provision implying survivability shall remain in effect after the expiration or termination of this agreement.

To the extent the terms and conditions of this agreement do not address a particular circumstance or are otherwise unclear or ambiguous, such terms and conditions are to be construed consistent with the general objectives, expectations and purposes of this agreement and in all cases, according to its fair meaning. The parties acknowledge that each party and its counsel have reviewed this agreement and that any rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this agreement. Any vague, ambiguous or conflicting terms shall be interpreted and construed in such a manner as to accomplish the purpose of the agreement.

Scope of Work

The specific scope of work related to the CRF will be managed and monitored by the Governor's Finance Office according to the terms and conditions of the *Coronavirus Relief Fund – State of Nevada Allocation Agreement* and the *Coronavirus Relief Fund Terms and Conditions for Allocations*. The scope of work related to CRF use is limited to ensure it is expended in a manner consistent with federal Treasury Guidance and the recipient's *Request for Coronavirus Relief Fund Allocation* proposal. There are no other additional performance measures.

Eligible Uses

Under the CARES Act, the Coronavirus Relief Fund (CRF) may be used to cover costs that:

1. Were **incurred** during the period that begins on March 1, 2020, and ends on December 30, 2020.
2. Are **necessary expenditures** incurred due to the public health emergency with respect to COVID-19.
3. Are NOT accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government. The "most recently approved" budget refers to the enacted budget for the relevant fiscal period for the particular government. A cost meets this requirement if:
    a. The cost cannot lawfully be funded using a line item, allotment, or allocation within that budget; OR
    b. The cost is for a **substantially different use** from any expected use of funds in such a line item, allotment, or allocation.
    c. A cost is not considered to have been accounted for in a budget merely because it could be met using a budgetary stabilization fund, rainy day fund, or similar reserve account.

Definitions (as reference above)

"**Incurred**": Treasury clarified on June 30, 2020 that for a cost to be considered to have been "incurred", performance or delivery must occur during the covered period but payment of funds need not be made during that time (though it is generally expected that this will take place within 90 days of a cost being incurred).

"**Substantially different use**": a cost incurred for a "substantially different use" includes but is not limited to:

1. Costs of personnel and services that were budgeted for in the most recently approved budget as of March 27, 2020 but which, due entirely to COVID-19 have been diverted to substantially different functions. Examples include but are not limited to the costs of:
    a. redeploying corrections facility staff to enable compliance with COVID-19 public health precautions through work such as enhanced sanitation or enforcing social distancing measures;

b. redeploying police to support management and enforcement of stay-at-home orders;
c. diverting educational support staff or faculty to develop online learning capabilities, such as through providing information technology support that is not part of the staff or faculty's ordinary responsibilities.

2. A public function does not become a "substantially different use" merely because it is provided from a different location or through a different manner. An example is:
   a. developing online instruction capabilities may be a substantially different use of funds, however online instruction itself is not a substantially different use of public funds than classroom instruction.

Available Funds

Per Federal guidelines, the CRF has been allocated according to Treasury Guidance and related FAQs.

Note that to the extent actual expenditures that are allocated "up front" are less than the amount requested, entities receiving funds will be required to return the balance of unspent funds to the State of Nevada on or before March 1, 2020 (within sixty 60 calendar days of the end of the period of performance). This approach is intended to get money out to recipients quickly, and to allow adjustments over the coming months.

Entities receiving funds shall adopt and maintain a system of internal controls which results in the fiscal integrity and stability of the organization, including the use of Generally Accepted Accounting Principles (GAAP) and Generally Accepted Government Auditing Standards (GAGAS).

Period of Performance

The Coronavirus Relief Funds may only be used for costs incurred by entities receiving funds in response to the COVID-19 public health emergency during the period of March 1, 2020 through December 30, 2020.

Eligible Costs

There are eleven (11) primary eligible cost categories. These cost categories and their eligible cost sub-categories are as follows:

1. COVID-19 related expenses to address **medical needs** of:
   a. Public hospitals, clinics and similar facilities
   b. Establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity, including related construction costs
   c. Emergency medical response, including emergency medical transportation related to COVID-19
   d. Establishing and operating public telemedicine capabilities for COVID-19-related treatment

2. COVID-19 related expenses to address **public health needs** including:
    a. Communication and enforcement by State, territorial, local, and Tribal governments of public health orders
    b. Acquisition and distribution of medical and protective supplies including sanitation (No PPE)
    c. Disinfection of public areas and other facilities, e.g., nursing homes
    d. Technical assistance (knowledge transfer) to local authorities or other entities on mitigation of COVID-19-related threats to public health and safety
    e. Public safety measures undertaken in response to the COVID-19 public health emergency
    f. Quarantining individuals

3. **Personal Protective Equipment (PPE)** – equipment worn to minimize exposure to hazards such as masks, medical gloves, eye protection for:
    a. medical personnel
    b. police officers
    c. social workers
    d. child protection services
    e. child welfare officers
    f. direct service providers for older adults and individuals with disabilities in community settings
    g. other public health or safety workers in connection with the COVID-19 public health emergency

4. COVID-19 **Testing and Contact Tracing**
    a. COVID-19 testing, including serological testing
    b. Contact tracing

5. **Payroll expenses** for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.
    a. Providing paid sick and paid family and medical leave to public employees to enable compliance with COVID-19 public health precautions

6. Expenses of actions **to facilitate compliance** with COVID-19-related public health measures, such as:
    a. Facilitating distance learning, including technological improvements
    b. Improvement of telework capabilities for public employees
    c. Maintaining state prisons and county jails, including as relates to sanitation and improvement of social distancing measures
    d. Improving social distancing measures
    e. Nursing home assistance

7. Expenses associated with the provision of **economic support – small business, housing and food assistance** in connection with the COVID-19 public health emergency, such as:

a. Small business assistance such as grants to small businesses to reimburse the costs of business interruption caused by required closures or decreased customer demand as a result of the COVID-19 public health emergency
b. Food programs - access and delivery to residents (e.g. senior citizens and other vulnerable populations)
c. Housing support
d. Care for homeless populations provided to mitigate COVID-19 effects and enable compliance with COVID-19 public health precautions
e. A consumer grant program or rent relief program to prevent eviction and assist in preventing homelessness (if grant is considered to be a necessary expense due to COVID-19 and it meets the other Fund requirements)

8. Expenses associated with the provision of **economic support - other** (other than small business, housing and food assistance) in connection with the COVID-19 public health emergency, such as:
    a. A state, territorial, local, or Tribal government payroll support program
    b. Emergency financial assistance to individuals and families directly impacted by a loss of income
    c. Unemployment insurance costs related to the COVID-19 public health emergency if such costs will not be reimbursed by the federal government pursuant to the CARES Act or otherwise.
    d. Workers' Compensation increases as a result of COVID-19
    e. Remarketing convention facilities and tourism industry to publicize the resumption of activities and steps to ensure safe experience.

9. Expenses to **respond to secondary effects** of the current COVID-19 public health emergency including:
    a. Addressing increases in solid waste (e.g. more disposal of PPEs) as a result of the COVID-19 public health emergency
    b. Tax anticipation notes (TANs)
    c. Continuation of equipment previously scheduled to be decommissioned in order to respond to the public health emergency (costs associated with continuing to operate the equipment)
    d. Continuation of a lease on office space or equipment that would <u>not</u> have been renewed in order to respond to the public health emergency (costs associated with the ongoing lease payments through December 30, 2020)

10. **Administration** expenses*:
    a. Administration of Coronavirus Relief Funds reimbursements/allocation
    b. Administration of grant/loan programs using CRF

11. Any **other** COVID-19-related expenses reasonably necessary to the function of government that satisfy the Fund's eligibility criteria.

**Indirect administration costs are not allowable uses of the CRF; all administration expenses must be directly accounted for and justified as due to administer assistance programs that are in response to the COVID-19 public health emergency.*

FEMA and Federal Reimbursements

Treasury Guidance clarifies that government entities may use the CRF to pay for FEMA's cost share requirements for the Stafford Act assistance. It can only be used for COVID-19-related costs that satisfy the Fund's eligibility criteria and the Stafford Act. Regardless of the use of Fund payments for such purposes, FEMA funding is still dependent on FEMA's determination of eligibility under the Stafford Act. As with all expenses that have been or will involve other federal programs, entities receiving funds should be diligent in understanding limitations with other federal funding to evaluate if there will be any potential issues.

Costs that Should be Avoided

Due to the short time frame to use the CRF, and because the Treasury has emphasized these funds are only to be used to respond or mitigate this current COVID-19 pandemic (not to address or prepare for the possibility of a continuation or other matters past December 30, 2020), there are a few uses of the Fund that should be avoided or strongly considered:

1. Larger infrastructure and/or technology projects - these funds are to address the current pandemic (prior to December 30, 2020). If a project is to address the current pandemic the project needs to be up and running well before the end of the performance period to qualify as an eligible CRF expenditure.
2. Monthly service contracts - many information technology projects use service contracts for IT services and/or software. These can only be covered with CRF through December 30, 2020. All monthly service contracts must be limited to end on December 30, 2020.
3. Purchase of major assets - some projects have explored the purchase of assets such as buildings, which is not an acceptable use of funds. Shelters/storage etc. should be temporary (possible leases) to avoid issues. Leases must be limited to September – December.
4. Incentive items - some projects may be structured to include "incentive" items to garner participation from the public. Items like gift cards, handouts (other than informational flyers) etc. are not covered by the CRF.
5. Preparing for an event in 2021 - Treasury Guidance states that the CRF is to be used to respond or mitigate this current COVID-19 pandemic. It does not allow for preparation of a vaccine or resurgence apart from anything that might happen prior to December 30, 2020. For this reason, the following actions are not eligible uses of the CRF:
    a. Stockpiling a supply specifically for 2021 (per Treasury Guidance "the cost of goods purchased in bulk and delivered during the covered period may be covered using payments from the Fund if a portion of the goods is ordered for use in the covered period, the bulk purchase is consistent with the recipient's usual procurement policies and practices, and it is impractical to track and record when the items were used. A recipient may use payments from the Fund to purchase a

durable good that is to be used during the current period and in subsequent periods if the acquisition in the covered period was necessary due to the public health emergency."

b. Vaccination preparation – without a vaccine being developed in 2020
c. Preparing for a surge that might occur in 2021

Ineligible Costs

Non-allowable expenditures include, but are not limited to:

1. Filling shortfalls in government revenue. Revenue replacement is NOT a permissible use of Fund payments
2. Expenses for the state share of Medicaid
3. Damages covered by insurance
4. Payroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency
5. Expenses that have been or will be reimbursed **under any other federal program*** (e.g. reimbursement by the federal government pursuant to the CARES Act of contributions by states to state unemployment funds)
6. Reimbursement to donors for donated items or services
7. Workforce bonuses (other than hazard pay or overtime for employees who were substantially dedicated to responding/mitigating the COVID-19 public health emergency) or severance pay
8. Recipients may not apply their indirect costs rates to payments received from the Fund
9. Legal settlements
10. Assisting impacted property owners with payment of property taxes
11. Replacement of government revenue due to unpaid utility fees
12. Expenditures to prepare for a future COVID-19 outbreak past December 30, 2020
13. Stipends to employees for eligible expenses (e.g. to improve telework capabilities)
14. Payroll or benefit expenses of private employees contracted to work for the entity receiving funds, unless they are substantially dedicated to mitigating or responding to the COVID-19 public health emergency
15. Prepayments on contracts using the Fund to the extent that doing so would not be consistent with ordinary course policies and procedures (e.g. pre-paying for one or two-year facility lease to house staff hired in response to COVID-19 public health emergency)
16. Capital improvement projects that broadly provide potential economic development in a community (if not directly necessary due to the COVID-19 public health emergency)
17. Per Treasury Guidance: "In addition, pursuant to section 5001(b) of the CARES Act, payments from the Fund may not be expended for an elective abortion or on research in which a human embryo is destroyed, discarded, or knowingly subjected to risk of injury or death…Furthermore, no government which receives payments from the Fund may discriminate against a health care entity on the basis that the entity does not provide, pay for, provide coverage of, or refer for abortions." Please see the footnote on Page 3 of Treasury Guidance for full information on this provision.

** Per Treasury guidance, CRF recipients are NOT required to use other federal funds or seek reimbursement under other federal programs first before using fund payments (The CRF is NOT required to be used as the source of funding of last resort). However, recipients may NOT use the CRF to cover expenditures for which they will receive reimbursement. Entities receiving funds need to consider the applicable restrictions and limitations of other sources of funding, such as combining a transaction supported with CRF payments with other CARES Act or COVID-19 relief federal funding. They also need to consider time constraints and other limitations that exist within various forms of federal COVID-19 relief funding.*

Cost Test

Entities receiving funds are charged with determining whether or not an expense is eligible based on the U.S. Treasury's Guidance. Specific documents can be reference:

- Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments (09/02/2020)
- Coronavirus Relief Fund Frequently Asked Questions (10/19/2020)

To assist with determining if expenses will qualify, an eligibility cost test has been developed as a starting point.

If all responses for the particular incurred cost are "true" for all six statements below, then an entity can feel confident the cost qualifies for basic eligibility (Note: some items might require further evaluation against the Treasury Guidance and FAQs):

1. The expense occurs between March 1 and December 30, 2020
2. The expense is connected to the COVID-19 emergency
3. The expense is "necessary"
4. The expense is not filling a shortfall in government revenues
5. The expense is not funded through another budget line item, allotment or allocation, as of March 27, 2020 ***OR*** is funded, but the cost is for a substantially different use from any expected use of funds (e.g. base salary funded but duties become substantially different to respond to COVID-19 emergency)
6. The expense wouldn't exist without COVID-19 OR would be for a "substantially different" purpose

Additional consideration

The intent of these funds is to help cover the *immediate impacts* of the COVID-19 emergency, both direct costs to the entity receiving funds and costs to communities. There are many possible eligible costs.

Many costs are clearly eligible, and others fall into a more "grey area". Some costs fit in to one eligible cost category while others fit into several. The "grey area" costs could be justified based on the test; however, it must be determined if they directly address the *immediate impacts* as well. If the answer is questionable, it may be safer and more appropriate to utilize the funds in one of the many other eligible cost categories that more clearly meet the intent of the funds.

Entities receiving funds will need to generate and have readily available written justifications/notations for all uses of the Fund.

It is important to keep in mind however, that any funds expended that fail to comply in any manner with official federal guidance shall be booked as a debt owed to the State of Nevada and subsequently collected and returned to the Federal government. For this reason, it is important to provide quality justification as to why a cost qualifies for payment. If inadequate or no justification is given, the expenditure reimbursement is at risk of being deemed ineligible and may result in a potential unnecessary loss for your agency.

Risk Assessment

In line with Uniform Guidance provision, GFO will be evaluating the CRF recipient's risk of noncompliance with statutes, regulations, and terms of the CRF payment for purposes of determining the appropriate level of required monitoring. The risk assessment evaluation includes certification that neither the CRF recipient nor its principals were presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. This risk assessment must be completed prior to receiving CRF.

Fund Expenditure Plan

Within 15 days of receiving any allocation from the State of Nevada, entities receiving funds may be required to submit a brief high-level expenditure plan to the State of Nevada, Governor's Finance Office (GFO) in a Word document (no more than 2 pages) summarizing the process the entity will used for expending the funds within its organization and/or allocating to any grantee(s) before December 30, 2020. The *Coronavirus Relief Fund – State of Nevada Allocation Notice* will indicate whether this is required for the approved program. If it is required, the following items must be addressed in the document:

- Of the funds that are currently allocated what is the latest date that goods or services will be delivered?
- Are there any risks that could prevent the currently allocated funds from being spent by 12/30/20? If so, please list the potential risks.
- How does the agency or its grantee(s) receiving funds plan to mitigate any risks?
- How does the agency or its grantee(s) receiving funds ensure the use of funds will be completed by 12/30/20 and that no carryover of expenditures will occur?

Please email the "High-level Expenditure Plan" document to covid19@finance.nv.gov by the due date given by GFO, if required.

Dispersal of Funds

Entities receiving a payment of CRF based on the prior approval of the Governor's Finance Office and/or the Nevada State Legislature will be notified of the amount in the *Coronavirus Relief Fund – State of Nevada Allocation Notice.* Payment(s) are to be used only for the purposes

defined in the *Allocation Notice* document and the approved *Request for Coronavirus Relief Fund Allocation* proposal only. Should a change occur in the approved program, the entity receiving CRF is required to notify GFO of the changes within 2 business days.

GFO will notify the entity in the *Coronavirus Relief Fund – State of Nevada Allocation Notice* whether funds will be paid up-front or on a reimbursement basis. If payments are made on a reimbursement basis, payments will be issued as reimbursements for eligible expenditures on a monthly basis. Reimbursements will only be for costs incurred through December 30, 2020 and invoices will be required for payment. Invoices must be received at the GFO no later than the 15th of the month following the close of the billing month. GFO will initiate payments for submitted invoices no later than the 25th of the month following the close of the billing month.

For fund allocation, an authorized representative from the entity receiving CRF will receive a submittal "packet" from the State of Nevada, Governor's Finance Office (GFO) which includes:

- *CRF-State of Nevada-Allocation Notice and Agreement*
- *Coronavirus Relief Fund Terms and Conditions for Allocations*
- *Risk Assessment Questionnaire-CRF-State of Nevada*
- *CRF Activity Reporting Worksheet – Rev10.09.20* (Excel)

To receive funds an authorized representative from the entity receiving CRF will complete, sign and return a copy of the *Coronavirus Relief Fund State of Nevada Award Notice and Allocation Agreement* as well as the acknowledgement of understanding from the *Coronavirus Relief Fund Terms and Conditions for Allocations* (in Appendix A of the document). A *Risk Assessment Questionnaire-CRF-State of Nevada* document must also be completed and returned to GFO. **A digital copy of these completed items must be emailed to covid19@finance.nv.gov no later than 10 business days from receipt of the *Coronavirus Relief Fund State of Nevada Award Allocation Agreement.***

Additionally, in order to receive funds, an entity receiving CRF must be registered as a vendor for the State of Nevada and a vendor number must be provided on the *Allocation Agreement*. If an entity receiving CRF has multiple vendor numbers, please provide the appropriate one that will be used for the fund transfer. If an entity receiving CRF is not yet registered as a vendor with the State of Nevada, please contact the Nevada State Controller's Office to register, or go online at: http://controller.nv.gov/Buttons/ElectronicVendorReg/

Once all required items are received by GFO, the allocation will be transferred if payment is up-front. If payment is to be on a reimbursement basis, these items must be in place prior to any payments being issued.

The entity receiving CRF may also be required to submit a CRF Expenditure Plan within 15 days of receipt of the funds as described in the previous "Fund Expenditure Plan" section of this document. *The Coronavirus Relief Fund – State of Nevada Allocation Notice* will indicate whether this is required for the approved program. A digital copy of the completed plan must be emailed to covid19@finance.nv.gov.

Amendments and Changes

The State may amend this agreement at any time provided such amendments make specific reference to this agreement, and are executed in writing, and signed by a duly authorized representative of the entity receiving funds and the State. Such amendments shall not invalidate the agreement, nor relieve or release the entity receiving funds or the State from any obligations under the agreement.

The State and entity receiving funds agree that any act, action or representation by either party, their agents or employees that purports to waive or alter the terms of this agreement is void unless a written amendment to this agreement is first executed and documented. The entity receiving funds agrees that nothing in this agreement will be interpreted to create an obligation or liability of the State.

Notwithstanding this requirement, it is understood and agreed by parties, that changes in local, state and federal rules, regulations or laws applicable hereto, may occur during the term of this agreement and that any such changes shall be automatically incorporated into this agreement without written amendment, and shall become a part hereof as of the effective date of the rule, regulation or law.

Required Notifications

The CRF recipient must, within two (2) business days after receiving notification:

a) notify GFO by email (covid19@finance.nv.gov) if any part of the program as outlined in the *Request for Coronavirus Relief Fund Allocation* changes during implementation
b) notify GFO by email upon scheduling or completion of any single or program-specific audit
c) provide GFO with a copy by email of the single or program-specific audit report detailing any exceptions and whether its financial statements comply with GAAP and GAGAS
d) notify GFO by email if suspended or proposed for debarment

Intersection with Other Funding Sources

Eligible uses of the federal Coronavirus Relief Fund may overlap with allowable uses of other federal grants and reimbursements. Federal dollars cannot under any circumstances be claimed twice for the same spending. Entities receiving funds are responsible for ensuring they are aware of Treasury guidance and that this will not occur with any allocated funds.

Compliance

Entities receiving funds will comply with all applicable federal laws, regulations, executive orders, policies, procedures, and directives and shall adopt and maintain a system of internal controls which results in the fiscal integrity and stability of the organization, including the use of Generally Accepted Accounting Principles (GAAP) and Generally Accepted Government Auditing Standards (GAGAS). Both GAAP and GAGAS require developing and carrying out

effective policies, procedures, and internal controls and providing documentation of such documents when requested.

Conflicts of Interest

Fund recipients must establish safeguards to prohibit its employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain, whether for themselves or others, particularly those with ties. Fund recipients must operate with complete independence and objectivity without actual, potential, or apparent conflict of interest with respect to its performance under this agreement. The entity receiving funds certifies as to its own organization, that to the best of knowledge and belief, no member, employee, or person, whose salary is payable in whole or in part by a member of the entity receiving funds, has direct or indirect financial interest in the allocation of the Fund, or in the services to which this agreement relates, or in any of the profits, real or potential, thereof. If at any time during the allocation process and upon any suggestion, inquiry, or indication that a conflict of interest may exist, the entity receiving funds will disclose that conflict immediately to the State of Nevada.

Fraud, Waste or Misuse of Funds

The State does not tolerate any type of fraud, waste, or misuse of funds received from the State. Any violations of the law, State policies, or standards of ethical conduct will be investigated, and appropriate actions will be taken. Entities receiving funds agree that misuse of funds may result in a range of penalties, including suspension of current and future funds, recoupment of the funds allocated, and civil and/or criminal penalties. In the event a fund recipient becomes aware of any allegation or a finding of fraud, waste, or misuse of the Fund, the entity receiving funds is required to immediately notify the State of Nevada Governor's Finance Office of said allegation or finding and continue to inform the State of the status of any such on-going investigations. Any credible evidence must be provided to the State.

False Statements or Claims

No entity receiving these funds shall submit a false claim. If any of the statements, representations, certifications, affirmations, warranties or guarantees are false, or if the recipient signs or executes the agreement with a false statement or it is subsequently determined that it has violated any of the statements, representations, warranties, guarantees, certificates or affirmations included in this agreement, then the State may consider this act a possible default under this agreement and may terminate or void it for cause. False statements or claims made in connection with these funds may result in, but are not limited to, suspension of current and future funds, recoupment of the funds allocated, and civil and/or criminal penalties

Monitoring

CRF recipients must adhere to the monitoring provided by the GFO. This monitoring will provide the recipient with the support to maintain full compliance of all CRF requirements during the performance period.

Monitoring may include technical assistance, training, communication, reports, and other activities to verify:

a) if the CRF recipient is expending the funds in a manner consistent with the Treasury Guidance and the *Coronavirus Relief Fund – State of Nevada Allocation Agreement*
b) if the CRF recipient is expending the funds as proposed in the *Request for Coronavirus Relief Allocation* document
c) if the CRF recipient is maintaining reporting requirements as outlined in the *Agreement*.

Reporting

As part of the application packet given to the entity receiving funds, a "CRF Activity Reporting Worksheet – Rev10.09.20" has been provided. The Excel worksheet contains three tabs – "SFY2020", "SFY2021" and "Final". SFY refers to the State fiscal year (July 1 – June 30).

SFY2020 Tab

Entities receiving funds may need to recover COVID-19-related expenditures that were incurred March 1, 2020 through June 30, 2020. All expenditures during this timeframe that are reimbursed using the CRF allocation must be reported on the "CRF Activity Reporting Worksheet", SFY2020 Tab. Expenditures must be reported by Eligible Expenditure categories listed on the spreadsheet. For example:

An entity has the following total expenditures from March 1, 2020 through June 30, 2020 it will be reimbursing with the CRF:

- $5000 per month for COVID-19 testing in April, May and June (for a total of $15,000)
- $3000 for PPE purchased in April
- $2,000 for sanitation supplies in March and $1,000 in May

The expenditures will be reported on the SFY2020 tab as shown below:

Eligible Expenditures	Actuals from FY2020 March - June	Obligations March - June	Brief Description of Use of Funds
1. Medical Expenses			
a. Public hospitals, clinics and similar facilities	$ -	$ -	
b. Temporary public medical facilities & increased capacity	$ -	$ -	
c. Emergency medical response	$ -	$ -	
d. Telemedicine capabilities	$ -	$ -	
e. Other:	$ -	$ -	
Sub-Total	$ -	$ -	
2. Public Health Expenses			
a. Communication and enforcement of Public health measures	$ -	$ -	
b. Medical and protective supplies, including sanitation (***no PPE***)	$ 3,000.00	$ -	Bleach, hand sanitizer for disinfecting East Clinic in March and May
c. Disinfecting public areas and other facilities	$ -	$ -	
d. Technical assistance on COVID-19 threat mitigation	$ -	$ -	
e. Public safety measures undertaken	$ -	$ -	
f. Quarantining individuals	$ -	$ -	
g. Other:	$ -	$ -	
Sub-Total	$ 3,000.00	$ -	
3. Personal Protective Equipment: worn to minimize exposure to hazards			
a. PPE such as masks, medical gloves, gowns, eye protection	$ 3,000.00	$ -	Masks, face shields for COVID-19 mitigation for employees at West Clinic in April
b. Other:	$ -	$ -	
Sub-Total	$ 3,000.00	$ -	
4. COVID-19 Testing and Contact Tracing			
a. COVID-19 testing, including serological testing	$ 15,000.00	$ -	COVID-19 Testing at "East" Clinic "Wast Clinic for April, May, June
b. Contact tracing	$ -	$ -	
c. Other:	$ -	$ -	
Sub-Total	$ 15,000.00	$ -	

A completed SFY 2020 worksheet must be submitted to the State of Nevada no later than 10 business days from receipt of the *Coronavirus Relief Fund State of Nevada Award Allocation Agreement*.

SFY2021 Tab

Starting in July for SFY 2021, a monthly reporting process will be required by entities that receive CRF allocations to monitor spending as it occurs to maintain transparency, ensure documentation is adequate, and to minimize compliance risk.

Reports should document all costs clearly with respect to the date and nature of the expense incurred so that together resources can be best managed in the interest of the residents of Nevada. The monthly Activity Report must be submitted using the "CRF Activity Reporting Worksheet – Rev10.09.20", SFY2021 Tab. The report must:

- Be submitted as an Excel spreadsheet, not a PDF, within ten (10) calendar days of the end of each month during the reporting period (*see summary of due dates section below*).
- Include a detailed breakdown of the individual eligible expenditures reported by each sub-category of the eleven (11) primary budget categories (as shown above in the SFY2020 example). Each primary budget category includes sub-categories and provides an option to add "other" sub-categories
- Include the total amount of all eligible expenditures for each applicable sub-category and the grand total spent (template automatically calculates this)
- Include a brief description of the use of the funds for each applicable sub-category. Keep descriptions as concise as possible but include adequate context to demonstrate how these funds addressed the COVID-19 emergency. If applicable, please consider:
    - Providing a brief description of the specific activities performed
    - Identifying specific populations served
    - Identifying specific programs created or utilized
    - Including any known or intended outcomes, results, or community impacts
- If there were no expenditures for the month and the funds have not been completely spent, a report must be submitted noting zero expenditures
- Include information in a "Expenditures Previously Reported" column that is a total of SFY20 amounts and SFY21 year-to-date amounts (excluding current reporting month)
- Include any outstanding obligations of funds that have not yet been incurred but are "in process" in the "Obligations" column

Final Tab – Final Report

A final report is required as a summary of all periods included for the CRF allocation. This report should contain actual expenditures for SFY20 and each individual month from July 2020 through December 2020. It should also calculate the amount of any unspent funds. A template worksheet is included in the "CRF Activity Reporting Worksheet – Rev10.09.20", Final Tab. This report is due to GFO by email on or before February 24, 2021.

Summary of Due Dates

CRF performance period March 1, 2020- December 30, 2020	DATE
Allocation Submittal Packet	
Signed and Completed CRF Allocation Notice and Agreement	ASAP
Signed CRF Terms & Conditions	ASAP
Completed Risk Assessment Questionnaire-CRF-State of Nevada	ASAP
CRF Expenditure Plan (2-page max, if required as noted on the Allocation Notice)	15 days from receipt of funds
Reporting	
CRF Activity Reporting Worksheet SFY2020 (March 1-June 30 2020)	ASAP
CRF Activity Reporting Worksheet SFY2021 (July 2020)	12/10/20
CRF Activity Reporting Worksheet SFY2021 (August 2020)	12/10/20
CRF Activity Reporting Worksheet SFY2021 (September 2020)	12/10/20
CRF Activity Reporting Worksheet SFY2021 (October 2020)	12/10/20
CRF Activity Reporting Worksheet SFY2021 (November 2020)	12/10/20
CRF Activity Reporting Worksheet SFY2021 (December 2020)	01/05/21
CRF Activity Reporting Worksheet FINAL	02/24/21
Unspent funds must be returned to the State of Nevada	02/24/21

Audit Provisions and Documentation

Federal Coronavirus Relief Fund expenditures and records are subject to audit by the Office of Inspector General (OIG) within the U.S. Department of the Treasury. Treasury OIG also has authority to recover funds if it is determined a CRF recipient failed to comply with requirements. Documenting that costs are eligible uses is essential to managing compliance risk and to minimizing the possibility that costs are deemed ineligible, thereby requiring the entity receiving funds and the State to return funds to the federal government. All funds that are distributed by entities must have a documented statement or certification that the funds are needed due to the COVID-19 public health emergency (e.g. a rental program should have a check box with a statement that says "I certify that I need access to the funds in this program due to the COVID-19 public health emergency.")

Funds received from the CRF are considered to be federal financial assistance subject to the Single Audit Act (31 U.S.C. §§ 7501-7507) and the related provisions of the Uniform Guidance.

Fund payments are subject to the following requirements in the Uniform Guidance (2 C.F.R. Part 200): 2 C.F.R. § 200.303 regarding internal controls, 2 C.F.R. §§ 200.330 through 200.332 regarding subrecipient monitoring and management, and subpart F regarding audit requirements. Fund payments to subrecipients would count toward the threshold of the Single Audit Act and 2 C.F.R. part 200, subpart F regarding audit requirements. Subrecipients are subject to a single audit or program specific audit pursuant to 2 C.F.R. § 200.501(a) when subrecipients spend $750,000 or more in federal awards during their fiscal year.

The Single Audit Act (amended in 1996) states that recipients of federal grants may be subject to an audit once a year. The audit aims to ensure compliance with government regulations and evaluate financial information, including expenses paid for with federal award funds. Audit requirements of 2 CFR 200.501 require all nonfederal entities that expend $750,000 or more during the non-federal entity's fiscal year in federal awards must have a single or program-specific audit conducted for that year in accordance with provisions of 2 CFR 200. For those organizations not subject to the single audit requirements, records must still be available and complete for review or audit by appropriate officials or representatives.

If any audit, monitoring, investigations, or other compliance review reveals any discrepancies, inadequacies, or deficiencies which are necessary to correct in order to maintain compliance with this agreement, applicable laws, regulations, or the entity's obligations hereunder, the entity receiving funds agrees to propose and submit to the State a correction action plan to correct such discrepancies or inadequacies within thirty (30) calendar days after the receipt of findings.

The corrective action plan is subject to approval by the State. Fund recipients understand and agree that the entity must make every effort to address and resolve all outstanding issues, findings, or actions identified by the corrective action plan. Failure to promptly and adequately address these findings may result in funds being returned, other related requirements being imposed, or other sanctions and penalties. Entities receiving funds agree to complete any corrective action approved by the State within the time period specified by the State and to the satisfaction of the State, at the sole cost of the entity. The entity shall provide to the State periodic status reports regarding the resolution of any audit, corrective action plan, or other compliance activity for which it is responsible.

Recipients of CRF payments shall maintain and make available to the Treasury OIG upon request all documents and financial records sufficient to establish compliance with subsection 601(d) of the Social Security Act, as amended, (42 U.S.C. 801(d)). An appropriate audit trail must be maintained to provide accountability for all expenditures of funds, reporting measures and funds received under this agreement.

Records to support compliance may include, but are not limited to: general ledger and subsidiary ledgers used to account for the receipt and disbursement of CRF payments; budget records for 2019 and 2020; payroll, time, and human resource records to support costs incurred for COVID-19-related payroll expenses; receipts of purchases made to address the COVID-19 emergency; contracts and subcontracts entered into using CRF payments and all related documents; grant

agreements and grant subaward agreements entered into using CRF payments and all related documents; all documentation of reports, audits, and other monitoring of contractors, including subcontractors, and grant recipient and subrecipients; all documentation supporting the performance outcomes of contracts, subcontracts, grant awards, and grant recipient subawards; all internal and external email/electronic communications related to use of CRF payments; and all investigative files and inquiry reports involving CRF payments.

Records shall be maintained for a period of five (5) years after final payment is made using CRF monies. These record retention requirements are applicable to all recipients and their grantees and subgrant recipients, contractors, and other levels of government that received transfers of CRF payments. The State may direct entities to retain documents for a longer period of time or to transfer certain records to the State or federal custody when it is determined that the records possess long term retention value.

Close Out

Entities receiving funds must also submit all financial, Fund use, and other reports as required by the *Coronavirus Relief Fund – State of Nevada Allocation Agreement* and this Terms and Conditions document. The State of Nevada will close-out the allocation when it determines that all applicable administrative actions and all required work has been completed including:

- expending CRF dollars by December 30, 2020 (ensuring goods/services are received);
- submitting a last monthly report by January 5, 2021;
- submitting a final report by February 24, 2021; and
- promptly return any balances of unspent CRF not used for eligible expenses during the period of March 1, 2020 through December 30, 2020 to the State of Nevada no later than February 24, 2021.

The State of Nevada will provide the entity receiving funds with a notification that the CRF allocation closeout is complete.

APPENDIX A

Receipt, Acknowledgement, and Agreement to Coronavirus Relief Fund (CFDA # 21.019)
Terms and Conditions

I, Jorge Cervantes (Chief Executive Officer) as City Manager (Job Title)

for the City of Las Vegas (Name of Entity), acknowledge and certify that I:

1. Have read and agree to the Coronavirus Relief Fund Terms and Conditions for Allocations,
2. understands its terms and conditions,
3. had the opportunity to consult with independent legal counsel, and
4. sign this agreement voluntarily.

Printed Name: Jorge Cervantes

Signature: _____

Title: City Manager

Date: November 23, 2020

Approved as to form
John S. Ridilla 11/23/2020
John S. Ridilla Date
Deputy City Attorney

Risk Assessment Questionnaire

Coronavirus Relief Fund (CFDA 21.019) Allocation from the State of Nevada

U.S. Department of Treasury "Coronavirus Relief Fund Frequently Asked Questions" Guidance specifies the following requirements:

8. Are Fund payments subject to other requirements of the Uniform Guidance?

Fund payments are subject to the following requirements in the Uniform Guidance (2 C.F.R. Part 200): 2 C.F.R. § 200.303 regarding internal controls, 2 C.F.R. §§ 200.330 through 200.332 regarding subrecipient monitoring and management, and subpart F regarding audit requirements.

"2 CFR § 200.331- Requirements for pass-through entities" is included as specified above and directs all "pass through entities", which includes the State of Nevada, to:

(b) Evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring described in paragraphs (d) and (e) of this section, which may include consideration of such factors as:

(1) The subrecipient's prior experience with the same or similar subawards;

(2) The results of previous audits including whether or not the subrecipient receives a Single Audit in accordance with Subpart F - Audit Requirements of this part, and the extent to which the same or similar subaward has been audited as a major program;

(3) Whether the subrecipient has new personnel or new or substantially changed systems; and

(4) The extent and results of Federal awarding agency monitoring (e.g., if the subrecipient also receives Federal awards directly from a Federal awarding agency).

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This risk assessment questionnaire is used to assist the Governor's Finance Office Coronavirus Relief Fund (CRF) program staff in conducting the risk assessment required by Uniform Guidance 2 CFR § 200.331 and the U.S. Department of Treasury and effectively monitoring any identified risks associated with CRF awards.

Based on an evaluation of your Request for Coronavirus Relief Fund Allocation document, past history, and this risk assessment questionnaire, the CRF program staff will:

- analyze and rate each category;
- determine the appropriate risk level;
- determine applicable special conditions;
- identify areas of improvement; and
- work with you to resolve any potential concerns on an as-needed basis.

Recipient Organization Name	City of Las Vegas
Federal Funding Organization	U.S. Department of Treasury
"Prime Recipient" Funding Organization	State of Nevada, Governor's Finance Office
Identified Project/Program Name (s) *("Program(s) Name" as listed in the "Request for CRF Allocation" document)*	Advanced Connectivity for Community and Economic Development (ACCED)

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Section A: SUSPENSION, DEBARMENT, GOOD STANDING	
1. Are you or your principles presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from transactions by any federal department or agency?	❑ YES ☒ NO *If yes, please skip the rest of the questionnaire, go to the A Certification and complete.*
2. Are you and your principles in an Active status with the State of Nevada as a vendor?	☒ YES ❑ NO *If no, please skip the rest of the questionnaire, go to the Recipient Certification and complete.*

Section B: PERFORMANCE HISTORY		
1. Have you submitted accurate required project documents (budgets, draws, reports, etc.) for previous similar awards?	☒ YES ❑ NO *If no, please describe and provide details.*	
2. Have you submitted timely required project documents (budgets, draws, reports, etc.) for previous similar awards?	☒ YES ❑ NO *If no, please describe and provide details.*	
3. Have you been responsive to program/fiscal informational requests for previous similar awards?	☒ YES ❑ NO *If no, please describe and provide details.*	
4. Have you met the schedule of project milestones for previous similar awards?	☒ YES ❑ NO *If no, please describe and provide details.*	
5. Have you met the approved budget for previous similar awards?	☒ YES ❑ NO *If no, please describe and provide details.*	

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Section C: QUALITY OF MANAGEMENT and ABILITY TO MEET MANAGEMENT STANDARDS		
1. Does your federal/nongovernmental funding opportunity have complex program requirements?	❑ YES ☒ NO *Please describe and provide details.*	
2. Does your program have complex reporting requirements?	❑ YES ☒ NO *Please describe and provide details.*	
3. Will your organization subcontract out the program activities?	☒ YES ❑ NO *If yes, please describe and provide details.*	
4. Has your organization successfully managed similar programs (funding source, scope, size, etc.)?	☒ YES ❑ NO *Please describe and provide details.*	
5. Do the following internal controls/policy and procedures exist within your organization? a. Conflicts of Interest b. Civil Rights c. Internal Controls d. Financial Management	☒ YES ❑ NO ☒ YES ❑ NO ☒ YES ❑ NO ☒ YES ❑ NO *If yes, provide copies of each.* *If no, describe and provide details.*	
6. Has your organization experienced changes to key personnel in immediate management of your program within the last year?	☒ YES ❑ NO *If yes, please describe and provide details.*	*Our City Manager, Scott D. Adams recently retired in November and we have a new City Manager, Jorge Cervantes.*

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7. Has your organization experienced any changes in organizational structure within the last year?	☒ YES ☐ NO *If yes, please describe and provide details.*	*Our City Manager, Scott D. Adams recently retired in November and we have a new City Manager, Jorge Cervantes.*
8. Has your organization experienced any changes to accounting, payroll, administration, technology, or reporting systems within the last year?	☐ YES ☒ NO *If yes, please describe and provide details*	
9. Has your organization experienced any loss of accreditation status or licensing within the last year?	☐ YES ☒ NO *If yes, please describe and provide details.*	
10. **Does your organization segregate indirect costs when applicable on other projects?** **Note: indirect costs are <u>not</u> allowed for the CRF*	☒ YES ☐ NO *Please describe and provide details.*	
11. What economic conditions increase or decrease the risk to your proposed project?	*Please describe and provide details.* The greatest risk that would impact our ability to complete the project would be a failure to receive the necessary equipment for the project. Our contractor has reached out to the vendors and they have committed to being able to deliver the equipment according to the time table. A shutdown that forced businesses/vendors to not be operational could impact delivery.	
12. What political conditions increase or decrease the risk to your proposed project?	*Please describe and provide details.* Our success is dependent upon a strong partnership and relationship with the Clark County School District leadership.	

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Section D: FINANCIAL STABILITY		
1. What is the age of your organization?	❑ < 1 year ❑ 10-15 years ❑ 1-5 years ☒ > 15 years ❑ 6-10 years	
2. What is the amount committed by the approved CRF allocation from the State of Nevada?	❑ < $25,000 ❑ $100,000 - $250,000 ❑ $25,000 - $50,000 ☒ > $250,000 ❑ $50,000 - $100,000	
3. Does your organization have any significant audit findings in the past three fiscal years?	❑ YES ☒ NO *If yes, please describe and provide details. Attach copy of audit report.*	
4. Considering the amount of any federal grants you have applied for and been awarded and/or received during the state fiscal year (July 1 – June 30), what is your total level of federal funding?	❑ < $100,000 ❑ $500,000 - $750,000 ❑ $100,000 - $250,000 ☒ > $750,000 ❑ $250,000 - $500,000	
5. If your answer to question #4 is > $750,000: a. what is your actual amount of federal funding? b. when was your last Single Audit completed? c. when is your next Single Audit scheduled?	a. Actual Amount $131,281,422.51 b. Last Completed Single Audit December 2, 2019 *Provide copy of single audit report.* c. Next Scheduled Single Audit January 20, 2021	

Section E: PROGRAM SPECIFIC RISKS		
1. Has your organization or another entity committed to providing a partial match for your project?	❑ YES ☒ NO *If yes, please describe and provide details.*	

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CRF RECIPIENT CERTIFICATION

By signing below, the authorized representative certifies all information submitted in the risk assessment questionnaire is accurate and complete.

It is understood that the information provided in this risk assessment questionnaire will be used to conduct the risk assessment required by Uniform Guidance 2 CFR § 200.331 and the U.S. Department of Treasury and assess any special conditions to be monitored during the period of performance of the CRF allocation.

It is understood that the risk assessment will be reviewed prior to financial reconciliations and monitoring (including program oversight) to address concerns outlined and/or to provide technical assistance.

If any special conditions are added to the *State of Nevada Coronavirus Relief Fund Allocation Agreement* resulting from the risk assessment, they will be monitored as specified in the *State of Nevada Coronavirus Relief Fund Allocation Agreement* during the period of performance of the CRF allocation.

_____ _____

Signature Date

Jorge Cervantes

Printed Name

City Manager, City of Las Vegas

Title

Approved as to form
John S. Ridilla 11/23/2020
John S. Ridilla Date
Deputy City Attorney

CORONAVIRUS RELIEF FUND (STATE OF NEVADA) CERTIFICATION

By signing below, the authorized representative certifies all information submitted in the risk assessment questionnaire will be reviewed and used to conduct the risk assessment and determine if special conditions will be assessed and monitored during the period of performance of the CRF allocation.

_____ _____

Signature Date

_____

Printed Name

_____

Title

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Coronavirus Relief Fund – State of Nevada Allocation Notice

Principal Sub-Recipient Administrative Contact	Principal State of Nevada Administrative Contact
Organization **Organization Name:** City of Las Vegas **Unique Entity Identifier:** *(to be completed by GFO)* **Vendor #:** [Enter Information Here] ***(State of Nevada Vendor Number associated with the bank account you wish funds to transfer to)*** **DUNS #:** 03-038-1610 **EIN #:** 88-6000198 **Address:** 495 S. Main Street Las Vegas, NV 89101 **Administrative Contact** **Name:** Dr. Tammy Malich **Title:** Director **Department:** Youth Development and Social Innovation **Phone Number:** 702-467-9176 **Email:** tmalich@lasvegasnevada.gov	**Name:** State of Nevada, Governor's Finance Office **Address:** 209 E. Musser, Room 200 Carson City, NV, 89701 **Telephone:** 775-684-0222 **Email:** covid19@finance.nv.gov **Fed. Awarding Agency:** US Dept. of Treasury **FAIN:** The US Department of Treasury did not provide a notice of award to the State of Nevada, thus a Federal Award Identification Number (FAIN) is unknown **Federal Allocation Date:** 4/22/20 & 4/24/20 **Total Federal Allocation to State of Nevada:** $836,051,100 **CFDA #:** 21.019 - Coronavirus Relief Fund (CRF) **Period of Performance**: 03/01/2020 - 12/30/2020

Coronavirus Relief Fund Sub-Award

Project Title *(to be completed by GFO):* Advanced Connectivity for Community and Economic Development (ACCED)	**Funding Organization:** State of Nevada
Funding Opportunity #: *(to be completed by GFO)*	**CFDA #:** 21.019 **Project Period Start/End:** March 1, 2020 – Dec. 30, 2020
Purpose of CRF Eligibility (Project Description): To fund Phase One of the City of Las Vegas-provided wireless network project which would will enable individuals within the Historic Westside neighborhood, the Corridor of Hope (home to social service facilities) and the Medical District who are seeking education, employment and job training to connect to these services from home at no charge.	**Amount of CRF Obligated for Project:** $950,000 **Amount of CRF Committed for Project (Front-Funded):** $0
Expenditure Plan Required? No **Allocation for Research/Development?** No	**Total Amount of CRF Obligated to Sub-Recipient YTD (Including this Obligation):** $950,000 (excludes direct allocation to CLV from Treasury)
Treasury Guidance/FAQ for Allowance: FAQ#53: Payments from the Fund may be used to cover costs associated with providing distance learning.	**Indirect Cost Rate:** Recipients may not apply their indirect costs rates to payments received from the Fund. per "Coronavirus Relief Fund

	Guidance for State, Territorial, Local, and Tribal Governments Updated September 2, 2020"
CRF Allocation Approval Date: 11/18/20	**Payment Information** *(to be completed by GFO):* BA 1327 | Cat 10 | GL 8640

Coronavirus Relief Fund – State of Nevada Allocation Agreement

The State of Nevada Governor's Finance Office (GFO) has approved a Coronavirus Relief Fund (CRF) allocation to City of Las Vegas based on its submission of a "Coronavirus Relief Fund Request for Allocation" (*Request*), and pursuant to the "Coronavirus Relief Fund – State of Nevada Allocation Notice" (*Allocation Notice*), "Coronavirus Relief Fund – State of Nevada Allocation Agreement" (*Agreement*) and the "Coronavirus Relief Fund Terms and Conditions for Allocations" (*Terms & Conditions*). CRF has been defined by the U.S. Department of Treasury as "not considered to be grants but are 'other federal assistance'" under 2 C.F.R. § 200.40.

1. City of Las Vegas is requesting payment from the allocation of funds to the State of Nevada from the federal Coronavirus Relief Fund, pursuant to section 601 (a) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and understands all payments are contingent upon the submission of:
    a. organizational information for the *Allocation Notice*
    b. signed *Agreement*
    c. signed *Terms & Conditions* acknowledgement form
    d. completed *Risk Assessment Questionnaire*.

    All items should be received by no later than (5) business days from the receipt of the *Allocation Notice*.

2. The State of Nevada will rely on this *Agreement* as a material representation in making payment to City of Las Vegas.

3. City of Las Vegas is receiving payment of the Coronavirus Relief Fund based on the prior approval of the Governor's Finance Office and as required, the authorization of the Interim Finance Committee (IFC) for the amount of $950,000, which is to be used only in a manner consistent with the *Allocation Notice* and *Agreement* and as proposed in the *Request*.

4. Although funds have been obligated for the aforementioned amount, actual CRF payments/transfers will be issued as reimbursements for eligible expenditures starting in October 2020 and on a monthly basis thereafter. City of Las Vegas understands and agrees reimbursements will only be for eligible costs incurred (goods and services delivered) through December 30, 2020 and that invoices will be required for payment. Invoices must be received at the GFO no later than the 15th of the month following the close of the billing month. GFO will initiate payments for submitted invoices no later than the 25th of the month following the close of the billing month.

5. Proposed uses of the funds provided as payment under section 601 (a) of the Social Security Act will be used only to cover those costs that -
    a. are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19) ("necessary expenditures");
    b. were not accounted for in the budget most recently approved as of March 27, 2020, for City of Las Vegas; and
    c. Were incurred during the period that begins on March 1, 2020 and ends on December 30, 2020.

6. Funds provided as a payment from the State of Nevada pursuant to this *Agreement* will adhere to the *Terms & Conditions* and official federal guidance issued or to be issued, on what constitutes a necessary expenditure (current guidance on the U.S. Department of Treasury website: https://home.treasury.gov/policy-issues/cares/state-and-local-governments). Any funds expended by City of Las Vegas or its grantee(s) that fail to comply in any manner with official federal guidance shall be booked as a debt owed to the State of Nevada and subsequently collected and returned to the Federal Government. Amounts recovered shall be returned to the State of Nevada through deposit into the State's General Fund. City of Las Vegas further agrees that any determination by the Federal Government that it or its grantee(s) failed to comply with federal guidance shall be a final determination binding on itself and its grantee(s).

7. City of Las Vegas may be required to augment information provided in the *Request* document with a high-level plan to GFO summarizing the process and criteria it is using for expending funds within its organization and/or awarding to any grantee(s) for review of compliance with Treasury Guidance. GFO will provide guidance on specific plan requirements and deadlines to be submitted, if required.

8. City of Las Vegas and its grantee(s) receiving funds pursuant to this certification shall retain documentation of all uses of the funds, including but not limited to invoices and/or sales receipts and documentation of how payments meet federal criteria for necessary expenditures incurred due to the public health emergency with respect to COVID-19. All records and expenditures are subject to audit by the United States Department of Treasury's Inspector General, the State of Nevada, or designee and City of Las Vegas agrees that it will provide and cooperate with any information and documentation requests necessary to evaluate compliance and will require any and all grantee(s) to also provide and cooperate with any such requests.

9. City of Las Vegas will report monthly on incurred expenses in a form prescribed by the GFO, and will cooperate in creating and retaining appropriate documentation to demonstrate that the proposed uses meet the requirements of section 601 (a) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). Additionally, documentation will be produced to the State of Nevada on February 24, 2021 showing all CRF expenses and a reconciliation of the funding received.

10. City of Las Vegas understands that payment from the CRF is considered to be federal financial assistance subject to the Single Audit Act (31 U.S.C. §§ 7501-7507) and the related provisions of the Uniform Guidance, 2 C.F.R. (2 C.F.R. Part 200) § 200.303 regarding internal controls, §§ 200.330 through 200.332 regarding subrecipient monitoring and management, and subpart F regarding audit requirements. Fund payments to subrecipients would count toward the threshold of the Single Audit Act and 2 C.F.R. part 200, subpart F regarding audit requirements. Subrecipients are subject to a single audit or program specific audit pursuant to 2 C.F.R. § 200.501(a) when the subrecipients spend $750,000 or more in federal awards during their fiscal year.

11. City of Las Vegas understands that any funds provided pursuant to this certification cannot be used as a revenue replacement for lower than expected tax or other revenue collections and will notify each grant applicant of this obligation. Funds must be spent in accordance with approved budgets as documented in the *Request*. Failure to do so will result in City of Las Vegas reimbursing the State of Nevada for any and all misspent dollars in addition to other remedies as provided by law.

12. City of Las Vegas understands that funds received pursuant to this certification cannot be used for expenditures for which a local government entity, political subdivision or its grantee(s) has received any

other emergency COVID-19 supplemental funding (whether state, federal or private in nature) for that same expense and will notify each grant applicant of this obligation.

13. City of Las Vegas acknowledges that it has an affirmative obligation to identify and report any duplication of benefits and understands that the State of Nevada has an obligation and the authority to deobligate or offset any duplicated benefits. City of Las Vegas agrees not to perform any deceptive practices about the spending of CRF and understands that misuse or fraudulent use of award funds may result in a range of penalties, including suspension of current and future funds, recoupment of monies provided under this award, and civil and/or criminal penalties.

14. City of Las Vegas agrees to comply with any additional requirements and special conditions resulting from the risk assessment and understands payments are contingent upon obtaining and maintaining a current Nevada vendor registration, maintaining a DUNS number or Unique Entity Identified (UEI) free of suspension or debarment, and maintaining a good standing status with the State of Nevada.

15. City of Las Vegas understands that the State of Nevada may amend this *Agreement* at any time provided that such amendments make specific reference to the *Agreement*, and are executed in writing, and signed by a duly authorized representative of City of Las Vegas and the State of Nevada. Such amendments shall not invalidate the *Agreement*, nor relieve or release either party from any obligations under the *Agreement*. City of Las Vegas agrees the amendment will be used whenever there are changes to the originally approved terms and conditions resulting from but not limited to issues resulting from the risk assessment and compliance or from additional Department of Treasury or federal compliance requirements or guidance.

16. The State of Nevada may also suspend or terminate the *Agreement*, in whole or in part, if the organization materially fails to comply with any term of the *Agreement*, or with any of the rules, regulations or provisions referred to herein; and the State of Nevada may declare the organization ineligible for any further CRF allocations. In the event the State of Nevada terminates the *Agreement*, City of Las Vegas agrees to promptly refund to the State any and all remaining unspent funding.

17. City of Las Vegas shall hold harmless, defend and indemnify the State of Nevada from any and all claims, actions, suits, charges, and judgments whatsoever that arise out of the organization's performance or nonperformance of the services or subject matter indicated in the *Agreement*.

18. City of Las Vegas understands that the following administrative provisions apply to this award:

    a. PRINCIPAL CONTACTS: Individuals listed in the "Administrative Contact" section of the *Allocation Notice* are authorized to act in their respective areas for matters related to the transfer and administration of this fund payment.

Approved as to form
John S. Ridilla 11/23/2020
John S. Ridilla Date
Deputy City Attorney

Certification

In accordance with any applicable state and federal laws, statutes, rules, regulations, court orders, policies, and standards, the undersigned organizations will abide by this *Agreement*.

STATE OF NEVADA	CITY OF LAS VEGAS
Signature >	Signature >
[Name]	Jorge Cervantes
[Title]	City Manager
Coronavirus Relief Fund	City of Las Vegas

[Date]	November 19, 2020

AGENDA SUMMARY PAGE
City Council
Meeting of: December 2, 2020

Agenda Item No.:
30

DEPARTMENT: Economic & Urban Development **CONSENT**
DIRECTOR: Bill Arent

SUBJECT:
RESOLUTIONS:

R-53-2020 - For possible action to approve a Resolution consenting to the undertakings of the City of Las Vegas Redevelopment Agency (RDA) in connection with an Owner Participation Agreement between the RDA and Lindell Living LLC (Owner) to participate in a public/private partnership with the developer on land located at the southeast corner of Charleston Boulevard and Lindell Road (APNs 163-01-501-001 and 163-01-150-002) to be in compliance with and in furtherance of the goals and objectives of the RDA - Ward 1 (Knudsen) [Note: This item is related to RDA Item 5 (RA-9-2020)]

FISCAL IMPACT:
None

PURPOSE/BACKGROUND:
This is related to a Redevelopment item regarding assisting Lindell Living LLC with the costs of constructing a 144-unit senior living apartment complex on the property located at the southeast corner of Charleston Boulevard and Lindell Road. Approval will adopt findings that the Owner Participation Agreement is in compliance with and furtherance of the goals and objectives of the RDA and the Redevelopment Plan. The purpose of this agreement is to establish terms by which the Redevelopment Agency may participate in a public/private partnership with the developer; and to set forth the manner and timing for which reimbursement for Qualified Improvements shall occur, not to exceed $95,000.

RECOMMENDATION:
Approval

BACKUP DOCUMENTATION:
1. Resolution No. R-53-2020
2. Public Purpose-Impact Analysis
3. Site Map

RESOLUTION NO. R-53-2020

RESOLUTION CONSENTING TO CERTAIN UNDERTAKINGS OF THE CITY OF LAS VEGAS REDEVELOPMENT AGENCY IN CONNECTION WITH THE OWNER PARTICIPATION AGREEMENT ("OPA") BETWEEN THE CITY OF LAS VEGAS REDEVELOPMENT AGENCY ("AGENCY") AND LINDELL LIVING, LLC ("OWNER") FOR THE PROJECT CONCERNING THE DEVELOPMENT OF IMPROVEMENTS TO REAL PROPERTY DESCRIBED AS APNs 163-01-501-001 & 163-01-501-002

WHEREAS, the City of Las Vegas Redevelopment Agency (the "Agency") adopted on March 5, 1986, that plan of redevelopment entitled, to-wit: the Redevelopment Plan for the Downtown Las Vegas Redevelopment Area pursuant to Ordinance 3218, which Redevelopment Plan has been subsequently amended on February 3, 1988, by Ordinance 3339; April 11, 1992, by Ordinance 3637, on November 4, 1996, by Ordinance 4036, on December 17, 2003, by Ordinance 5652 on May 17, 2006, by Ordinance 5830, on December 16, 2015, by Ordinance 6448 (the "Redevelopment Plan"); and

WHEREAS, the Redevelopment Plan identifies and designates an area within the corporate boundaries of the City of Las Vegas (the "Redevelopment Area") as in need of redevelopment in order to eliminate the environmental deficiencies and blight existing therein; and

WHEREAS, Lindell Living, LLC (the "OWNER") is the owner of real property located at the Southeast Corner of Lindell Road and Charleston Boulevard, APNs 163-01-501-001 & 163-01-501-002, (the "Site"); and

WHEREAS, the Owner is undertaking certain improvements to the Site in accordance with the goals and objectives of the Redevelopment Plan;

WHEREAS, the City Council of the City of Las Vegas has considered the findings that the development of said improvements are of benefit to the Redevelopment Area

or the immediate neighborhood in which the Redevelopment Area is located; and

WHEREAS, the City Council of the City of Las Vegas has considered the findings that no other reasonable means of financing the building, facilities or structures or other improvements on the Site are available; and

WHEREAS, the City Council of the City of Las Vegas has considered the undertakings of the Agency in connection with the OPA (attached hereto as Exhibit A), which provides for the contribution of funds to the Owner for the construction of residential buildings located on the Site, all as more fully set forth in the OPA.

NOW, THEREFORE, BE IT HEREBY RESOLVED that the City Council of the City of Las Vegas hereby finds and determines that the development of building, facilities, structures or other improvements on the Site are of benefit to the Redevelopment Area and/or the immediate neighborhood in which the Redevelopment Area is located; and

RESOLVED FURTHER, that the City Council of the City of Las Vegas hereby finds and determines there are no reasonable means of financing those building, facilities, structures or other improvements on the Site; and

RESOLVED FURTHER, that the City Council of the City of Las Vegas hereby consents to the undertakings of the Agency in connection with the OPA with the Owner concerning the development on the Site as set forth in the OPA.

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THE FOREGOING RESOLUTION was passed, adopted and approved this _____ day of December, 2020.

CITY OF LAS VEGAS

By_____
CAROLYN G. GOODMAN, Mayor

ATTEST:

_____
LuAnn D. Holmes, MMC, City Clerk

APPROVED AS TO FORM:

M. Niarchos 11-9-20
_____
Michael C. Niarchos Date
Michael C. Niarchos

EXHIBIT A

OWNER PARTICIPATION AGREEMENT

OWNER PARTICIPATION AGREEMENT

THIS AGREEMENT ("Agreement") is entered into as of _____, 2020 by and between the City of Las Vegas Redevelopment Agency, a public body, corporate and politic (the "Agency") and Lindell Living, LLC, a Nevada limited liability company (the "Developer").

1. Purpose of this Agreement

(a) The purpose of this Agreement is to effectuate the Redevelopment Plan (the "Redevelopment Plan") for the Las Vegas Redevelopment Area (the "Redevelopment Area") or in areas in the immediate vicinity of the Redevelopment Area by providing for the redevelopment of property included within the Redevelopment Area or in the immediate neighborhood of the Redevelopment Area.

(b) Developer has proposed the development of a 144 unit for rent apartment building on the Site, defined below, for senior citizen housing on the Site.

(c) The development of the Site pursuant to this Agreement and the fulfillment generally of this Agreement are in the vital and best interests of the City of Las Vegas, Nevada (the "City"), and the health, safety and welfare of its residents, and in accord with the public purposes and provisions of applicable federal, state and local laws and requirements.

(d) As part of the development of the Site, Agency is willing to reimburse Developer for certain costs related to the construction of the Development (defined below) on the Site which reimbursable cost are defined herein as "QI" as further set forth herein.

2. The Redevelopment Plan

This Agreement is subject to the provisions of the Redevelopment Plan which was approved and adopted on March 5, 1986, by the City Council of the City by Ordinance No. 3218, and any amendments thereto. The Redevelopment Plan, as it now exists and as it may be subsequently amended, is incorporated herein by reference and made a part hereof as though fully set forth herein.

3. The Redevelopment Area

The Redevelopment Area is located in the City of Las Vegas, Nevada, and the exact boundaries thereof are specifically described in the Redevelopment Plan and in a document recorded March 11, 1986, and as subsequently amended in 1988, 1992, 1996, 2014 and 2015 which are incorporated herein by reference and made a part hereof as though fully set forth herein.

4. The Site

(a) The Site is located immediately adjacent to the Redevelopment Area at the SE corner of Lindell Road and West Charleston Boulevard, Las Vegas, Nevada, 89186, APNs 163-

01-501-001 and 163-01-501-002, as shown on the Map of the Site (**Attachment "A"**), and is more particularly described in the Legal Description of the Site (**Attachment "B"**).

(b) Agency and Developer acknowledge that title to the Site has not yet been conveyed to Developer and that title to the Site is currently owned by a member of Developer who is disclosed on the Disclosure of Principals attached to this Agreement as **Attachment F**. Developer agrees that the Agency's obligations under this Agreement are contingent in all respects upon the entire fee simple title to the Site being conveyed to Developer. Therefore, Developer agrees that in the event either of the following do not occur by December 31, 2020 this Agreement shall automatically terminate and Agency shall have no further liability or obligations under this Agreement: (i) fee simple title to the Site has not been conveyed to Developer and/or (ii) Developer has not provided Agency with a copy of a recorded Grant Bargain and Sale Deed conveying fee simple title to the Site to Developer.

5. **Parties to this Agreement**

(a) Agency is a public body, corporate and politic, exercising governmental functions and powers and organized and existing under the Community Redevelopment Law of the State of Nevada (NRS 279.382 et seq.). The office of Agency is located at 495 S. Main Street, 6th Floor, and Las Vegas, Nevada 89101. "Agency" is used in this Agreement means the City of Las Vegas Redevelopment Agency and any assignee of, or successor to, its rights, powers and responsibilities.

(b) The Developer is Lindell Living, LLC, a Nevada limited liability company (the "Developer"), whose address is 5055 West Patrick Lane, suite 101, Las Vegas , NV 89118, which is managed by Rodman Jordan, co-owner. Wherever the term "Developer" is used herein, such term shall include any permitted nominee, assignee or successor in interest as herein provided.

(c) The qualifications and identity of the Developer and of the Managing Member and Members are of particular concern to the City and Agency, and it is because of such qualifications and identity that Agency has entered into this Agreement with the Developer. No voluntary or involuntary successor in interest of the Developer shall acquire any rights or powers under this Agreement except as expressly set forth herein. This Agreement may be terminated by Agency if there is any significant change (voluntary or involuntary) in the ownership of Developer prior to the completion of the development of the Site as evidenced by the issuance of a Certificate of Completion therefor.

(d) Except as specifically set forth herein, the Developer shall not assign all or any part of this Agreement without the prior written approval of Agency, which approval may be withheld by Agency at Agency's sole discretion. It shall not be unreasonable for Agency to withhold its approval of a proposed assignee if such assignee (1) does not have experience in developing projects of similar size and character at least equivalent to that of the Developer, or (2) does not have the financial strength and resources sufficient to undertake and complete the proposed project and at least the equivalent of the Developer, or (3) does not have a reputation in the community for integrity and reliability.

6. The Development

(a) The improvements to be constructed upon the Site shall be as described on **Attachment "C"** attached hereto and is hereinafter referred to as the "Development". Developer agrees to construct the Development in strict conformance with **Attachment "C"**. As part of the Development, Developer agrees to install those improvements set forth and described on **Attachment "D"** and referred to herein as the "**QI**" in strict conformance with **Attachment "D"**.

(b) Developer agrees to use its best efforts in complying with Agency Employment Plan Policy attached hereto as **Attachment "E"**.

(c Developer hereby represents that the QI Reimbursement is required in order to complete the Development and that there is no other reasonable means of financing the QI Reimbursement. Except for the QI Reimbursement, Developer hereby represents and warrants to Agency that Developer has obtained all other financing and other resources necessary to pay for all costs of the construction and full completion of the Development and QI.

7. Reimbursement of QI Costs

(a) Subject to Developer fulfilling the conditions precedent to receiving reimbursement below, Agency agrees to reimburse Developer for the cost of the QI not to exceed Ninety-Five Thousand Dollars ($95,000.00) toward the costs of the QI (the "QI Reimbursement").

(b) In order for Developer to qualify for the OI Reimbursement, the following conditions must be met ("Conditions"):

(i) the Development must be completed in conformance with **Attachment "C"**;

(ii) all of the QI must be completed in conformance with **Attachment "D"** as established by photographs in formats approved by Agency;

(iii) a certificate of occupancy must be issued by the City of Las Vegas permitting occupancy and use of the Development for its intended use;

(iv) the issuance of a City of Las Vegas business license for Developer at the location of the Development;

(v) Developer has submitted to Agency proof in the form of materials and other information required by Agency that the cost of construction of the Development and the QI has been paid in full and that there are no outstanding mechanics liens or claims related to the Development and the QI. Such poof shall include, but not limited to, the following: invoices and/or receipts, dated, marked paid and cancelled checks and/or credit card statements showing payment and a title report showing no mechanics liens;

(vi) Developer and Agency have entered into a certificate of Completion in the form of **Attachment "F"** hereto, as more fully described in Section 13 below; and

(vii) Developer has provided to Agency copies of signed leases for at least 14 apartment units (approximately 10%) of the total units), each of for a term of no less than one (1) year along with Developer's written certification that such copies are true and correct and such leases are in force and effect.

Upon the fulfillment of the conditions set forth in this Section 7(b), Agency shall pay the QI Reimbursement to Developer within forty-five (45) days.

(c) Developer agrees that in the event all of the Conditions are not fulfilled by July 31, 2022, then Agency shall have the right to terminate this Agreement upon written notice to Developer. Upon such termination, this Agreement shall be null and void and Agency shall thereafter have no obligation to make the QI Reimbursement to Developer.

8. General Representations

Agency and Developer each represent and warrant that:

1. This Agreement and all agreements, instruments and documents herein provided to be executed are duly executed and binding on the party making the representation.

2. The execution, consent or acknowledgement of no other party is necessary to effect the obligations of Agency or the Developer, whichever is making the representation, provided in this Agreement.

3. This Agreement does not now or shall not hereafter breach, invalidate, cancel, make inoperative or interfere with any contract, agreement, instrument, mortgage, deed of trust, promissory note, lease, bank loan or credit agreement to which Agency or the Developer, whichever is making the representation, is subject.

9. Indemnification

Developer shall assume and be responsible for, and shall protect, indemnify, defend (with counsel reasonably acceptable to Agency) at its sole cost and expense and hold harmless Agency and the City of Las Vegas, and their respective officers, members, consultants, agents and employees, from and against any and all claims, demands, liabilities, losses, expenses and/or costs (including reasonable attorneys' fees and court costs) incurred by Agency or City of Las Vegas which may arise out of or in any manner be connected with the subject matter of this Agreement, including the construction of the Development and/or the QI, including, without limitation, any failure of Developer to comply with the Prevailing Wage law.

10. Rights of Access

For the purposes of assuring compliance with this Agreement, representatives of Agency shall have the right of reasonable access to the Site and Development without charges or fees and at normal construction hours during the period of construction for the purposes of this Agreement, including, but not limited to, the inspection of the work being performed in constructing the improvements. Such representatives of Agency shall be those who are so identified in writing by the Executive Director of Agency.

11. Antidiscrimination During Construction

The Developer, for itself and its successors and assigns, agrees that in the construction of the Development provided for in this Agreement, the Developer will not discriminate against any employee or applicant for employment because of race, color, reed, religion, sex, age, ancestry or national origin.

12. Prohibition Against Transfer of Site, the Buildings or Structures Thereon and Assignment of Agreement

The Developer shall not, except as expressly permitted by this Agreement, sell, transfer, convey, assign or lease the whole or any part of the Site or the buildings or improvements thereon without the prior written approval of Agency, except for preleasing of the apartment units to be constructed as part of the Development. This prohibition shall not apply subsequent to the issuance of the Certificate of Completion with respect to the Site and the payment of the QI to Developer. This prohibition shall not be deemed to prevent the granting of easements or permits to facilitate the development of the Site. In the absence of specific written agreement by Agency, no such transfer, assignment or approval by Agency shall be deemed to relieve the Developer or any other party from any obligations under this Agreement until completion of development as evidenced by the issuance of a Certificate of Completion therefor.

13. Certificate of Completion

The Developer shall request that a Certificate of Completion be issued by Agency after completion of the construction of the Development and QI. The issuance of the Certificate of Completion shall be subject to the City of Las Vegas' issuance of a Certificate of Occupancy and the Developer has submitted, to Agency's satisfaction, the required documentation pursuant to the Employment Plan. The Certificate of Completion for the Development shall be in the form attached hereto as **Attachment "F"** which shall be recorded in the Office of the County Recorder of Clark County. A Certificate of Completion for less than the entire improvement of the Development shall not be recorded.

The Certificate of Completion for the Development shall be, and shall so state therein that it is, a conclusive determination of the satisfactory completion of the construction required by this Agreement upon the Site or such portion thereof and of full compliance with the terms hereof. After issuance of the Certificate of Completion for the Development, any party then owning or thereafter purchasing, leasing or otherwise acquiring any interest in the Site or such portion thereof covered by said Certificates of Completion shall not (because of such ownership, purchase lease or acquisition) incur any obligation or liability under this Agreement. Except as otherwise provided herein, after the issuance of the Certificate of Completion for the Development, neither Agency, the City nor any other person shall have any rights, remedies or controls with respect to the Site or such portion thereof that it would otherwise have or be entitled to exercise under this Agreement as a result of a default in or breach of any provision of this Agreement.

Agency shall not unreasonably withhold the Certificate of Completion. If Agency refuses or fails to furnish the Certificate of Completion for the Development after written request from the Developer, Agency shall, within ten (10) days of such written request, provide the Developer with a written statement of the reasons Agency refused or failed to furnish the Certificate of Completion.

The statement shall also contain Agency's opinion of the action the Developer must take to obtain a Certificate of Completion. If Agency shall have failed to provide such written statement within said 10 day period, the Developer shall be deemed entitled to the Certificate of Completion.

The Certificate of Completion for the Development shall not constitute evidence of compliance with or satisfaction of any obligation of the Developer to any holder of a mortgage or any insurer of a mortgage securing money loaned to finance the improvements or any part thereof.

14. Maintenance

The Developer hereby covenants and agrees for itself, its successors, assigns and every successor in interest (i) to maintain the Development in good condition and repair at all times and (ii) and to keep the Site free from any accumulation of debris or waste materials and to maintain the landscaping in a healthy condition. If at any time the Developer, or its successors in interest, shall fail (i) to maintain the Development in good condition and repair at all times and/or (ii) to keep the Site free of debris or waste materials or to maintain said landscaping in a healthy condition, and said conditions in (i) and (ii) are not corrected within ten (10) days after written notice from Agency, either Agency or the City may perform the necessary cleanup or landscape maintenance, and the Developer, or its successors in interest, shall pay such costs as are reasonably incurred for such cleanup or landscape maintenance no later than ten (10) days after receipt of an invoice for such costs. Any amounts not paid when due shall bear interest at eight percent (8%) per annum from the date due. The foregoing covenants shall run with the land.

15. Notices, Demands and Communications Between the Parties

Formal notices, demands and communications between Agency and Developer shall be sufficiently given if dispatched by reputable overnight courier or registered or certified mail, postage prepaid, return receipt requested, to the principal offices of Agency and Developer as set forth in Sections 5(a) and 5(b) hereof, and shall be deemed given two (2) business days after delivery to a reputable overnight courier for next business day delivery, or five (5) days after delivery to the U.S. Postal Service for delivery by registered or certified mail. Such written notices, demands and communications may be sent in the same manner to such other addressees as either party may from time-to-time designate by mail.

16. Conflict of Interests

No member, official or employee of Agency shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official or employee participate in any decision relating to this Agreement which affects his personal interests or the interests of any corporation, partnership or association in which he is directly or indirectly interested.

The Developer warrants that it has not paid or given, and will not pay or give, any third person any money or other consideration for obtaining this Agreement.

17. Non-liability of Agency Officials and Employees

No member, official or employee of Agency shall be personally liable to the Developer in the event of any default or breach by Agency or for any amount which may become due to the Developer or on any obligations under the terms of this Agreement.

18. Enforced Delay: Extension of Times of Performance

Any party hereunder shall not be deemed to be in default where delays or defaults are due to war; insurrection, strikes, lock-outs, riots, floods, earthquakes, fires, casualties, acts of God, acts of the public enemy, epidemics, quarantine, restrictions, freight embargoes, lack of transportation, governmental restrictions or priority, litigation, including delays beyond the reasonable control of Agency, unusually severe weather, inability to secure necessary labor, materials or tools; delays of any contractor, subcontractor or supplier, acts of another party, acts or the failure to act of any public or governmental agency or entity (except that acts or the failure to act of Agency shall not excuse performance by Agency) or any other causes beyond the control or without the fault of the party claiming an extension of time to perform. An extension of time for any such cause shall only be for the period of the enforced delay, which period shall commence to run from the time of the commencement of the cause. If, however, notice by the party claiming such extension is sent to the other parties more than thirty (30) days after the commencement of the cause, the period shall commence to run only thirty (30) days prior to the giving of such notice.

19. Amendments to this Agreement

The Developer and Agency agree to mutually consider reasonable requests for amendments to this Agreement which may be made by any of the parties hereto, lending institutions, or bond counsel or financial consultants to Agency, provided such requests are consistent with this Agreement and would not substantially alter the basic business terms included herein.

20. Disclosure of Principals

Pursuant to Resolution RA-4-99 adopted by the governing board of Agency effective October 1, 1999, Developer warrants that it has disclosed, on the form attached hereto as **Attachment "G"**, all principals, including partners of Developer, as well as all persons and entities holding more than 1% interest in Developer and or any principal of Developer. Until such time as the Certificate of Completion is issued, Developer shall notify RDA in writing of any material change in the above disclosure within 15 days of any such change.

21. Default

If during the existence of this Agreement, the following shall constitute a "Developer Event of Default":

(a) the Developer transfer or assigns, or attempts to transfer or assign the rights, benefits or duties under this Agreement, or in the Site or any improvements thereon, in violation of the provisions of Section 5;

(b) the Developer fails to proceed with, abandons or substantially suspends the construction of the improvements required by this Agreement;

(c) any of the representations and warranties of Developer are untrue in any material respect;

(d) the Developer fails to perform any other material obligation imposed under the provisions of this Agreement; or

(e) the filing of a petition or the institution of proceedings of, by, or against Developer pursuant to the Bankruptcy Reform Act of 1978, as amended, or any successor statute or pursuant to any state bankruptcy, insolvency, moratoria, reorganization, or similar laws which is not dismissed within ninety (90) days; or Developer's making a general assignment for the benefit of its creditors or the entering by Developer into any compromise or arrangement with its creditors generally; or Developer's becoming insolvent in the sense that Developer is unable to pay its debts as they mature or in the sense that Developer's debts exceed the fair market value of Developer's assets.

In the event of Developer Event of Default, Agency shall have, in addition to all other rights and remedies available to Agency, the right to terminate, and this Agreement shall so terminate on the date that the written notice of termination is received by the Developer or such other date as may be specified in the written notice. If the QI Reimbursement has not been disbursed to the Developer, Agency shall be relieved of the obligation to disburse the QI Reimbursement to Developer.

22. Entire Agreement Waivers and Amendments and Counterparts

This Agreement is executed in 2 duplicate originals, each of which is deemed to be an original. This Agreement **Attachments "A"** to **"G"**, attached hereto and incorporated herein by reference, all of which constitute the entire understanding and agreement of the parties.

This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the subject matter hereof. Time for acceptance by agency

All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of Agency and the Developer and all amendments hereto must be in writing and signed by the appropriate authorities of Agency and the Developer.

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument. This Agreement shall become binding when one or more counterparts hereof, individually or taken together, shall bear the signatures of all of the parties reflected hereon as the signatories. 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.

23. Executive Director's Authority. By the Agency's governing board's approval of this Agreement, the Executive Director of the Agency is hereby granted the authority to grant time extensions under this Agreement, provided, however, that all extensions taken cumulatively shall not exceed eighteen months. Any such extension shall be in the Executive Director's sole

discretion and this Section 23 creates no obligation on the Executive Director to grant any extension.

24. Time for Acceptance by Agency

This Agreement, when executed by the Developer and delivered to Agency, must be authorized, executed and delivered by Agency fifteen (15) days from the date of signature by the Developer or this Agreement shall be void, except to the extent that the Developer shall consent in writing to further extensions of time for the authorization, execution and delivery of this Agreement.

EXECUTION BLOCKS ON NEXT PAGE

In witness whereof, Developer and Agency have executed this Agreement as of the date first set forth above. The effective date of this Agreement shall be the date when this Agreement has been signed by Agency.

CITY OF LAS VEGAS
REDEVELOPMENT AGENCY

By: _____
CAROLYN G. GOODMAN, Chair

Date: _____

ATTEST:

_____
LUANN D. HOLMES, MMC
Secretary

APPROVED AS TO FORM:

M. Nicarchy 10-27-20
_____ Date
M. Nicarchy

LINDELL LIVING, LLC,
a Nevada Limited Liability company

By:_____

Its: _____

ATTACHMENTS

Attachment A	Site Map
Attachment B	Legal Description of Site
Attachment C	Scope of Development
Attachment D	Description of Qualified Improvements
Attachment E	Employment Plan
Attachment F	Form of Certificate of Completion
Attachment G	Disclosure of Principals

ATTACHMENT A
SITE MAP

ATTACHMENT B
LEGAL DESCRIPTION OF SITE

PARCEL I – APN 163-01-501-002

THAT PORTION OF THE EAST HALF (E ½) OF THE WEST HALF (W ½) OF THE WEST HALF (W ½) OF THE WEST HALF (W ½) OF THE NORTHEAST QUARTER (NE ¼) OF SECTION 1, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M.D.B. & M. LYING NORTHERLY OF CHARLESTON HEIGHTS TRACT NO. 34, AS SHOWN BY MAP THEREOF ON FILE IN BOOK 7 OF PLATS, PAGE 87, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA.

EXCEPTING THEREFROM THAT PORTION AS CONVEYED TO THE CITY OF LAS VEGAS BY THAT CERTAIN GRANT DEED RECORDED JANUARY 13, 1965, IN BOOK 598 OF OFFICIAL RECORDS, CLARK COUNTY, NEVADA RECORDS AS DOCUMENT NO. 481396.

PARCEL II – APN 163-01-501-001

THAT PORTION OF THE WEST HALF (W ½) OF THE WEST HALF (W ½) OF THE WEST HALF (W ½) OF THE WEST HALF (W ½) OF THE NORTHEAST QUARTER (NE ¼) OF SECTION 1, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M.D.B. & M. LYING NORTHERLY OF CHARLESTON HEIGHTS TRACT NO. 34, AS SHOWN BY MAP THEREOF ON FILE IN BOOK 7 OF PLATS, PAGE 87, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA.

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ATTACHMENT C
SCOPE OF DEVELOPMENT

The Developer is proposing a 144-unit age-restricted independent living senior housing project at the corner of Lindell Drive and West Charleston Boulevard. The project will consist of three buildings with a clubhouse/amenity area within one building. Amenities include an outdoor pool, spa, yoga/pilates studio, kitchen with wine and piano bar, library, business center, fitness room and dog run.

The project will also include improvements to Lindell including sidewalks, storm drain, street lights, curbs, gutters and paving. The Developer will also be installing a bus stop on Charleston. These improvements will be dedicated back to the City of Las Vegas.

ATTACHMENT D

DESCRIPTION OF QUALIFIED IMPROVEMENTS

Construction will begin January 2021 and will be completed by June 30, 2022.

	LABOR/ MATERIALS	ELIGIBLE
General	1,112,000	0
Site Improvements	2,352,150	2,171,202
Street Improvements	609,297	609,297
Concrete	816,383	816,383
Masonry	255,818	255,818
Metals	309,111	309,111
Framing/Carpentry	3,609,012	3,609,012
Thermal	345,570	345,570
Doors & windows	1,613,405	1,613,405
Drywall	1,041,406	1,041,406
Lath and Plaster	534,886	534,886
Appliances	687,479	0
window treatments	119,338	0
Mechanical	1,994,078	1,994,078
Electrical	1,565,333	1,565,333
Plumbing	1,541,783	1,541,783
Paint	521,782	521,782
Roof	330,672	330,672
Flooring/Carpet	858,435	858,435
Cabinets	550,096	550,096
Misc.	145,039	98358
Special Construction	202,327	0
Sub total	**21,115,400**	**18,994,256**
Overhead/Profit	844,600	0
Total	**21,960,000**	**18,994,256**

ATTACHMENT E

EMPLOYMENT PLAN

Las Vegas Redevelopment Agency

Employment Plan Policy

Revised

June 18, 2014

TERMS

"***Community Development Block Grant (CDBG) Eligible Areas***" means an area which is eligible for a community development block grant pursuant to 24 C.F.R. Part 570.

"Developer" means a person or entity that proposes to construct a redevelopment project, which will receive financial assistance from the Agency.

"***Disabled***" means a physical impairment, with respect to an individual, that substantially limits one or more of the major activities of such individual: A record of such impairment; or Being regarded as having such impairment.

"***Disposition and Development Agreement (DDA)***" means an agreement that sets forth requirements for the sale, lease, exchange acquisition, or disposal of real property owned by the Agency, where a specific type of project is developed.

"***Economically Disadvantaged***" means any individual who meets the present poverty guidelines established by the Federal government as a poverty measure. The guidelines are issued each year in the Federal Register by the Department of Health and Human Services (HHS).

"***Las Vegas Redevelopment Agency Resident***" means an individual whose primary place of residence is within the Las Vegas Redevelopment Area boundaries.

"Las Vegas Redevelopment Area" means the 1986 Redevelopment Plan, as amended, and the 2012 Redevelopment Plan identifies two areas within the corporate boundaries of the City of Las Vegas as in need of redevelopment in order to eliminate the environmental deficiencies and blight existing therein.

"***Members of Racial Minorities***" means or describes an individual that is: Black or African-American, Hispanic-American, Native-American, Asian-Pacific American, Subcontinent Asian-American, Native- Hawaiian or other Pacific Islander.

"***Owner Participation Agreement (OPA)***" means any agreements where the Agency is participating with a landowner for the development of a site by providing some form of financial concession.

"***Purchase and Sale Agreement (PSA)***" means any agreements where the Agency is involved in the acquisition or sale of real property.

"***Private Developer***" means any person or entity that is proposing to construct a project and will receive financial assistance from the Agency and includes developers of either speculative or build-to-suit projects.

"Southern Nevada Enterprise Community (SNEC)" means the area designated as the Southern Nevada Enterprise Community in section 5 of chapter 407, Statutes of Nevada 2007.

"***Veteran***" means any honorably discharged soldier, sailor, marine, nurse, or army field clerk, as well as reserve components of these services, who have served in military service of the United States.

Policy

This Employment Plan Policy is prepared in accordance with the Las Vegas Redevelopment Agency Employment Plan Resolution No. RA-4-2011 dated April 6, 2011, and as amended by Resolution No.RA-8-2014 and RD2-2-2014 - Dated June 18, 2014 and prepared in accordance with Nevada Revised Statutes Chapter 279, specifically but not limited to NRS 279.482 (2) and NRS 279.6092 to 279.6099, inclusive. This Employment Plan Policy (hereinafter referred to as the "Policy"), supersedes the amended Las Vegas Redevelopment Agency Employment Plan Policy dated June 18, 2014. In accordance with the Policy, private developers and build-to-suit owners which receive redevelopment project funds are required to hire residents who live within the designated Las Vegas Redevelopment Areas, areas in the city for which the Las Vegas City Council has adopted a plan for neighborhood revitalization or which is eligible for a community development block grant (CDBG), or the Southern Nevada Enterprise Community (SNEC) (hereinafter referred to as the "Area"), and are encouraged to hire economically disadvantaged contractors/residents, members of racial minorities, women, disabled or veterans.

OBJECTIVE

The immediate purpose of this Policy is to provide developers, contractors and build-to-suit owners/lessees with the guidance necessary to prepare and implement an employment plan when participating in a private redevelopment project funded by the Las Vegas Redevelopment Agency (hereinafter referred to as the "Agency"). The ultimate result of this Policy is to ensure that the persons identified in the statute have the opportunity to benefit from redevelopment projects as fully as the community at large.

The requirements of the Policy shall be included in the Owner Participation Agreement ("OPA"), the Disposition and Development Agreement ("DDA") and/or Purchase and Sale Agreement ("PSA"), (hereinafter collectively referred to as "Agreements"), between the developer and the Agency.

APPLICABILITY

1) Except as otherwise provided in NRS 279.6094, as appropriate for the particular project, each proposal for a redevelopment project must include an employment plan.

2) The provisions of NRS 279.6092 to 279.6099, inclusive, apply only to a redevelopment project undertaken in a redevelopment area of a city whose population is 500,000 or more.

3) A public agency that uses redevelopment funds for the design or construction of a redevelopment project being built as a public work pursuant to chapter 338 of NRS shall submit an employment plan pursuant to NRS 279.482.

DEVELOPER/CONTRACTOR AWARD PHASE – REQUIREMENTS

1) EMPLOYMENT PLAN

   a. The minority participation goal is designed for all segments of the local business community to have a reasonable and significant opportunity to participate in Agency contracts with respect to redevelopment projects.

      i) At least 15 % of all of contractors, subcontractors, vendors and suppliers of the developer are bona fide residents of the area.

      ii) 15% participation of Minority Business Enterprise or Woman's Business Enterprise or Disadvantaged Business Enterprise or Veteran Business Enterprise (hereinafter referred to as the "M/W/D/VBE's") will be an ***aspirational goal.*** This goal represents the total value of sub-contracts and material agreements awarded to M/W/D/VBE's. Participation shall be inclusive of subcontractors, vendors and suppliers.

      iii) Reporting and demonstration of best efforts is required.

   b. M/W/D/VBE's may participate as a prime contractor, sub-contractor, as a joint venture partner with a prime or sub-contractor, or as a vendor of materials and/or supplies. Only those sub-contractor(s) and suppliers contracting directly with or to be paid by the prime contractor may be credited towards the participation goals.

2) REPORTING REQUIREMENTS

   a. A report to the Agency is due within thirty (30) calendar days after the end of each calendar quarter for the length of the project.

   b. In an effort to provide accountability, accuracy and consistency, a standard Agency reporting template has been developed. The templates may be modified by the Agency at any time, to ensure uniform and accurate reporting.

All exhibit checklists shall be complete with copies of correspondence and advertisements attached to the report.

c. If the minority participation goals are not met, information documenting specific actions taken to achieve the goals must be submitted prior to the contract award to receive credit towards compliance.

CONSTRUCTION PHASE REQUIREMENTS

1) EMPLOYMENT PLAN

a. For a redevelopment project undertaken in the Las Vegas Redevelopment Area of the city of Las Vegas (whose population is 500,000 or more), the Employment Plan shall include a description of the manner in which:

i) At least 15 % of all of contractors, subcontractors, vendors and suppliers of the developer are bona fide residents of the area.

ii) The developer/contractor will use best efforts for construction jobs and hire at least 15% of employees who are veterans and other persons of both sexes and diverse ethnicities living within the Area; and

iii) Include an agreement by the developer/contractor to offer and conduct training for the residents described in subsection (i) above or make a good faith effort to provide such training through a program of training that is offered by a governmental agency and reasonably available to the developer or employer.

2) REPORTING REQUIREMENTS

a. A developer/contractor that receives incentives from the Agency for a redevelopment project shall, upon completion of the project and upon request of the Agency, report, in a form prescribed by the Agency, information relating to:

i) Outreach efforts that the developer/contractor has utilized including, without limitation, information relating to job fairs, advertisements in publications that reach residents of the areas described in NRS 279.6096 and utilization of employment referral agencies; and

ii) Training conducted for persons hired by the developer and contractors, subcontractors, vendors and suppliers of the developer and the employers

within the redevelopment project; and

iii) The execution of the construction of the redevelopment project, including, without limitation, plans and scope of services.

b. If a developer receives incentives from the Agency for a redevelopment project with a value of $100,000 or less, the developer shall use its best efforts to satisfy the reporting requirements described in section (1) above. If a developer receives incentives from the Agency for a redevelopment project with a value of $100,000 or more, the developer must satisfy the reporting requirements described above.

c. A report to the Agency is due within thirty (30) calendar days after the end of each calendar quarter for the length of the project.

d. In an effort to provide accountability, accuracy and consistency, a standard Agency reporting template has been developed. The templates may be modified by the Agency at any time to ensure uniform and accurate reporting. All exhibit checklists shall be complete with copies of correspondence and advertisements attached to the report.

e. If the developer fails to comply with the requirements of this section:

i) The Agency may refuse to pay all or any portion of an incentive; and

ii) The Agency may require the developer to repay any incentive already paid to the developer in accordance with NRS 279.6098.

LONG-TERM BUSINESS PHASE REQUIREMENTS

1) EMPLOYMENT PLAN

a. The Employment Plan shall include a description of the existing opportunities for employment within the area, including, but not limited to;

i) A projection of the effect that the redevelopment project will have on opportunities for employment in the area;

ii) A description of the individuals employed on the project within the Area who also:

(1) are Economically Disadvantaged;

(2) have a Physical Disability ("Disabled");

(3) are members of Racial Minorities;

(4) are Veterans; or

(5) are Women.

b. At least 15% of all jobs created by employers who relocate to the Redevelopment Area are filled by bona-fide residents of the Area.

2) REPORTING REQUIREMENTS

a. A report to the City is due within thirty (30) calendar days after the end of each calendar quarter. The Employment Plan shall be monitored and tracked for twelve (12) months post construction of the redevelopment project.

b. In an effort to provide accountability, accuracy and consistency, a standard Agency reporting template has been developed. The templates may be modified by the Agency at any time to ensure uniform and accurate reporting. All exhibit checklists shall be complete with copies of correspondence and advertisements attached to the report.

c. If the developer fails to comply with the requirements of this section:

i) The Agency may refuse to pay all or any portion of an incentive; and

ii) The Agency may require the developer to repay any incentive already paid to the developer in accordance with NRS 279.6098

PARTIAL WITHHOLDING OF INCENTIVE

1) If the Agency proposes to provide an incentive to a developer for a redevelopment project, an amount equal to 10% of the amount of the proposed incentive must be withheld by the Agency and must not be paid to the developer until the applicable reporting requirements are satisfied above.

2) If the Agency provides incentives in a form other than cash to a developer for a redevelopment project, the developer shall deposit an amount of money with the A gency equal to 10% of the value of such incentive as agreed upon between the Agency and the developer. If the developer satisfies the reporting requirements, the Agency shall return the deposit required by this subsection to the developer in accordance with NRS 279.6096.

3) Prior to the start of construction, failure to adhere to all of the required program elements, as further described below, will constitute grounds for withdrawal of the entire incentive.

APPEALS

1) A developer may appeal the refusal of the Agency to pay the amount provided for in NRS 279.6096 to the City of Las Vegas as the legislative body of the community(Agency).
2) In an appeal, the developer has the burden of demonstrating that:
    a. Specific actions were taken to substantially fulfill the requirements of NRS 279.6096;
    b. An insufficient number of significant opportunities for appropriate contractors, subcontractors, vendors or suppliers to perform a commercially useful function in the project existed; and
    c. Use of appropriate contractors, subcontractors, vendors or suppliers as required by NRS 279.6096 would have significantly and adversely affected the overall cost of the project.
3) If the Las Vegas City Council on behalf of the City of Las Vegas finds that the developer's appeal has satisfied the requirements of subsection 2 above, the Agency shall pay the developer the amount provided for in NRS 279.6096.

Procedure for submission and hearing of appeals:

1) Contact the Agency for an appointment to present analysis and to discuss obstacles for meeting the participation requirements or minority participation goals. A staff recommendation will be made and forwarded to the Executive Director of the Agency.
2) The Executive Director will review the analysis and staff recommendation and make a decision on whether a project-specific employment plan modification is warranted. If the decision is in favor of no modification, the developer may appeal to the Las Vegas City Council on behalf of the City of Las Vegas as the legislative body of the of the Agency.
3) Final decisions regarding the developer's ability to meet the Employment Plan Policy requirements in the applicable agreement shall rest with the Las Vegas City Council.

ATTACHMENT F
FORM OF
CERTIFICATE OF COMPLETION

APN: 139-34-611-050

Recording Requested by/
Return Documents to/
Mail Tax Statements to:

Executive Director
City of Las Vegas Redevelopment Agency
495 S. Main Street, 6th Floor
Las Vegas, Nevada 89101

CERTIFICATE OF COMPLETION OF CONSTRUCTION AND DEVELOPMENT

WHEREAS, pursuant to the Owner Participation Agreement (OPA) dated _____, 2020, the City of Las Vegas Redevelopment Agency, a public body, corporate and politic, hereinafter referred to as the "Agency," provided assistance to Lindell Living, LLC, a Nevada limited liability company, hereinafter referred to as the "Developer," for construction and development of a certain redevelopment project described in the OPA and situated in the City of Las Vegas, Nevada, on that site described on Exhibit A, attached hereto and made a part hereof (the "Site"); and

WHEREAS, as referenced in the OPA, the Developer shall certify to Agency that all construction and development on the Site has been substantially completed in compliance with the OPA; and

WHEREAS, as referenced in the OPA, Agency shall furnish the Developer with a Certificate of Completion of all construction and development upon the Site, which Certificate shall be in such form as to per it to be recorded in the Recorder's Office of Clark County; and

WHEREAS, such certificate shall be conclusive determination of satisfactory completion of the construction and development on the Site required by the OPA.

NOW, THEREFORE:

1. The Developer hereby certifies to Agency that all construction on the Site has been completed in compliance with the OPA, including without limitation, the issuance of a certificate of occupancy for the apartment rental units of the project and such rental units are now legally available for occupancy .

2. Agency agrees and does hereby certify that the construction development on the Site has been fully and satisfactorily performed and completed as required by the OPA.

CITY OF LAS VEGAS REDEVELOPMENT AGENCY

By: _____
Carolyn G. Goodman, Chair

ATTEST:

_____
LuAnn D. Holmes, Secretary

Lindell Living, LLC, a Nevada limited liability company

By:_____

Name: _____

Its: _____

STATE OF NEVADA)
)ss.
COUNTY OF CLARK)

This instrument was acknowledged before me, a notary public, on this _____ day of _____, 20_____, by _____, CHAIR of the City of Las Vegas Redevelopment Agency.

_____
Notary Public

STATE OF)
)ss.
COUNTY OF)

This instrument was acknowledged before me, a notary public, on this _____ day of _____, 20_____, by _____, as _____of Double D Group, LLC, a Nevada limited liability company.

_____
Notary Public

EXHIBIT A

SITE LEGAL DESCRIPTION

PARCEL I – APN 163-01-501-002

THAT PORTION OF THE EAST HALF (E ½) OF THE WEST HALF (W ½) OF THE WEST HALF (W ½) OF THE WEST HALF (W ½) OF THE NORTHEAST QUARTER (NE ¼) OF SECTION 1, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M.D.B. & M. LYING NORTHERLY OF CHARLESTON HEIGHTS TRACT NO. 34, AS SHOWN BY MAP THEREOF ON FILE IN BOOK 7 OF PLATS, PAGE 87, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA.

EXCEPTING THEREFROM THAT PORTION AS CONVEYED TO THE CITY OF LAS VEGAS BY THAT CERTAIN GRANT DEED RECORDED JANUARY 13, 1965, IN BOOK 598 OF OFFICIAL RECORDS, CLARK COUNTY, NEVADA RECORDS AS DOCUMENT NO. 481396.

PARCEL II – APN 163-01-501-001

THAT PORTION OF THE WEST HALF (W ½) OF THE WEST HALF (W ½) OF THE WEST HALF (W ½) OF THE WEST HALF (W ½) OF THE NORTHEAST QUARTER (NE ¼) OF SECTION 1, TOWNSHIP 21 SOUTH, RANGE 60 EAST, M.D.B. & M. LYING NORTHERLY OF CHARLESTON HEIGHTS TRACT NO. 34, AS SHOWN BY MAP THEREOF ON FILE IN BOOK 7 OF PLATS, PAGE 87, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA.

EXCEPTING THEREFROM THAT PORTION AS CONVEYED TO THE CITY OF LAS VEGAS BY THAT CERTAIN GRANT DEED RECORDED JANUARY 13, 1965, IN BOOK 598 OF OFFICIAL RECORDS, CLARK COUNTY, NEVADA RECORDS AS DOCUMENT NO. 481396.

ATTACHMENT G

DISCLOSURE OF PRINCIPALS

CERTIFICATE DISCLOSURE OF OWNERSHIP/PRINCIPALS

1. Definitions

"City" means the City of Las Vegas.

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

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

"Principal" means, for each type of business organization, the following: (a) sole proprietorship – the owner of the business; (b) corporation – the directors and officers of the corporation; but not any branch managers of offices which are a part of the corporation; (c) partnership – the general partner and limited partners; (d) limited liability company – the managing member as well as all the other members; (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 or agreements with the City of Las Vegas must disclose information regarding ownership interests and principals. Such disclosure generally is required in conjunction with a Request for Proposals (RFP). In other cases, such disclosure must be made prior to the execution of a contract or agreement.

3. Instructions

The disclosure required by the Resolutions referenced above shall be made through the completion and execution of this Certificate. The Contracting Entity shall complete Block 1, Block 2, and Block 3. The Contracting entity shall complete either Block 4 or its alternate in Block 5. Specific information, which must be provided, is highlighted. An Officer or other official authorized to contractually bind the Contracting Entity shall sign and date the Certificate, and such signing shall be notarized.

4. Incorporation

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

Block 1 Contracting Entity	Block 2 Description
Name Lindell Livings, LLC	
Address 5055 W. Patrick Lane	
Suite 101	
Telephone 702-901-3183	
EIN or DUNS 84-3006712	

Block 3 **Type of Business**

☐ 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.	Michael Dean	5055 W. Patrick Ln Suite 101, Las Vegas 89118	702-873-1947
2.			
3.			
4.			
5.	Rodman Jordan	1984 Alcova Ridge Lane Las Vegas, NV 89135	702-901-3193
6.			
7.			

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

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 7/30/2020

Subscribed and sworn to before me this 30th day of July, ~~2015~~ 2020

Notary Public

PAMELA PITCHER
Notary Public, State of Nevada
No. 99-53822-1
My Appt. Exp. March 6, 2023

Public Purpose/Impact Analysis
NRS 279.486

City Council/Redevelopment Agency Meeting
December 2, 2020

Title of Project: Owner Participation Agreement

Project Description: 144 unit independent senior living complex

Sponsor/Developer: Lindell Living LLC

Address of Project: Southeast corner of Charleston Boulevard and Lindell Rd

Per NRS 279.486 2(a) attach a copy of any contract, memorandum of understanding or other agreement between the agency or the legislative body and any other person relating to the redevelopment project to this report.

Please refer to RDA Resolution and Exhibit A for copy of agreement: Owner Participation Agreement

Per NRS 279.486 2(b) (1) (I) List the costs of the redevelopment project, including, without limitation, the costs of acquiring any real property, clearance costs, relocation costs, the costs of any improvements which will be paid by the Redevelopment Agency and the amount of the anticipated interest on any bonds issued or sold to finance the project.

N/A

Per NRS 279.486 2(b) (1) (II) What is the estimated current value of the real property interest to be conveyed or leased, determined at its highest and best use permitted under the redevelopment plan?

N/A

Per NRS 279.486 2(b) (1) (III) what is the estimated value of the real property interest to be conveyed or leased, determined at the use and with the conditions, covenants and restrictions, and development costs required by the sale or lease, and the current purchase price or present value of the lease payments which the lessee is required to make during the term of the lease? If the sale price or present value of the total rental amount to be paid to the agency or legislative body is less than the fair market value of the real property interest to be conveyedor leased, determined at the highest and best use permitted under the redevelopment plan, the agency shall provide an explanation of the reason for the difference.

N/A

Per NRS 279.486 2(b) (2) How Does the Redevelopment Project Benefit the Public and Eliminate Blight:

Lindell Living will expend $33,000,000 in the purchase and development of 144 units of independent senior apartments. The Project will also improve Lindell Road by installing a new storm drain, sidewalks, curbs, gutters, paving, trees and streetlights which will be dedicated to the City. The RDA will provide up to $95,000 to assist with the development. There will be 450 plus construction jobs and 5 new permanent jobs.

What is the amount of Private Investment and who is providing it?

Lindell Living LLC will provide $33,000,000 in construction, owner equity and permanent financing.

What is the amount of Public Investment and who is providing it?

The RDA is providing up to $95,000 of redevelopment funds.

How many Direct Jobs will be Created? 748 Full-Timed Equivalents

How many Indirect Jobs will be Created? 308 Indirect and Induced jobs

How many Direct Jobs will be Retained? N/A

Quantitative Economic Benefits:

The project will contribute $33,000,000 of materials and labor and approximately $42,246,092 of annual payroll during construction

Total Direct Economic Impact:

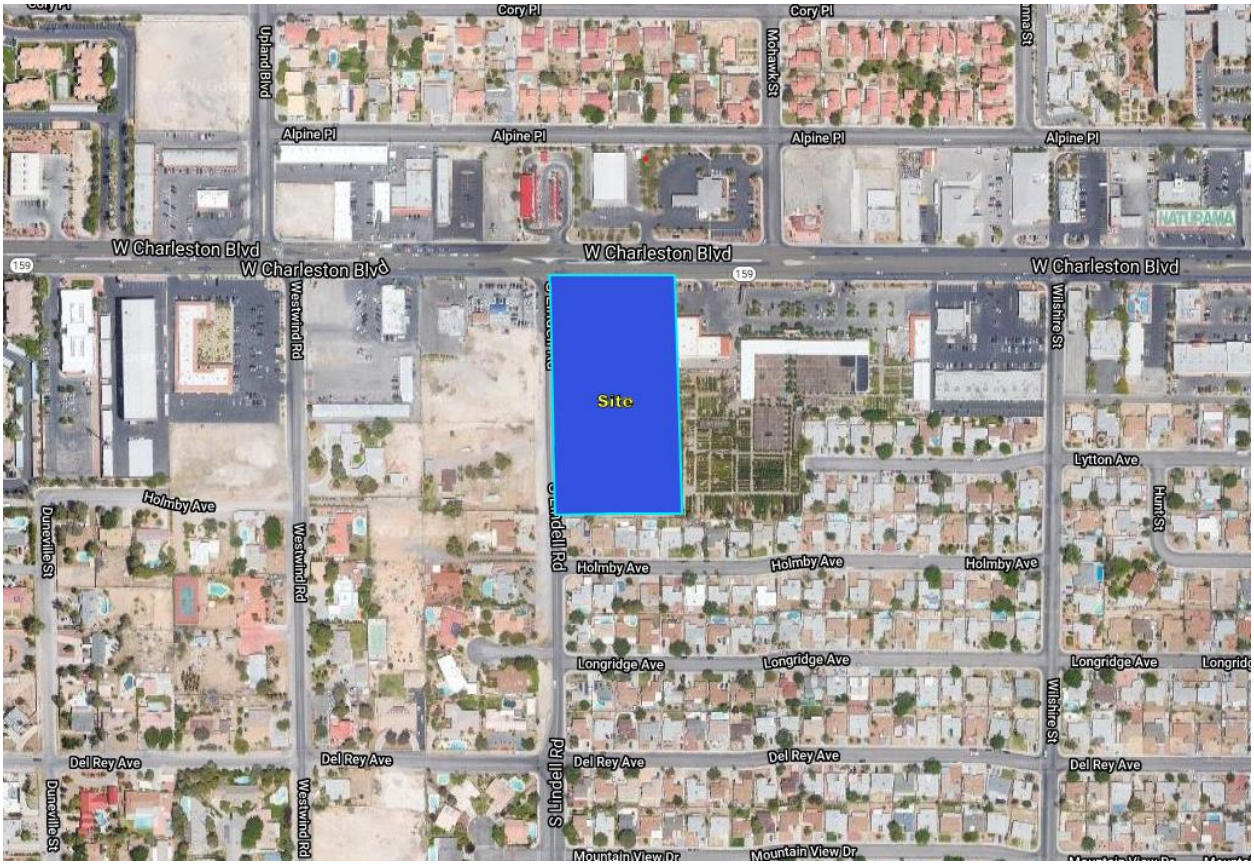
The project will contribute approximately $632,737 in state and local taxes.

Total Indirect Economic Impact:

The project will contribute approximately $1,028,109 in state and local taxes.

Economic Impact Study Performed:	Yes×	No ☐
Return on Investment Analysis Performed:	Yes☐	No ×

SITE Map


Cory Pl
Upland Blvd
Mohawk St
Alpine Pl
NATURAMA
W Charleston Blvd
159
Site
Wilshire St
Lytton Ave
Holmby Ave
Dunerville St
Westwind Rd
Rancho Dr
Hunt St
Longridge Ave
Del Rey Ave
Mountain View Dr

AGENDA SUMMARY PAGE
City Council
Meeting of: December 2, 2020

Agenda Item No.:
31

DEPARTMENT: Planning **DISCUSSION**
DIRECTOR: Robert Summerfield

SUBJECT:
Discussion for possible action regarding a Tavern-Limited License DVAST, INC. dba ELITE (TASTE OF AFRICA) at 450 Fremont Street, Suite #295 - Ward 5 (Crear)

FISCAL IMPACT:
None

PURPOSE/BACKGROUND:
Discussion for possible action regarding a Tavern-Limited License.

RECOMMENDATION:
Recommendation to be provided following the discussion of this item at the City Council meeting.

BACKUP DOCUMENTATION:
1. Ownership
2. Location Map

City of Las Vegas

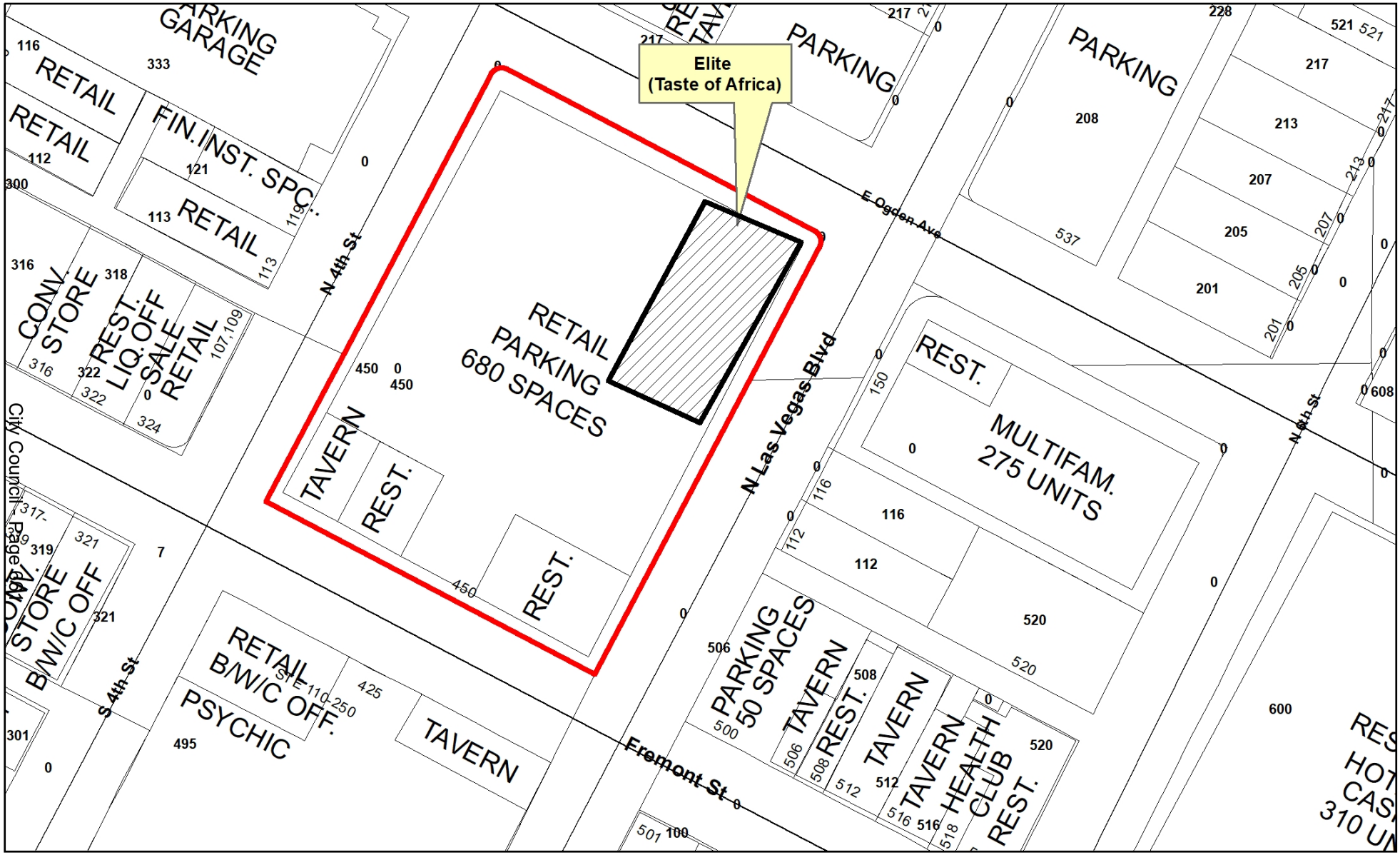
AGENDA MEMO

CITY COUNCIL MEETING DATE: DECEMBER 2, 2020
DEPARTMENT: PLANNING
ITEM DESCRIPTION: Discussion for possible action regarding a Tavern-Limited License DVAST, INC. dba ELITE (TASTE OF AFRICA) at 450 Fremont Street, Suite #295 - Ward 5 (Crear)

OWNERSHIP:

DVAST, INC.

Christopher Usigbe, President, Secretary, Treasurer, Shareholder
Favor Chikelu-Usigbe, Shareholder



Elite (Taste of Africa)
450 Fremont Street, Suite #295
Ward 5

Freeways
Subject Property
City Limits
Site Location

N

GIS maps are normally produced only to meet the needs of the City. Due to continuous development activity this map is for reference only.
Geographic Information System
Planning & Development Dept.
702-229-6301

Date: Wednesday, July 29, 2020

AGENDA SUMMARY PAGE

City Council
Meeting of: December 2, 2020

Agenda Item No.:
32

DEPARTMENT: Planning **DISCUSSION**
DIRECTOR: Robert Summerfield

SUBJECT:
Discussion for possible action regarding a Temporary Package License for a Change of Ownership FROM: BUY LOW VEGAS, INC. TO: BUY LOW VEGAS, INC. dba FRESH AND LESS MARKET at 1061 West Owens Avenue - Ward 5 (Crear)

FISCAL IMPACT:
None

PURPOSE/BACKGROUND:
Discussion for possible action regarding a Temporary Package License for a Change of Ownership.

RECOMMENDATION:
Staff recommends APPROVAL of a temporary package license with the authority of the Director or designee to issue a permanent license upon receipt of a favorable investigative report.

BACKUP DOCUMENTATION:
1. Ownership
2. Location Map

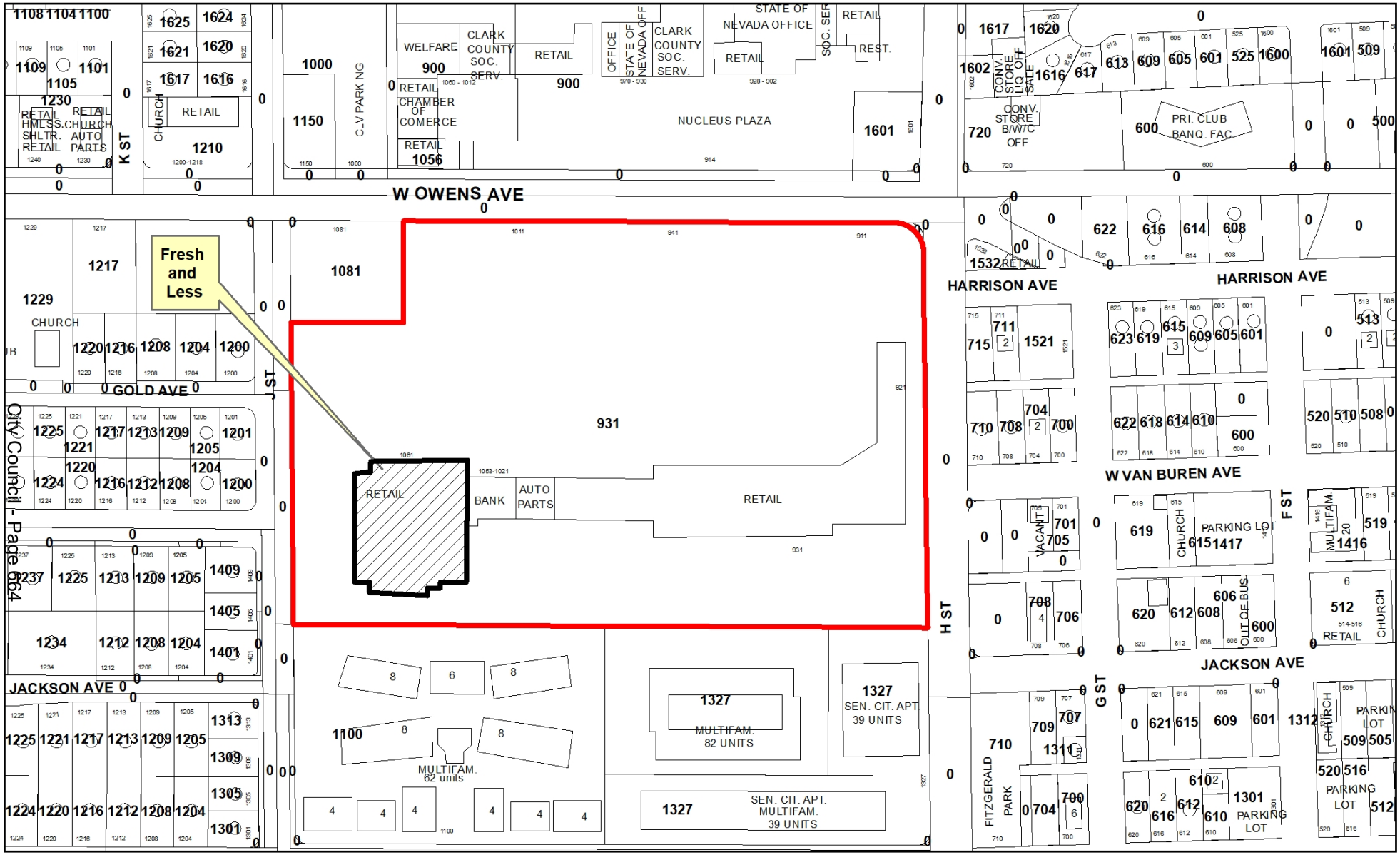
City of Las Vegas

AGENDA MEMO

CITY COUNCIL MEETING DATE: DECEMBER 2, 2020
DEPARTMENT: PLANNING
ITEM DESCRIPTION: Discussion for possible action regarding a Temporary Package License for a Change of Ownership FROM: BUY LOW VEGAS, INC. TO: BUY LOW VEGAS, INC. dba FRESH AND LESS MARKET at 1061 West Owens Avenue - Ward 5 (Crear)

OWNERSHIP:

BUY LOW VEGAS, INC.
Ray Koroghli, President, Secretary, Shareholder
Ahmed Nashir, Treasurer, Director, Shareholder



Freeways
Subject Property
City Limits
Site Location

Fresh and Less

1061 West Owens Avenue

Ward #5

N

GIS maps are normally produced only to meet the needs of the City. Due to continuous development activity this map is for reference only.

Geographic Information System
Planning & Development Dept.
702-229-6301

Date: Monday, October 5, 2020

AGENDA SUMMARY PAGE

City Council
Meeting of: December 2, 2020

Agenda Item No.:
33

DEPARTMENT: City Clerk **DISCUSSION**
DIRECTOR: LuAnn Holmes

SUBJECT:
BOARDS & COMMISSIONS:

Discussion for possible action regarding the appointment of Councilwoman Michele Fiore to the Audit Oversight Committee

FISCAL IMPACT:
None

PURPOSE/BACKGROUND:
The City of Las Vegas Audit Oversight Committee was created by City Council Resolutions R-49-98 and R-117-98 for the purpose of overseeing various aspects of the City's internal audit function. Two members must be specifically identified members of the City Council and three members must be from the community at large. There is no City residency requirement and no limit to the number of two-year terms which may be served. This appointment will fill the vacancy by Councilman Brian Knudsen, who has resigned.

RECOMMENDATION:
Procedure for this Committee requires appointment/reappointment by the Mayor with ratification by the City Council. Options are to appoint Councilwoman Fiore or direct staff to bring forward an item to a future meeting to appoint a new nominee.

BACKUP DOCUMENTATION:
1. Current Listing and Authority

AUDIT OVERSIGHT

	MEMBERS	ORIGINAL APPT.	TERM EXPIRES
1.	**VACANT**		
2.	**COUNCILWOMAN VICTORIA SEAMAN**	7-17-2019	7-17-2021
3.	**ERIC PREISS** Director Nevada Film Office	5-15-2019	5-15-2021
4.	**MELANIE ROLLO** CPA/Auditor Ellsworth & Stout, CPAs	12-7-2016 (Reapp. 12-5-2018)	12-7-2020
5.	**JOSEPH THRONEBERRY, CFE, CFCI** Manager, Security & Investigations Cox Enterprises, Inc Enterprise Security & Investigations Team	4-6-2016 (Reapp. 5-16-2018) (Reapp 5-20-2020)	4-6-2022

AUTHORITY: Created by Resolution R-49-98, 5-26-98 (Member Amendment - Resolution R-117-98,12-7-98). (By-Laws Amended 8-17-2004 by Audit Oversight Committee; removed term limits.)

MEMBERS: 5 MEMBERS appointed by the Mayor subject to ratification by the City Council (Two specifically identified members of the City Council and three members of the community-at-large)

TERM: Members shall each serve a term of two years, or until a successor is appointed. No limit to number of terms. Members may be removed and replaced by the Mayor, subject to Council ratification

NOTES: NO CITY RESIDENCY REQUIREMENT
NO FINANCIAL DISCLOSURE REQUIRED

PURPOSE: The Committee shall have responsibility and authority to perform the following:

- Review and evaluate public reports generated by the internal audit function;
- Evaluate the general effectiveness of the audit program no less often than annually;
- Discuss potential audit assignments and give direction to the City Manager and City Auditor concerning current assignments and anticipated assignments for the upcoming twelve months;
- As individual Committee members and as deemed appropriate, interview applicants for the position of City Auditor and, as a Committee, provide recommendations with regard to the appointment;
- Provide recommendations concerning potential changes to the City Charter concerning the audit function;
- Oversee and reinforce compliance to the City's Internal Audit Policy; and
- Provide such other guidance as necessary in promoting the effectiveness of the audit function.

MEETINGS: The Committee shall meet with the City Auditor and City Manager not less than once per quarter; meetings are subject to the provisions of the Open Meeting Law.

AGENDA SUMMARY PAGE

City Council
Meeting of: December 2, 2020

Agenda Item No.:
34

DEPARTMENT: City Clerk **DISCUSSION**
DIRECTOR: LuAnn Holmes

SUBJECT:
BOARDS AND COMMISSIONS:

Discussion for possible action regarding the reappointment of members to the Youth Neighborhood Association Partnership Program (YNAPP) Grant Review Board from the following list of nominees: Deborah Reyes, Maria Fajardo, Andrew Sierra, Sarina Cervacio, Rebecca Richard, Lexie Wilder, Nigel Murray (Mayor's designees), Brianna Ramirez (Ward 2), Becky Skouson (Ward 4), Harry Williams (Ward 5), Chance Bonaventura (Ward 6), and the appointment of nominees: Melanie McNair, Desha Collins, Paris Mathews, Natalie Gonzalez (Mayor's designees), Karl Catarata (Ward 1) and Arlene Alvarez (Ward 3) - All Wards

FISCAL IMPACT:
None

PURPOSE/BACKGROUND:
The Youth Neighborhood Association Partnership Program Grant Review Board was established by Council action on March 1, 2000. YNAPP is a service-learning program encouraging young people to take an active role in their neighborhood. The Board consists of 15 members, eight adults, seven youth and two alternate members (one adult and one youth). Terms of office are one year and members may be reappointed to consecutive one year terms. Expiration of this Board occurs yearly.

RECOMMENDATION:
Procedure for this Board is appointment by the City Council. The Department of Youth Development and Social Innovation recommends the aforementioned reappointments and appointments.
Options are:
Approve the reappointments and appointments or advise staff to bring an item forward at a future meeting to consider new appointments.

BACKUP DOCUMENTATION:
1. Current Listing and Authority
2. Agenda Memo

YOUTH NEIGHBORHOOD ASSOCIATION PARTNERSHIP PROGRAM (YNAPP) GRANT REVIEW BOARD

	MEMBERS	ORIGINAL APPT.	TERM EXPIRES
1.	**DEBORAH REYES** (Mayor's Designee)	11-20-2019	11-21-2020
2.	**MARIA FAJARDO** (Mayor's Designee)	11-21-2018 (Reappt 11-20-2019)	11-21-2020
3.	**ANDREW SIERRA** (Mayor's Adult Alternate)	11-21-2019	11-21-2020
4.	**DORIAN STONEBARGER** (Ward 1 Designee)	11-20-2019	11-21-2020
5.	**BRIANNA RAMIREZ** (Ward 2 Designee)	11-20-2019	11-21-2020
6.	**YDOLEENA YTURRALDE** (Ward 3 Designee)	11-21-2018 (Reappt 11-20-2019)	11-21-2020
7.	**BECKY SKOUSON** (Ward 4 Designee)	12-4-2013 (Reappt. 12-3-2014) (Reappt. 1-6-2016) (Reappt 12-21-2016) (Reappt. 11-15-2017) (Reappt. 11-21-2018) (Reappt 11-20-2019)	11-21-2020
8.	**HARRY WILLIAMS** (Ward 5 Designee)	1-6-2016 (Reappt 12-21-2016) (Reappt 11-15-2017) (Reappt. 11-21-2018) (Reappt 11-20-2019)	11-21-2020
9.	**CHANCE BONAVENTURA** (Ward 6 Designee)	11-15-2017 (Reappt. 11-21-2018) (Reappt 11-20-2019)	11-21-2020
10.	**REBECCA RICHARD** (Mayor's Youth Designee)	11-15-2017 (Reappt. 11-21-2018) (Reappt 11-20-2019)	11-21-2020
11.	**LAUREL BELL** (Mayor's Youth Alternate)	11-21-2018 (Reappt 11-20-2019)	11-21-2020
12.	**JOSE RODRIGUEZ** (Mayor's Youth Designee)	11-21-2018 (Reappt 11-20-2019)	11-21-2020
13.	**VACANT** (Mayor's Youth Designee)		11-21-2020
14.	**SARINA CERVACIO** (Mayor's Youth Designee)	11-21-2018 (Reappt 11-20-2019)	11-21-2020
15.	**LEXIE WILDER** (Mayor's Youth Designee)	11-20-2019	11-21-2020
16.	**NIJEL MURRAY** (Mayor's Youth Designee)	11-20-2019	11-21-2020
17.	**JOSHUA WHIPPLE** (Mayor's Youth Designee)	11-20-2019	11-21-2020

GENERAL PURPOSE Service learning program designed to encourage middle and high school youth to take an active role in their community. Youth and adults will serve side-by-side and select exemplary proposals for funding. Board reviews YNAPP applications and recommends awards to the City Council. Service learning grants are offered to registered neighborhood association youth groups for neighborhood and community improvement projects.

AUTHORITY: Created by City Council action on 3-1-2000 and members appointed on 5-3-2000. By-laws adopted 3-1-2000. By-Laws Amended by City Council on 11-5-2003; By-Laws Amended by City Council on 10-7-2009 (changes creating alternate representatives, setting quorum and procedural changes).

MEMBERS: 15 members and 2 alternates appointed by the Mayor and City Council as follows:

Mayor	Two (2) Adult Designees Seven (7) Youth Designees from geographically diverse locations One (1) Adult Alternate and One (1) Youth Alternate
Council	One (1) Adult Designee from each of the six Council Wards

TERM: ONE-YEAR TERM - May be reappointed to consecutive one-year terms.

Must fill un-expired term - Membership is not transferable or assignable.
Board expires yearly on date specified by the City (11-5-2003 Council action, amended By-Laws).

NOTES: NO CITY RESIDENCY REQUIREMENT.

NO FINANCIAL DISCLOSURE REQUIRED.

CONTACT: City of Las Vegas
Youth Development and Social Innovation
495 South Main Street, Las Vegas, NV 89101
Contact Person: Candace Boring - (702) 229-2072

AGENDA MEMO

CITY COUNCIL MEETING DATE: December 2, 2020
DEPARTMENT: CITY CLERK
ITEM DESCRIPTION: Discussion for possible action regarding the reappointment of members to the Youth Neighborhood Association Partnership Program (YNAPP) Grant Review Board from the following list of nominees: Deborah Reyes, Maria Fajardo, Andrew Sierra, Sarina Cervacio, Rebecca Richard, Lexie Wilder, Nigel Murray (Mayor's designees), Brianna Ramirez (Ward 2), Becky Skouson (Ward 4), Harry Williams (Ward 5), Chance Bonaventura (Ward 6), and the appointment of nominees: Melanie McNair, Desha Collins, Paris Mathews, Natalie Gonzalez (Mayor's designees), Karl Catarata (Ward 1) and Arlene Alvarez (Ward 3) - All Wards

	FY 2020-2021 Youth Neighborhood Association Partnership Program (YNAPP) Board
Elected Official	**Designee**
Mayor or her designee	Maria Fajardo
Mayor or her designee	Deborah Reyes
Mayor or her designee (Adult Alternate)	Andrew Sierra
Ward 1 Designee	Karl Catarata
Ward 2 Designee	Brianna Ramirez
Ward 3 Designee	Arlene Alvarez
Ward 4 Designee	Becky Skouson
Ward 5 Designee	Harry Williams
Ward 6 Designee	Chance Bonaventura
Youth Designees:	
Mayor or her designee	Rebecca Richard
Mayor or her designee	Sarina Cervacio
Mayor or her designee	Lexie Wilder
Mayor or her designee	Nigel Murray
Mayor or her designee	Melanie McNair
Mayor or her designee	Desha Collins
Mayor or her designee	Paris Mathews
Mayor or her designee (Youth Alternate)	Natalie Gonzalez

AGENDA SUMMARY PAGE

City Council
Meeting of: December 2, 2020

Agenda Item No.:
35

DEPARTMENT: City Clerk **DISCUSSION**
DIRECTOR: LuAnn Holmes

SUBJECT:
BOARDS & COMMISSIONS:

Discussion for possible action regarding the reappointment of Melody Howard to a Ward 6 seat of the Parks and Recreation Advisory Commission

FISCAL IMPACT:
None

PURPOSE/BACKGROUND:
The Parks and Recreation Advisory Commission consists of 15 members appointed by the City Council. Terms are for three years, unexpired terms must be filled and there is no limit to the number of terms that may be served. Ward 6 is entitled to appoint two representatives to the board. Ms. Howard was originally appointed to one of the Ward 6 seats in 2017. She has the recommendation of the Parks & Recreation Director, is eligible and wishes to continue to serve.

RECOMMENDATION:
Options are: That Ward 6 reappoint Ms. Howard or advise staff to bring an item forward at a future meeting to consider a new nominee for this Ward 6 seat.

BACKUP DOCUMENTATION:
1. Current Listing and Authority

PARKS & RECREATION ADVISORY COMMISSION

	MEMBERS	ORIGINAL APPT.	TERM EXPIRES
1.	**ADROUSHAN (ANDY) ARMENIAN** Mayor Goodman's Appointment	6-4-2008 (Reappt 1-21-2009) (Reappt 2-1-2012) (Reappt 2-4-2015) (Reappt 3-21-2018)	2-5-2021
2.	**MELODY HOWARD** Ward 6 Appointment	12-6-2017	12-6-2020
3.	**JESUS JIMENEZ** Ward 3 Appointment	3-6-2019	3-6-2022
4.	**ERIC FOEMMEL** Ward 1 Appointment	2-7-2018	2-7-2021
5.	**RICHARD BECKER** Ward 2 Appointment	10-3-2012 (Reappt 12-19-2012) (Reappt 1-6-2016) (Reappt 3-6-2019)	1-7-2022
6.	**STEVEN NEIGER** Ward 4 Appointment	11-15-2015 (Reappt 1-3-2018)	12-3-2021
7.	**MICAELA KELLER** Ward 3 Appointment	3-18-2020	3-18-2023
8.	**AUDREY ASSELIN** Ward 4 Appointment	11-15-2017 (Reappt 11-18-2020)	11-15-2023
9.	**MALCOLM D. WHITE** Mayor Appointment	11-7-2001 (Reappt 4-7-2004) (Reappt 3-7-2007) (Reappt 3-17-2010) (Reappt 3-6-2013) (Reappt 5-4-2016) (Reappt 8-7-2019)	4-7-2022
10.	**LISA B. SHERMAN** (Formerly Lisa Cavaretta) Mayor Appointment	4-1-1992 (Reappt 4-5-1995) (Reappt 3-23-1998) (Reappt 3-7-2001) (Reappt 3-17-2004) (Reappt 3-7-2007) (Reappt 3-17-2010) (Reappt 3-6-2013) (Reappt 5-4-2016) (Reappt 8-7-2019)	4-1-2022
11.	**ELIZABETH GEBRE** Ward 5 Appointment	7-1-2015 (Reappt 8-1-2018)	4-15-2021
12.	**BOB BRIARE** Ward 1 Appointment	9-20-2017 (Reappt 10-7-2020)	9-20-2023
13.	**MIKE HENLEY** Ward 2 Appointment	11-16-2016 (Reappt 4-18-2018)	4-15-2021
14.	**WILLIAM MCCURDY** Ward 5 Appointment	12-5-2001 (Reappt 1-22-2003) (Reappt 1-18-2006) (Reappt 1-21-2009) (Reappt 2-15-2012) (Reappt 3-4-2015) (Reappt 5-2-2018)	2-20-2021
15.	**LARRY SCHULTZ** Ward 6 Appointment	1-6-2016 (Reappt 12-6-2017) (Reappt 11-18-2020)	11-15-2023

ON APRIL 12, 2000 MEMBER JEANNE A. ROBERTS WAS NAMED "MEMBER EMERITUS" BY THE PARKS AND RECREATION ADVISORY COMMISSION FOR HER LONG SERVICE TO THIS COMMISSION.

ON NOVEMBER 14, 2007 MEMBER DR. DONALD ROMEO WAS NAMED "MEMBER EMERITUS" BY THE PARKS AND RECREATION ADVISORY COMMISSION FOR HIS LONG SERVICE TO THIS COMMISSION.

NOTE: On 1-8-1992 the Council adopted Bill 91-1977, which terminated the Golf Board and added the functions previously handled by the Golf Board as functions of the Parks & Recreation Board.

AUTHORITY: LVMC 2.42

MEMBERS: 15 members appointed by the City Council. (Increased from 11 to 15 on 2-6-1991, Ord. 3554)

TERM: 3 years (no limit to number of terms)
(Must fill unexpired terms)

NOTES: No City residency requirement.
NO FINANCIAL DISCLOSURE REQUIREMENT per Bill 2001-70, PER Ordinance 5346, adopted 8-1-2001.

MEETINGS: Meets 1st Tuesday of each month, 4:00 P.M., 495 South Main Street 2nd Floor Clerk's Conference Room

AGENDA SUMMARY PAGE
City Council
Meeting of: December 2, 2020

Agenda Item No.:
36

DEPARTMENT: City Attorney **DISCUSSION**
DIRECTOR: Bryan K. Scott

SUBJECT:
RECOMMENDING COMMITTEE: BILLS ELIGIBLE FOR ADOPTION AT THIS MEETING

Bill No. 2020-36 - For possible action - Updates LVMC Chapter 19.09, relating to Form-Based Code, and related provisions to adjust or establish standards pertaining to the Historic Westside District. Proposed by: Robert Summerfield, Director of Planning

FISCAL IMPACT:
None

PURPOSE/BACKGROUND:
This bill will update LVMC Chapter 19.09, relating to Form-Based Code, and related provisions to adjust or establish standards pertaining to the Historic Westside District. The update adds new transect zones, a sub-zone, and other planning and development standards for that District. The bill also includes minor technical corrections and adjustments to Chapter 19.09.

RECOMMENDATION:
Bill will be heard at the November 30, 2020 Recommending Committee Meeting and is eligible for adoption on this December 2, 2020 City Council Meeting. ADOPTION at the 12/2/2020 City Council Meeting, pursuant to the 11/30/2020 Recommending Committee Meeting.

First Read – 11/18/2020 First Publication – 11/19/2020

BACKUP DOCUMENTATION:
1. Bill No. 2020-36
2. Submitted at Meeting - E-comment

BILL NO. 2020-36

ORDINANCE NO. _____

AN ORDINANCE TO UPDATE LVMC CHAPTER 19.09, RELATING TO FORM-BASED CODE, AND RELATED PROVISIONS TO ADJUST OR ESTABLISH STANDARDS PERTAINING TO THE HISTORIC WESTSIDE DISTRICT, AND TO PROVIDE FOR OTHER RELATED MATTERS.

Proposed by: Robert Summerfield, Director of Planning

Summary: Updates LVMC Chapter 19.09, relating to Form-Based Code, and related provisions to adjust or establish standards pertaining to the Historic Westside District.

THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Ordinance No. 6289 and the Unified Development Code adopted as Title 19 of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, are hereby amended as set forth in Sections 2 to 21, inclusive, of this Ordinance. The amendments are deemed to be amendments to Ordinance No. 6289 and to the Unified Development Code adopted as Title 19. Where existing material is being amended, deleted material is enclosed by brackets and new material shown by underlining. Exhibits are marked with letters for purposes of incorporation into this Ordinance, but the letter markings will be removed or not reproduced when each exhibit is incorporated into the Unified Development Code.

SECTION 2: Section 19.04.320 is amended by adding thereto a new table, designated as Table 2, reading as depicted in the attached Exhibit A.

SECTION 3: Section 19.09.020.B is amended by replacing Figure 1 with an updated Figure 1, as depicted in the attached Exhibit B.

SECTION 4: Section 19.09.040.K is amended to read as follows:

19.09.040.K Historic Westside District [(Placeholder)]

All projects within the Historic Westside District are subject to the provisions of the following:

1. The Regulating Plan for the District, as adopted in this Section and amended from time to time.

2. The Historic Westside Design Standards and Architectural Pattern Book, as that document

may be adopted by the City Council and amended from time to time.

SECTION 5: Section 19.09.040.K is amended to adopt for the Historic Westside District the Regulating Plan for the District, as depicted in the attached Exhibit C and labeled as "Proposed FBC Designation (October 2020)."

SECTION 6: Section 19.09.050.D is amended by amending Table 1 to add, at the appropriate locations and in each case as depicted in red in the attached Exhibit D:

(A) A corrected entry in the column for the T5 Maker Zone (T5-M);

(B) An additional column containing entries related to the T4 Maker Zone (T4-M); and

(C) An additional entry in the column for the T4 Corridor Zone (T4-C).

SECTION 7: Sections 19.09.050.E.004.D and 19.09.050.E.008.D are each amended by amending that portion of the table in each pertaining to "Building type" as follows:

(A) So that the entries for the maximum widths for the "Main Building Body" for the "Flex High-rise" and "Flex Mid-Rise" building types read respectively as follows:

Building type	**Main Building Body –Width (max.)**
Flex High-Rise	[380 ft[1]] 100% of lot
Flex Mid-Rise	[200 ft] 100% of lot

(B) To delete the Note 1 previously pertaining to the Main Building Body Maximum Width for the Flex High-Rise building type.

SECTION 8: Section 19.09.050.E.012.D is amended by amending that portion of the table pertaining to "Building type" so that the entries for the maximum widths for the "Main Building Body" for the "Flex Mid-Rise" and "Flex Low-Rise" building types read respectively as follows:

Building type	**Main Building Body –Width (max.)**
Flex Mid-Rise	[200 ft[1]] 100% of lot
Flex Low-Rise	[150 ft[1]] 100% of lot

SECTION 9: Section 19.09.050.E.016.D is amended by amending that portion of the table pertaining to "Building type" so that the entries for the maximum widths for the "Main Building Body" for the "Flex Mid-Rise" and "Flex Low-Rise" building types read respectively as follows:

Building type	Main Building Body –Width (max.)
Flex Mid-Rise	[200 ft[1]] 100% of lot
Flex Low-Rise	[90 ft] 100% of lot

SECTION 10: Section 19.09.050.E.020.D is amended by amending that portion of the table pertaining to "Building type" so that the entries for the maximum widths for the "Main Building Body" for the "Flex Mid-Rise" and "Flex Low-Rise" building types read respectively as follows:

Building type	Main Building Body –Width (max.)
Flex Mid-Rise	[200 ft[1]] 100% of lot
Flex Low-Rise	[150 ft] 100% of lot

SECTION 11: Section 19.09.050.E.024.D is amended by amending that portion of the table pertaining to "Building type" so that the entries for the maximum widths for the "Main Building Body" for the "Flex Mid-Rise" and "Flex Low-Rise" building types read respectively as follows:

Building type	Main Building Body –Width (max.)
Flex Mid-Rise	[170 ft[1]] 100% of lot
Flex Low-Rise	[150 ft[1]] 100% of lot

SECTION 12: Section 19.09.050.E is amended to add a new Section 19.09.050.E.026, reading as set forth in the attached Exhibit E.

SECTION 13: Section 19.09.050.E.028.D is amended by amending that portion of the table pertaining to "Building type" so that the entries for the maximum widths for the "Main Building Body" for the "Flex Mid-Rise" and "Flex Low-Rise" building types read respectively as follows:

Building type	Main Building Body –Width (max.)
Flex Mid-Rise	[200 ft[1]] 100% of lot
Flex Low-Rise	[100 ft] 100% of lot

SECTION 14: Section 19.09.050.E.032.D is amended by amending that portion of the table pertaining to "Building type" as follows:

(A) So that the entries for the maximum widths for the "Main Building Body" for the "Flex Mid-Rise" and "Flex Low-Rise" building types read respectively as follows:

Building type	Main Building Body –Width (max.)
Flex Mid-Rise	[200 ft[1]] 100% of lot
Flex Low-Rise	[120 ft] 100% of lot

(B) To amend Note 1 pertaining to the Main Building Body Maximum Width for the

Flex Mid-Rise and Flex Low-Rise as follows:

[1] [Buildings wider than 150 ft must be designed to read as a series of buildings no wider than 100 ft each.] N/A.

SECTION 15: Section 19.09.050.E.040 is deleted and replaced by a new section so numbered, reading as set forth in the attached Exhibit F.

SECTION 16: Section 19.09.060.C is amended by amending Table 19.09.060.C-1 to add to the table, at the appropriate locations, entries for an additional Transect Zone TM-4, as depicted in red in the attached Exhibit G.

SECTION 17: Section 19.09.070.C is amended by amending Table 19.09.070.C-1 to add to the table, at the appropriate locations, entries for an additional Transect Zone TM-4, as depicted in red in the attached Exhibit H.

SECTION 18: Section 19.09.080.C is amended by amending Table 19.09.080.C-1 to add to the table, at the appropriate locations, entries for an additional Transect Zone TM-4, as depicted in red in the attached Exhibit I.

SECTION 19: Section 19.09.090.K is amended by adding two new figures, designated as Figures 15 and 16, reading as depicted in the attached Exhibit J.

SECTION 20: Section 19.09.100.E is amended by adding thereto two new paragraphs, designated as Paragraphs 3 and 4, reading respectively as follows:

3. Any proposed development regarding which a building side is adjacent to a T3 Transect Zone, a transect zone of lower intensity than T3, or any single-family residential district and the building exceeds the height of three stories shall include a 15-foot landscaping buffer between the adjacent property and the proposed development. This landscaping buffer shall include the following:

a. A 24-inch box tree placed every 15 linear feet, and five 5-gallon shrubs for every required tree. Tree species selection and planting requirements shall follow LVMC 19.09.040.

b. A continuous evergreen hedge or perimeter fence or wall to be placed between the trees and shrubs and the adjacent property, not to exceed 4 feet in height.

4. A Variance application is required to allow a deviation from the standards of this Section 19.09.100.

SECTION 21: The exhibits attached to this Ordinance are incorporated herein and incorporated into the Unified Development Code to the extent and as set forth herein.

SECTION 22: For purposes of Section 2.100(3) of the City Charter, Sections 19.04.320, 19.09.020, 19.09.040, 19.09.050, 19.09.060, 19.09.070, 19.09.080, 19.09.090 and 19.09.100 are deemed to be subchapters rather than sections.

SECTION 23: The Department of Planning is authorized and directed to incorporate into the Unified Development Code the amendments and adoptions set forth in Sections 2 to 21, inclusive, of this Ordinance, including, as deemed necessary or appropriate, making technical corrections, removing ordinance exhibit letters, removing highlights or colors from text to be added, renumbering, relettering, or making other nonsubstantive adjustments associated with codification and publication.

SECTION 24: If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective.

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SECTION 25: All ordinances or parts of ordinances or sections, subsections, phrases, sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, in conflict herewith are hereby repealed.

PASSED, ADOPTED and APPROVED this _____ day of _____, 2020.

APPROVED:

By _____
CAROLYN G. GOODMAN, Mayor

ATTEST:

_____
LUANN D. HOLMES, MMC
City Clerk

APPROVED AS TO FORM:

Val Steed - 11-2-2020
_____
Val Steed, Date
Deputy City Attorney

The above and foregoing ordinance was first proposed and read by title to the City Council on the _____ day of _____, 2020, and referred to a committee for recommendation, the committee being composed of the following members _____; thereafter the said committee reported favorably on said ordinance on the _____ day of _____, 2020, which was a _____ meeting of said Council; that at said _____ meeting, the proposed ordinance was read by title to the City Council as first introduced and adopted by the following vote:

VOTING "AYE": _____

VOTING "NAY": _____

ABSENT: _____

APPROVED:

By _____
CAROLYN G. GOODMAN, Mayor

ATTEST:

_____
LUANN D. HOLMES, MMC
City Clerk

TABLE 2 – Minor Neighborhood Street 50-foot Variant Notes – 19.04.320	
Vision 2045 Downtown Masterplan street emphasis	Pedestrian
Transect zone application	T3, T4
Functional Class/Intensity	Local
Lanes & Widths	
Right of Way Width (minimum/preferred)	50 feet/60 feet
Vehicular Configuration (minimum/preferred)	2 travel lanes
D: Sidewalk Width	5-6 feet
C: Amenity Zone Width	3-5 feet
Transit Lane Width	--
A: Bicycle Lane Width	Sharrows
A: Vehicular Lane Width	10-11 feet
B: Parking Type and Width	Parallel, 7 feet
Median Type	--
Edges	
Curbs + Gutters (minimum/preferred)	1 ½ / 2 feet
Planters	Continuous
Landscaping	Trees at 20 feet on center by District Palette (19.09.040.C)
Lighting	Dual arm streetlights

Exhibit A

Downtown Masterplan

City of Las Vegas

Printed: Tuesday, October 13, 2020

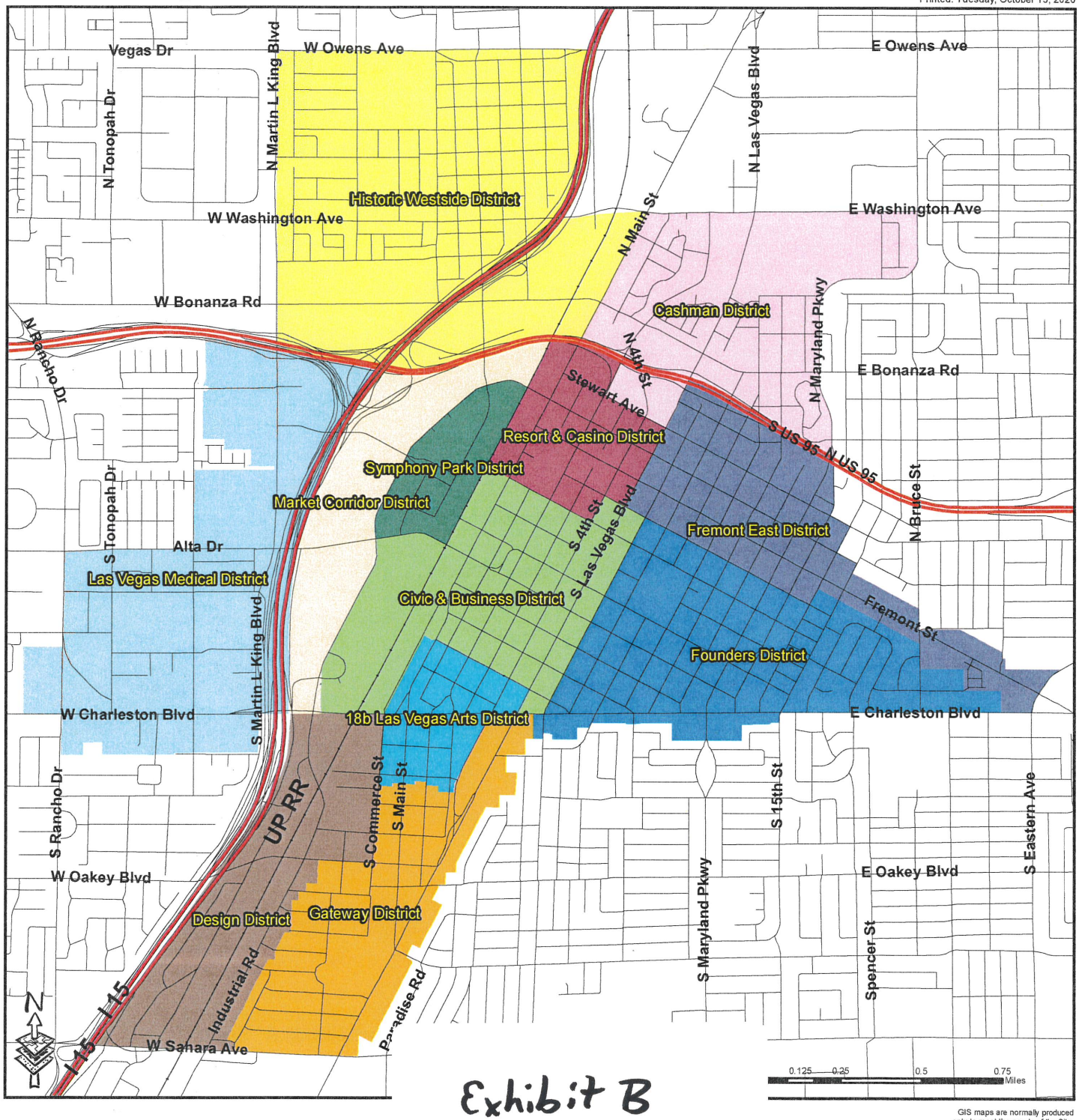


Exhibit B

Legend

- 18b Las Vegas Arts District
- Cashman District
- Civic & Business District
- Design District
- Founders District
- Fremont East District
- Gateway District
- Historic Westside District
- Las Vegas Medical District
- Market Corridor District
- Resort & Casino District
- Symphony Park District

GIS maps are normally produced only to meet the needs of the City. Due to continuous development activity this map is for reference only.

Geographic Information System
Planning & Development Dept.
702-229-6301

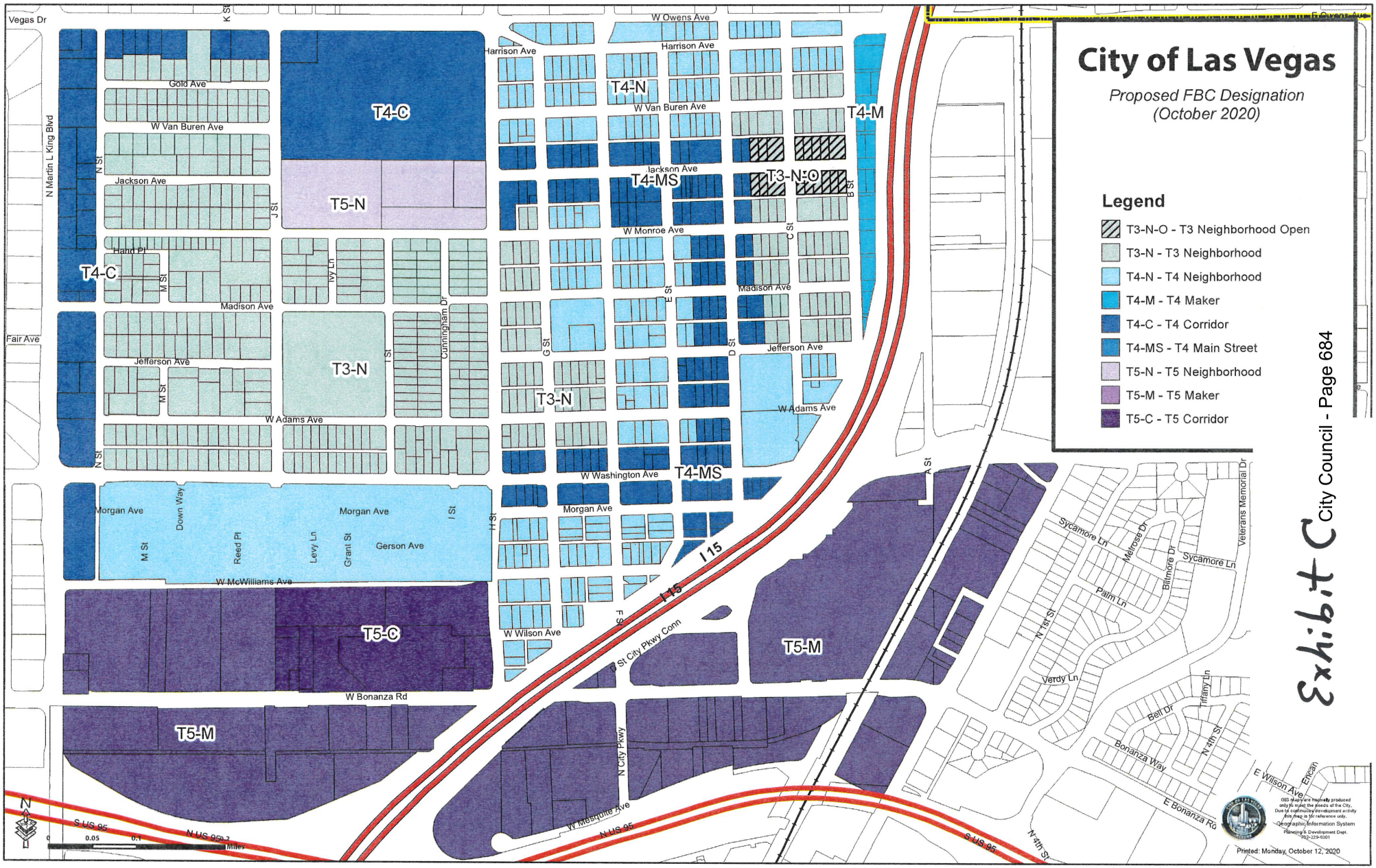


Exhibit C City Council - Page 684

Table 1 Transect Zones Overview

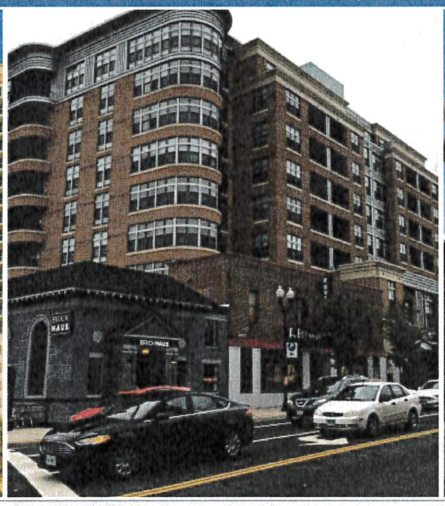
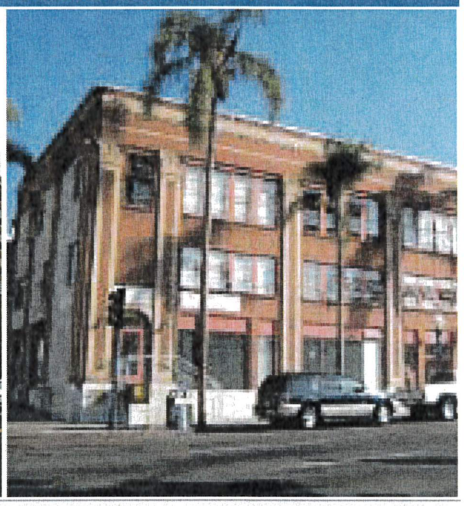
T6 Urban Core Zone (T6-UC)	T6 Urban General Zone (T6-UG)	T5 Maker Zone (T5-M)
		
Desired Form	**Desired Form**	**Desired Form**
Attached	Attached or detached	Attached
Large lot width	Large lot width	Medium to large lot width
Large footprint and lot coverage	Large footprint	Large footprint
No blank walls or planes	No blank walls or planes	No blank walls or planes
Buildings placed at or near the edge of right-of-way	Buildings placed at or near the right-of-way	Buildings placed at or near the right-of-way
Diverse mix of building frontages, mostly Arcade, Gallery, and Shopfront	Diverse mix of building frontages, mostly Arcade, Gallery, and Shopfront	Diverse mix of frontages, mostly Shopfront
Small to no setbacks	Small to no setbacks	Small to no setbacks
5 to 20 stories	4 to 12 stories	Max. 5 stories
General Use	**General Use**	**General Use**
Ground floor commercial or service uses with a mix of commercial, residential, service, and/or office uses on upper stories.	Ground floor commercial or service uses with a mix of commercial, residential, service, and/or office uses on upper stories.	Ground floor commercial, service, or industrial uses with a mix of commercial, residential, service, office and/or industrial uses on upper stories.
Intent	**Intent**	**Intent**
To reinforce and enhance the downtown urban core and provide the highest-intensity vibrant, compact, walkable urban environment. A variety of building types with active pedestrian street facades and a diverse range of uses supported by active ground floor frontages. A wide range of regional-center appropriate uses as well as, employment, retail, services, civic, or public uses.	To reinforce a vibrant, compact, walkable, urban core that serves multiple districts and the overall region with a diverse range of uses in a variety of building types with active pedestrian street facades on multiple frontages. A range of regional-center appropriate uses such as hospitals and other medical facilities support public transportation alternatives.	To maximize the opportunities created by medium and high-intensity walkable urban environments. Specialized uses in this Zone can be categorized as downtown light industrial utilizing performance measures to ensure compatibility between the different allowed uses.
Subsection	**Subsection**	**Subsection**
19.09.050.E.004	19.09.050.E.008	19.09.050.E.012

Table 1 Transect Zones Overview

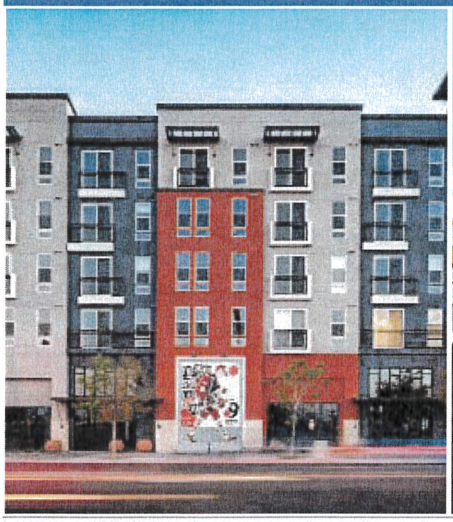
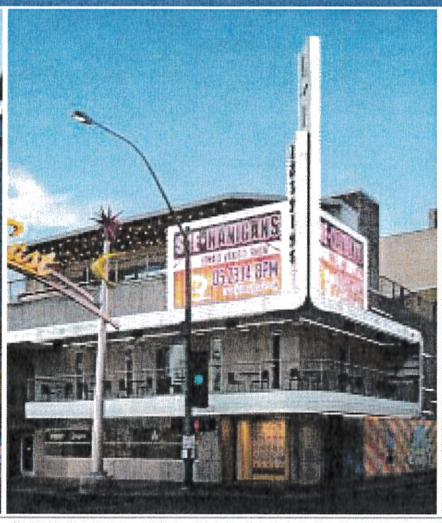
T5 Corridor Zone (T5-C)	T5 Main Street Zone (T5-MS)	T5 Neighborhood Zone (T5-N)
		
Desired Form	**Desired Form**	**Desired Form**
Attached	Attached	Attached
Medium to large lot width	Large lot width	Medium to large lot width
Large footprint	Large footprint	Medium to large footprint
No blank walls or planes	No blank walls or planes	No blank walls or planes
Buildings placed at or near the right-of-way	Buildings placed at or near the right-of-way	Buildings placed at or near the right-of-way
Diverse mix of building frontages, mostly Arcade, Gallery, and Shopfront	Diverse mix of building frontages, mostly Arcade, Gallery, and Shopfront	Diverse mix of building frontages, but mostly Arcade, Forecourt, Shopfront, and Terrace
Small setbacks	Small to no setbacks	Medium setbacks
2 to 7 stories	2 to 7 stories	2 to 5 stories
General Use	**General Use**	**General Use**
Ground floor commercial or service uses with a mix of commercial, residential, service, and/or office uses on upper stories.	Ground floor commercial or service uses with a mix of commercial, residential, service, and/or office uses on upper stories.	Primarily multi-unit residential uses with neighborhood-supporting retail, commercial, and/or service uses on the ground floor.
Intent	**Intent**	**Intent**
To enhance the City's existing corridors so that over time they will become more walkable and serve multiple districts with a diverse range of commercial, retail, service, and office uses, and small-to-large footprint, moderate-intensity building types. This zone also supports public transportation hubs.	To provide a compact, walkable, urban area in which revitalization and investment is encouraged and that serves multiple districts with commercial, retail, office, and civic uses in a range of building types. This zone also supports public transportation alternatives.	To provide walkable, urban neighborhoods with a variety of urban housing choices in small to large footprint, medium-intensity building types that support and are within short walking distance of neighborhood-serving commercial and service uses. This zone also supports public transportation alternatives.
Subsection	**Subsection**	**Subsection**
19.09.050.E.016	19.09.050.E.020	19.09.050.E.024

Table 1 Transect Zones Overview

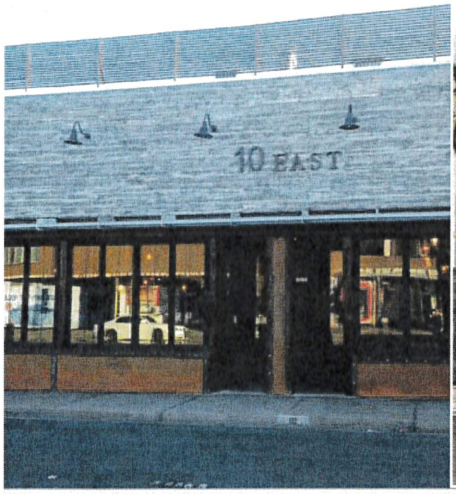
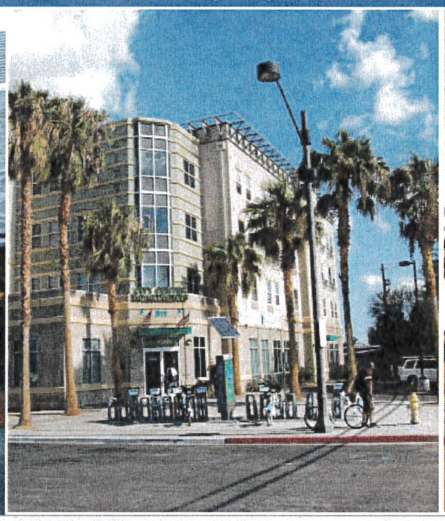
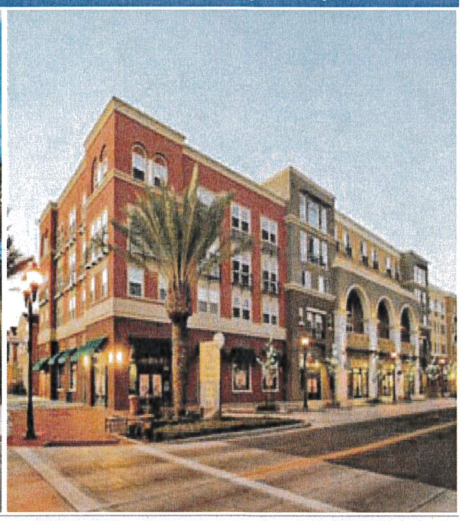
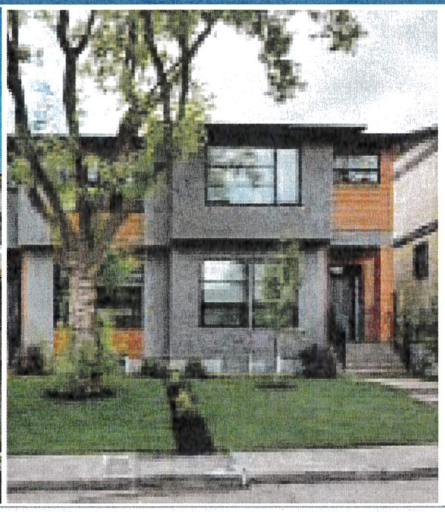
T4 Maker Zone (T4-M)	T4 Corridor Zone (T4-C)	T4 Main Street Zone (T4-MS)
		
Desired Form	**Desired Form**	**Desired Form**
Attached	Attached or detached	Attached or detached
Medium to large lot width	Medium to large lot width	Medium lot width
Medium to large footprint	Medium to large footprint	Medium footprint and lot coverage
Buildings placed at or near the right-of-way	Buildings placed at or near the right-of-way	Buildings placed near the edge of right-of-way
Diverse mix of frontages	Diverse mix of building frontages, mostly Shopfront	Diverse mix of building frontages, mostly Arcade, Gallery, and Shopfront
Small to no setbacks	Medium setbacks	Small to no setbacks
Max. 4 stories	2 to 5 stories	2 to 5 stories
No blank walls or planes	No blank walls or planes	No blank walls or planes
General Use	**General Use**	**General Use**
Ground floor commercial, service, or industrial uses with a mix of commercial, residential, service, office, agricultural and/or industrial uses on upper stories.	Ground floor commercial or service uses with a mix of commercial, service, and/or office uses on upper stories.	Ground floor commercial or service uses with a mix of commercial, residential, service, and/or office uses on upper stories.
Intent	**Intent**	**Intent**
To maximize the opportunities created by medium-intensity walkable urban environments. Specialized uses in this Zone can be categorized as downtown light industrial utilizing performance measures to ensure compatibility between the different allowed uses.	To enhance the City's existing corridors so that over time they will become more walkable and serve multiple districts with a diverse range of commercial, retail, service, and office uses, and small-to-large footprint, moderate-intensity building types. This zone also supports public transportation alternatives.	To provide a compact and walkable urban environment with building types that can accommodate a diverse range of uses. A range of small to medium building types allows for mainly active pedestrian street facades. The flexible nature of the building types is intended to encourage revitalization and investment. This zone also supports public transportation alternatives.
Subsection	**Subsection**	**Subsection**
19.09.050.E.026	19.09.050.E.028	19.09.050.E.032

Table 1 Transect Zones Overview

T4 Neighborhood Zone (T4-N)	T3 Neighborhood Zone (T3-N)
	
Desired Form	**Desired Form**
Attached or detached	Typically detached; may be attached
Medium lot width	Small to medium lot width
Small to Medium footprint and lot coverage	Small to medium footprint
Buildings placed near the edge of right-of-way	Building placement varied, but mostly set back from right-of-way
Primarily Stoop, Dooryard, Forecourt, Shopfront at corners, or Porches	Primarily common yards, stoops, and porches
Medium setbacks	Medium to large setbacks
Max. 3 stories	Max. 2 stories
General Use	**General Use**
Primarily multi-unit residential uses with smaller neighborhood-supporting uses at appropriate locations.	Primarily residential uses with smaller neighborhood-supporting uses at appropriate locations.
Intent	**Intent**
To reinforce established neighborhoods in walkable urban areas. Neighborhoods will evolve through the use of small to medium building footprints and medium intensity building types to achieve a compact urban form that accommodates a variety of urban housing choices. This zone also supports public transportation alternatives.	To protect the integrity of existing small to medium lot, detached homes and to reinforce their importance within walkable neighborhoods with medium footprint, low-intensity housing types within short walking distance to public transportation options and neighborhood-serving retail and service uses.
Subsection	**Subsection**
19.09.050.E.036	19.09.050.E.040

19.09.050.E.026 T4 Maker Zone (T4-M)

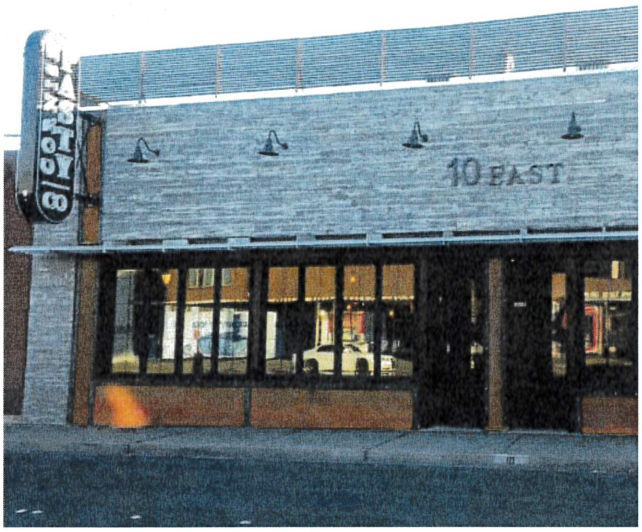


Figure 45 Transect Illustration

A. General Intent

The intent of the T4-M Zone is to maximize the opportunities created by medium intensity walkable urban environments. This zone is well connected to transportation infrastructure and accommodates a variety of new and repurposed building types that can host residential, retail, office, service, and agricultural uses while providing for centrally located employment sites. The diverse mix of uses supports active transportation commuting modes and a lively 24-hour neighborhood during work and non-work hours. Specialized uses in this Zone can be categorized as downtown light industrial utilizing performance measures and conditions to ensure compatibility between the different Use Types. The following form elements are generally appropriate in this Zone:

Attached
Medium to Large lot width
Medium to large footprint and lot coverage
No blank walls or planes
Buildings placed at or near the edge of right-of-way
Diverse mix of frontages
Small to no setbacks
Max. 4 stories

B. Sub-Zone

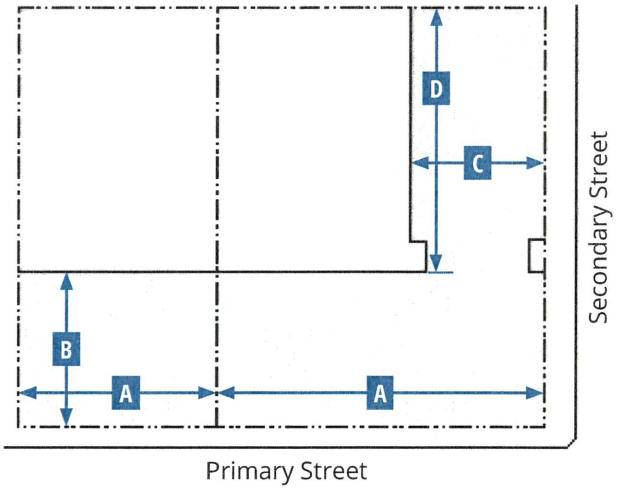
None

C. Lot Size

No width, depth or area standards are included for the T4-M Zone. Min. lot sizes may be determined based on the min. and max. building width and depth standards for the building types established in Table D (Building Types).

Exhibit S (7 pages)

Figure 46 Building Types

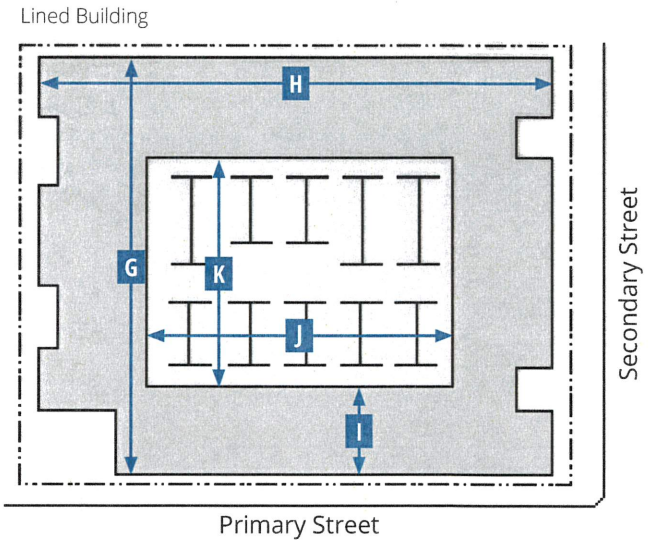


Key for Diagram

Lot Line — Building Line

Building Area

Figure 47 Building Types- Lined Building



Key for Diagram

Lot Line — Building Line

Interior Building — Exterior Building

D. Building Types

Building Type	Main Building Body		Secondary Wing	
	Width (max.)	Depth (max.)	Width (max.)	Depth (max.)
	A	B	C	D
Flex Mid-Rise	100% of lot[1]	175 ft[1]	75 ft	100 ft
Flex Low-Rise	100% of lot[1]	150 ft	60 ft	60 ft
Multi-plex: Large	100 ft	75 ft	20 ft	30 ft
Loft	175 ft[1]	--	30 ft	30 ft
Live/Work	28 ft	36 ft	16 ft	18 ft
Rowhouse	18-36 ft	45 ft	--	--
Lined Building	Refer to building dimensions in Subsection D (Building Types, Additional Standards for a Lined Building)			
Fourplex Court[2]	40 ft	80 ft	--	--
Duplex, Side-by-side	48 ft	--	20 ft	22 ft
Duplex, Front-and-Back	36 ft	--	20 ft	22 ft
Duplex, Stacked	36 ft	--	20 ft	22 ft
Bungalow Court[2]	32 ft	26 ft	--	--
Accessory Structure[3]	--	--	--	--

Miscellaneous

The floorplate of any floor must not be larger than that of the floor below, except if an arcade frontage type is used.

Allowed frontage types are described in Table G (Frontages).

D. Building Types (cont.)

Additional Standards for a Lined Building

Dimensions - Exterior Building		
Length	400 ft max.[1,4]	G
Width	300 ft max.[1,4]	H
Depth (from front of building)	30 ft min.	I
Dimensions - Interior Building		
Width	180 ft max.	J
Depth	230 ft max.	K

Miscellaneous

The side of an interior building exposed to a street or open space must be lined by the exterior building.

A forecourt or pocket plaza is appropriate along the primary frontage or at a primary street corner.

Access Standards

Ground floor units facing a street or alley must be accessed from the street or alley by an allowed frontage type.

Vehicle access to the interior building must be from an alley or a min. of 150 ft from an intersection if no alley is present.

Notes:

[1] Buildings wider than 150 ft must be designed to read as a series of buildings no wider than 100 ft each.

[2] The shared courtyard must be accessible from the primary street and the entrance to each bungalow must be from the shared courtyard.

[3] The total GFA of Accessory Structures must not exceed 60% of the GFA of the primary structure.

[4] Or the max. length of the block.

Figure 48 Building Placement

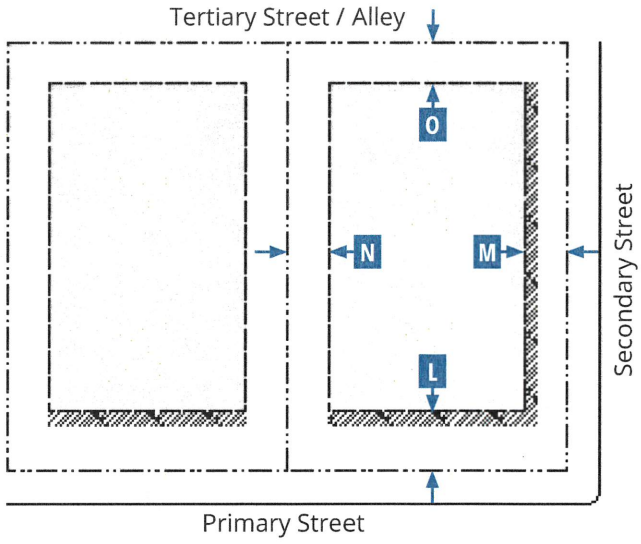
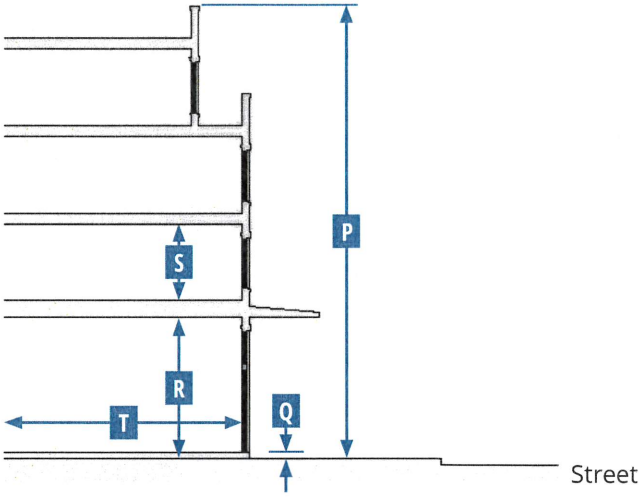


Figure 49 Building Form Standards



Key for Diagrams

Lot Line — Building Setback Line — Building Area — Facade Zone

E. Building Placement				
Setback Distance (Distance from ROW/Lot Line)	**Front[1,2]**	**Corner Side**	**Interior Side[1,3,4]**	**Rear[1,3,4]**
	L	**M**	**N**	**O**
Primary Building				
Min.	5 ft	5 ft	0 ft	0 ft
Max.	15 ft	15 ft	10 ft	--
Primary Building Facade within Facade Zone				
Front (min.)	70%			
Side Street (min.)	50%			
Miscellaneous				
A building form with a chamfered corner is only allowed on corner lots and only if a corner entry is provided.				

Notes:

[1] Additional setback and/or easement may be required where street ROW or a utility easement is needed.

[2] Sidewalk must be extended into the facade zone to meet the building.

[3] Buildings and structures located < 5 feet from a property line must comply with all applicable Building and Fire Code requirements.

[4] Where building elevations include balconies or windows, a minimum 10 ft setback from the edge of the balcony or window to the side and rear lot line is required.

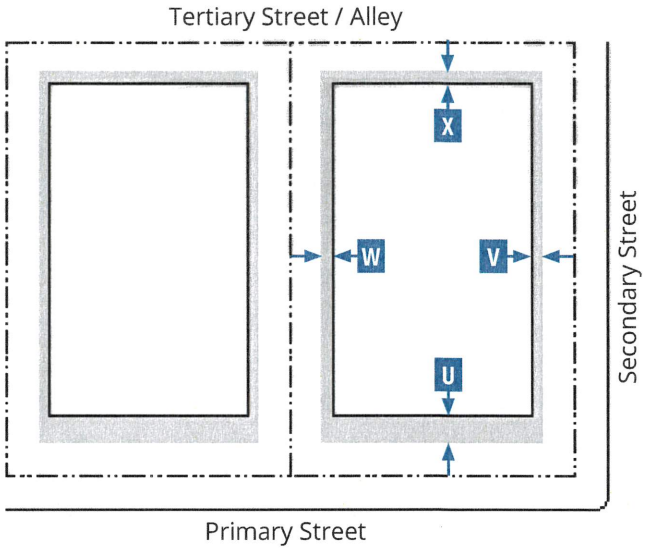
F. Building Form Standards		
Building Height	**Stories**	**P**
Primary Building	4 max.	
Accessory Structure	3 max.	
Primary Building		
Ground Floor Finish Level[1,2]		**Q**
Residential	1.50 ft min. above curb	
All other uses	2 ft max. above curb	
Ground floor lobbies and common areas in multi-unit buildings may have a ≤ 0.50 ft ground floor finish level.		
Floor-to-Ceiling		
Ground floor	14 ft min.	**R**
Upper floors	9 ft min.	**S**
Footprint		
Lot coverage	80% max.	
Depth		
Ground floor space	30 ft min.	**T**

Notes:

[1] Buildings existing at the time of adoption of the FBC and additions to those buildings less than 50% of the existing GFA are exempt.

[2] Primary buildings located on lots sloping down and away from the street are exempt.

Figure 50 Encroachments



Key for Diagram

Lot Line — Building Line — Encroachment

G. Frontages

Private Frontage Type	Front	Corner Side	Standards
Arcade	A	A	19.09.070.D
Forecourt	A	A	19.09.070.G
Gallery	A	A	19.09.070.H
Shopfront	A	A	19.09.070.K
Terrace	A	A	19.09.070.M
Dooryard	A	A	19.09.070.F

Pedestrian Access

Pedestrian entrances must be provided at least every 80 feet along the ground floor primary street facade and the side street facade.

Miscellaneous

For non-residential uses, loading docks, overhead doors, and other service entries must be screened and must be located to the rear or on side street facades.

Key for Tables

A Allowed

N Not Allowed

H. Encroachments into Facade Zone

Encroachment Type	Front (max.) U	Corner Side (max.) V	Interior Side (max.) W	Rear (max.) X
Arcade[1]	10 ft	10 ft	N	N
Gallery[1]				
Shopfront: awning, balcony[1], bay window, or projecting shade structure				
Upper floor Balconies[2]	6 ft	6 ft	5 ft	5 ft
Architectural Features	3 ft	3 ft	3 ft	3 ft
Signage	A	A	A	A
Driveways	A[3]	A[3]	A	A
Mechanical and Utility Equipment[4]	A[3]	A[3]	A[3]	A

Miscellaneous

Encroachments are allowed into the facade zone, but not allowed within a street ROW, alley ROW, or across a lot line, except for arcades, galleries, and balconies with an encroachment agreement.

Notes:

[1] May encroach into the street ROW to within 2 ft of the face of the curb, subject to approval by the Public Works Director.

[2] May encroach into the street ROW up to a maximum of 5 ft, subject to approval of an Encroachment Agreement by the Public Works Director.

[3] Only allowed when there is no alternative access from the rear.

[4] All mechanical and utility equipment must be screened from view from the street.

I. Use Types	
Use Type	**T5-M**
Residential	
Assisted Living Apartment	P
Community Residence	P
Convalescent Care Facility/Nursing Home	P
Downtown Residential	P
Home Occupation	P
Recreation, Education, and Public Assembly	
Church/House of Worship	P
College, University, or Seminary	P
Community Center, Private (Accessory)	A
Community Recreational Facility (Public)	P
Museum, Art Display, or Art Sales (Private)	P
Public Park or Playground; Open Space	P
Public or Private School (Primary or Secondary)	S
Retail Trade	
Beer/Wine/Cooler Cultural Establishment; Beer/Wine/Cooler On- and Off-Sale Establishment; or Beer/Wine/Cooler Off-Sale Establishment	S
Beer/Wine/Cooler On-Sale Establishment	C
Downtown Retail[1]	P
Commercial, Other than Listed	S
Liquor Establishment (Tavern); Lounge Bar; or Urban Lounge	S
Mixed-Use	P
Nightclub	C
Restaurant	P
Restaurant with Alcohol; or Restaurant with Service Bar	C
Social Use Venue	S
Employment and Services	
Downtown Industrial[2]	C
Downtown Services[3]	P
Food Processing	C
Hotel, Motel or Hotel Suites	P
Hotel, Residence	S
Laboratory, Medical or Dental	P
Office, Medical or Dental; or Office, Other Than Listed	P
Social Event with Alcoholic Beverage Sales	S
Social Service Provider	C
Telecommunication Facilities	
Mounted Antenna Over 15 ft (Ultimate Height); Wireless Communication Facility, Non-Stealth Design (Not Qualifying for Conditional Use Approval)	S
Wireless Communication Facility, Stealth Design or Non-Stealth Design (Qualifying for Conditional Use Approval)	C
Other	
Emergency Ambulance Services, Ground	P

I. Use Types (cont.)	
Use Type	**T5-M**
Urban Agriculture	
Government Facility	P
Helipad	S
Parking Facility	P
Public Services, Minor	C
Sustainable Infrastructure	P
Temporary Uses[4]	T
Community Garden	P

Notes:

Land use types are defined in Section 19.09.110 (Form-Based Code Definitions). Individual land use types that are included within a general land use type (e.g. Downtown Retail or Downtown Services) are also defined in Section 19.09.110.

If a use is not listed in this table, it is not allowed in the T5-M Zone, except that as allowed under LVMC Section 19.12.100 (Similar and Prohibited Uses) the Director may determine that a use not listed in Table I is allowed if it is listed in LVMC Section 19.12.010 (Land Use Tables) and the use supports the purpose and intent of the Zone and is consistent with the goals and policies of the Downtown Master Plan.

Refer to LVMC Section 19.12.070 (Permissible Use Descriptions and Applicable Conditions and Requirements) for the standards applicable to specific uses.

[1] Except Pet Shop, Secondhand Dealer, and Thrift Shop are allowed as Conditional Uses (C).

[2] The conditions for all individual uses that are grouped under the Downtown Industrial are replaced by the following conditions: 1) All work shall be performed within a completely enclosed building; 2) There shall be no audible or noticeable indication of a manufacturing operation outside the building, and no noticeable smoke or foreign matter emitted; 3) Outdoor storage is only allowed as accessory to the principal use and shall not be visible from the right-of-way and adjacent properties; 4) Work equipment larger than 60 cubic feet shall not be visible from the right-of-way; and 5) All hazardous materials resulting from the repair, storage, or dismantling of vehicles shall be properly stored and removed from the premises in a timely manner. Storage, use and removal of toxic substances, solid waste pollution and flammable liquids, particularly gasoline, paints, solvents and thinners, shall conform to all applicable Federal, State, and local regulations.

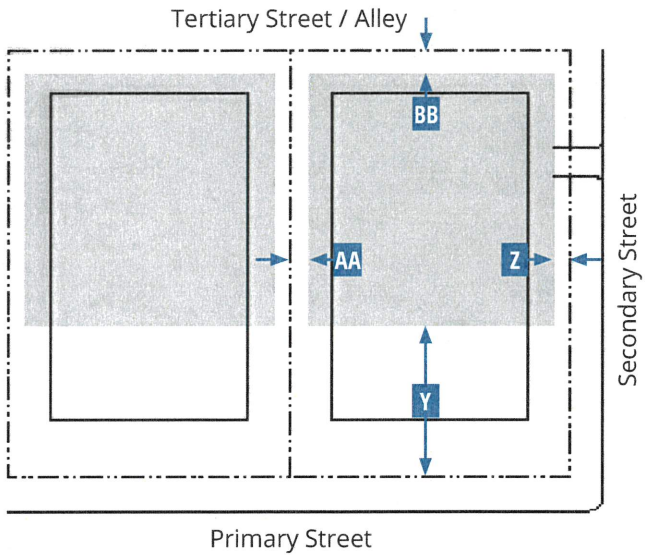
[3] Except Massage, Accessory is allowed as an Accessory Use (A) and Automobile Rental and Check Cashing Service, Limited are allowed as a Conditional Use (C).

[4] Except a Temporary Real Estate Sales Office and Open Air Vending / Transient Sales Lot are allowed as a Conditional Use (C).

Key

P	Use is allowed as a principal use by right.
C	Use is allowed in accordance with the conditions specified in LVMC Section 19.12.040 for conditional uses.
S	Use is allowed as a principal use only after first obtaining a Special Use Permit as specified in LVMC Section 19.16.110.
T	Use is allowed with a Temporary Commercial Permit as specified in LVMC Section 19.16.160.

Figure 51 Parking Standards



Key for Diagram

Lot Line — Building Line

Parking Area

J. Parking Standards

Setback from Lot Line (min.)	Front[1]	Corner Side[1]	Interior Side	Rear
	Y	Z	AA	BB
Ground Floor	40 ft	10 ft	0 ft	0 ft
Upper Floor	40 ft	40 ft	0 ft	0 ft

Parking Driveway	One-way	Two-way
Width	12 ft min. - 14 ft max.	32 ft min. - 34 ft max.

Miscellaneous

Where feasible, driveways must be shared between adjacent parcels.

No new surface parking lots are allowed adjacent to primary or side street frontages.

Covered parking in parking areas established before the effective date is allowed with a setback of 10 ft to a primary street or side street.

When a lot has an adjoining side street, parking must be accessed only from the side street.

Required Parking

Refer to LVMC Section 19.09.100.G (Parking Standards) for vehicular and bicycle parking standards.

Required parking may be reduced as set forth in LVMC Section 19.18.030.D.4 (Parking Alternatives).

Note:

[1] No vehicle parking in the front or corner side yard is allowed.

K. Required Street Trees

Infill or Replacement Street Trees	Min. No. Trees
Addition, Renovation, or New Building[1]	
< 5,000 sf	2
≥ 5,000 sf - < 10,000 sf	4
≥ 10,000 sf - < 20,000 sf	8
≥ 20,000 sf	As required along all street frontages

Miscellaneous

All street trees must be planted in accordance with the species as listed in LVMC Section 19.09.040 (Specific to Districts) and the planting requirements of LVMC Section 19.04.060 (Amenity Zone). In the case of a conflict, Section 19.09.040 (Specific to Districts) applies.

All street trees must be planted and maintained to avoid conflicts with large trucks and fire/emergency vehicles. The min. canopy clearance at maturity is 14 ft.

Note:

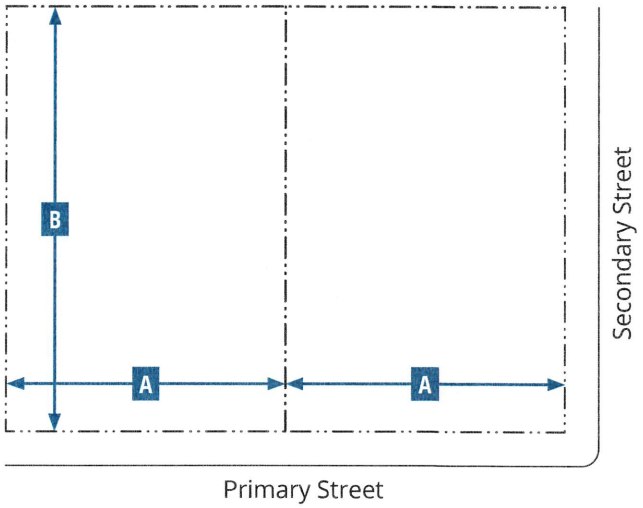
[1] Refer to LVMC Section 19.09.020.D (Applicability)

L. Required Open Space		
Open Space		
Width		20 ft min.
Depth		20 ft min.
Open space per unit	Up to 30 units	50 sf min.
	31-100 units	75 sf min
	100+ units	100 sf min.
Miscellaneous		
Open Space shall be provided in compliance with LVMC Section 19.09.080 (Open Space Standards).		
The open space requirement may be met by providing open space on the ground floor, upper floors, and the roof, and may include pools and amenity decks.		
No private open space per residential unit is required.		
Where no residential units are present, a minimum of 5% of the lot area shall be provided as open space on-site.		

19.09.050.E.040 T3 Neighborhood Zone (T3-N)

Figure 74 Transcect Illustration

Figure 75 Lot Size



Key for Diagram

Lot Line

A. General Intent

The T3-N Zone is intended to protect the integrity of existing neighborhoods with detached homes on small-to-medium sized lots. The Zone reinforces the role of these residential building types within walkable neighborhoods, supports adjacent neighborhood-serving retail and service uses, and supports public transportation options. The following form elements are generally appropriate in this Zone:

- Primarily detached, but may be attached
- Small to medium lot width
- Small to medium footprint and lot coverage
- Primarily with common yards, stoops, and porches
- Medium to large front setback
- Medium to large side setbacks
- Max. 2 stories

B. Sub-Zone

T3-N-O (Open)

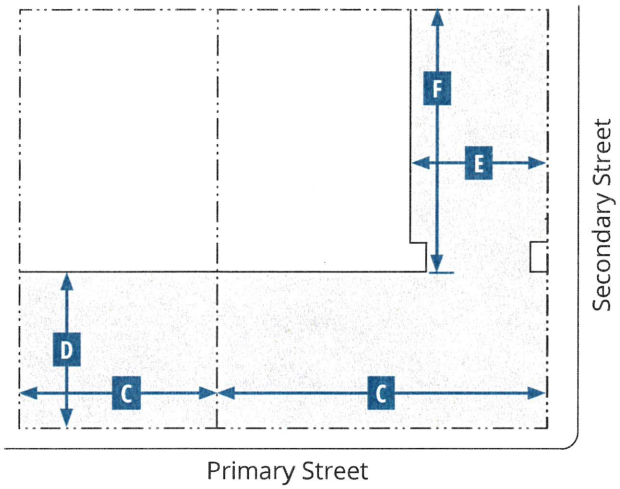
The open sub-zone provides the same building form as the T3-N Zone, with the following exceptions:
1. The Side-by-Side Duplex building type is not allowed; and
2. Additional uses listed in Table I (Use Types) are allowed.

C. Lot Size

Area	
Min.	6,000 sf
Max.	12,800 sf
Width	**A**
Min.	50 ft
Max.	80 ft
Depth	**B**
Min.	90 ft
Max.	160 ft

Exhibit F (6 pages)

Figure 76 Building Types



Key for Diagram

Lot Line
Building Line
Building Area

D. Building Types					
Building Type	Per Lot (max.)	Main Building Body		Secondary Wing	
		Width (max.)	Depth (max.)	Width (max.)	Depth (max.)
		C	D	E	F
Duplex, Side-by-side[1]	1	48 ft	--	20 ft	22 ft
Duplex – Front and Back	1	36 ft	--	20 ft	22 ft
Duplex - Stacked	1	36 ft	--	20 ft	22 ft
Large House	1	65 ft	--	20 ft	22 ft
Medium House	1	50 ft	--	20 ft	22 ft
Small House	1	30 ft	--	20 ft	22 ft

D. Building Types (cont.)					
Building Type	Per Lot (max.)	Main Building Body		Secondary Wing	
		Width (max.)	Depth (max.)	Width (max.)	Depth (max.)
		C	D	E	F
Bungalow Court[2]	3 min.; 9 max.	32 ft	26 ft	--	--
Accessory Dwelling Unit[3]	1	--	--	--	--
Accessory Structure[3]	2	--	--	--	--
Miscellaneous					
Allowed frontage types are described in Table G (Frontages).					

Notes:
[1] This building type is not allowed in the T3-N-O Zone.
[2] Only 1 residential unit per bungalow allowed. The shared courtyard must be accessible from the primary street and the entrance to each bungalow must be from the shared courtyard.
[3] The total GFA of all Accessory Dwelling Units and Accessory Structures must not exceed 60% of the GFA of the primary structure.

Key for Tables

-- No Requirement

Figure 77 Building Placement

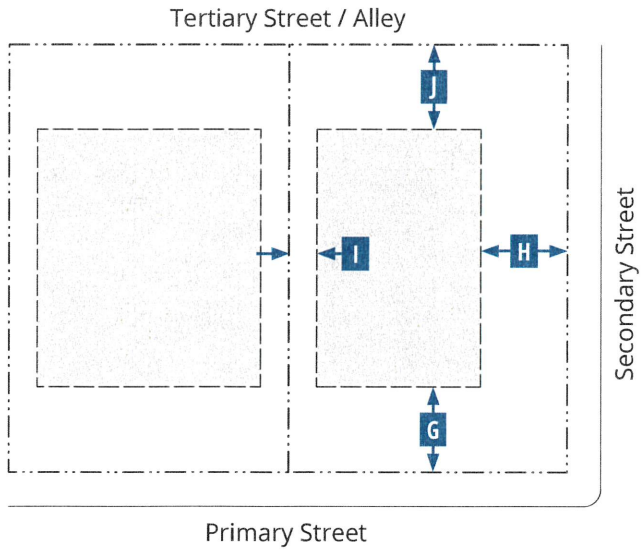
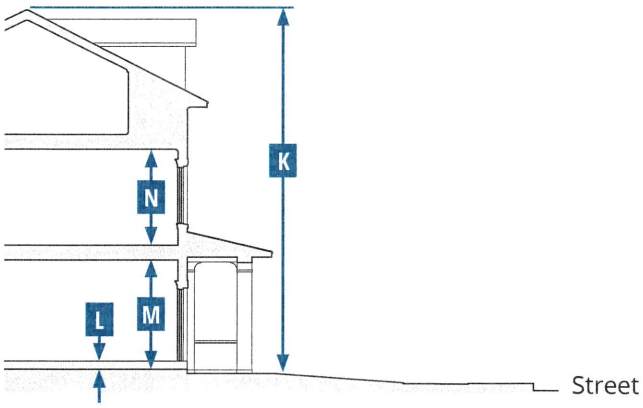


Figure 78 Building Form



Key for Diagrams

Lot Line — Building Setback Line — Building Area

E. Building Placement				
Setback Distance (Distance from ROW/Lot Line)	**Front**	**Corner Side**	**Interior Side**	**Rear**
	G	**H**	**I**	**J**
Primary Building				
Min.	15 ft	15 ft	5 ft	15 ft
Max.	25 ft	20 ft	--	--
ADU or Accessory Structure				
Min.	30 ft	15 ft	3 ft[1]	3 ft[1]
Miscellaneous				
Patio covers must comply with the standards provided in Table 4 (Patio Cover) in LVMC Section 19.06.070 (R-1 (Single Family Residential)).				
All structures located < 5 feet from another structure must comply with all applicable Building and Fire Code requirements.				

Notes:
[1] Buildings and structures located < 5 feet from a property line must comply with all applicable Building and Fire Code requirements.

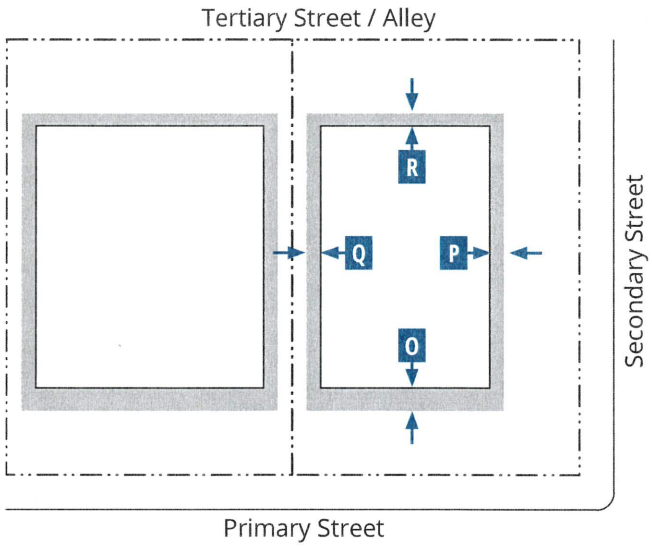
Key for Tables

-- No Requirement

F. Building Form Standards		
Building Height	**Stories**	**K**
Primary Building	2 max.	
ADU or Accessory Structure[1]	2 max.	
Primary Building		
Ground Floor Finish Level[2,3]		**L**
Residential	1.50 ft min. above curb	
Floor-to-Ceiling		
Ground floor (service or retail uses)	8 ft min.	**M**
Upper floors	8 ft min.	**N**
Footprint		
Lot coverage	65% max.	

Notes:
[1] ADUs or accessory structures must not exceed the overall height of the primary building.
[2] Buildings existing at the time of adoption of the FBC and additions to those buildings less than 50% of the existing GFA are exempt.
[3] Primary buildings located on lots sloping down and away from the street are exempt.

Figure 79 Encroachments



Key for Diagram

Lot Line — Building Line — Encroachment

G. Frontages			
Private Frontage Type	**Front**	**Corner Side**	**Standards**
Common Yard	A	A	19.09.070.E
Forecourt	A	A	19.09.070.G
Porch: Engaged	A	A	19.09.070.I
Porch: Projecting	A	A	19.09.070.J
Stoop	A	A	19.09.070.L

Key for Tables

A Allowed

N Not Allowed

H. Encroachments				
Encroachment Type	**Front (max.)**	**Corner Side (max.)**	**Interior Side (max.)**	**Rear (max.)**
	O	**P**	**Q**	**R**
Porch: Engaged	5 ft	5 ft	N	N
Porch: Projecting				
Stoop				
Architectural Features	3 ft	3 ft	3 ft	3 ft
Driveways	A	A	A	A
Miscellaneous				
Encroachments are allowed into the facade zone, but are not allowed within a street ROW, alley ROW, across a lot line, or beyond the minimum setback line.				

I. Use Types		
Use Type	**T3-N**	**T3-N-O**
Residential		**Sub-Zone**
Accessory Dwelling Unit	P	P
Accessory Structure	P	P
Community Residence	P	P
Downtown Residential	P	P
Home Occupation	P	P
Individual Care – Family Home	P	P
Individual Care - Group Home	S	S
Recreation, Education, and Public Assembly		
Church/House of Worship	P	P
Community Recreation Facility, Public	P	P
Museum, Art Display, or Art Sales (Private)	N	P
Private Club, Lodge, or Fraternal Organization	N	P
Public Park or Playground; Open Space	P	P
Public or Private School (Primary or Secondary)	S	S
Retail Trade		
Restaurant	N	P
Restaurant with Alcohol; or Restaurant with Service Bar	N	C
Employment & Services		
Clinic	N	P
Custom & Craft Work	N	C
Massage Establishment	N	S
Office, Medical or Dental; or Office, Other Than Listed	N	P
Telecommunication Facilities		
Mounted Antenna Over 15 ft (Ultimate Height); Wireless Communication Facility, Non-Stealth Design (Not Qualifying for Conditional Use Approval)	S	S
Wireless Communication Facility, Stealth Design or Non-Stealth Design (Qualifying for Conditional Use Approval)	C	C
Other		
Public Services, Minor	C	C
Sustainable Infrastructure	P	P
Temporary Uses[1]	T	T
Urban Agriculture		
Community Garden	C	C

Notes:
Land use types are defined in Section 19.09.110 (Form-Based Code Definitions). Individual land use types that are included within a general land use type (e.g. Downtown Retail or Downtown Services) are also defined in Section 19.09.110.
If a use is not listed in this table it is not allowed in the T3-N Zone; except that as allowed under LVMC Section 19.12.100 (Similar and Prohibited Uses) the Director may determine that a use not listed in Table I is allowed if it is listed in LVMC Section 19.12.010 (Land Use Tables) and the use supports the purpose and intent of the Zone and is consistent with the goals and policies of the Downtown Master Plan.

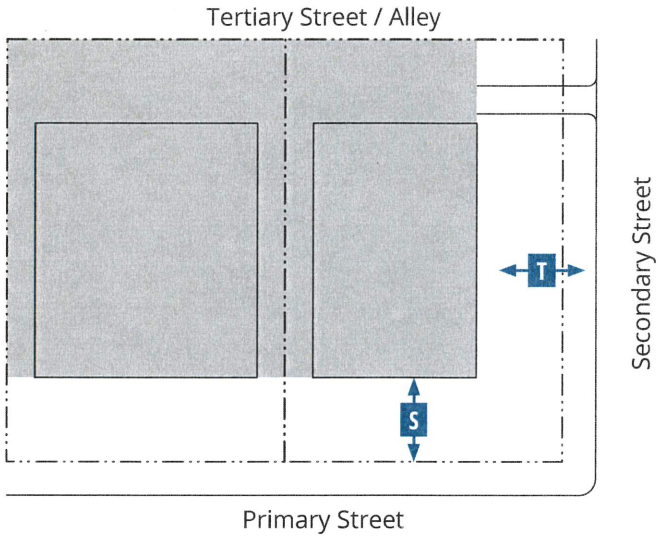
Refer to LVMC Section 19.12.070 (Permissible Use Descriptions and Applicable Conditions and Requirements) for the standards applicable to specific uses.

[1] Except a Temporary Real Estate Sales Office is allowed as a Conditional Use (C).

Key

P	Use is allowed as a principal use by right.
C	Use is allowed in accordance with the conditions specified in LVMC Section 19.12.040 for conditional uses.
S	Use is allowed as a principal use only after first obtaining a Special Use Permit as specified in LVMC Section 19.16.110.
T	Use is allowed with a Temporary Commercial Permit as specified in LVMC Section 19.16.160.
N	Use is not allowed.

Figure 80 Parking Standards



Key for Diagram

Lot Line — Building Line

Parking Area

J. Parking Standards

Setback from Lot Line (min.)	Front[1]	Corner Side[1]	Interior Side	Rear[2]
	S	T		
Surface Lots	20 ft	15 ft	0 ft	0 ft
Parking Driveway				
Width	12 ft min. - 20 ft max.			
Miscellaneous				
Driveways may be shared between adjacent parcels.				
Parking spaces may be enclosed, covered, or open.				
Tandem parking is allowed for off-street parking to meet the requirements for a residential unit, if approved by staff of the Department.				
When a lot has an adjoining secondary street, parking must be accessed only from the secondary street.				
Required Parking				
Refer to LVMC Section 19.09.100.G (Parking Standards) for vehicular and bicycle parking standards.				
Required parking may be reduced as set forth in LVMC Section 19.18.030.D.4 (Parking Alternatives).				

Notes:
[1] No vehicle parking in the front or corner side yard is allowed, except on a driveway.
[2] Where an alley is present, parking shall be accessed from the rear.

Key for Tables

-- No Requirement

K. Required Street Trees

Infill or Replacement Street Trees	Min. No. Trees
Addition, Renovation, or New Building[1]	
< 1,000 sf	--
≥ 1,000 sf - < 2,500 sf	2
≥ 2,500 sf	4
Miscellaneous	
All street trees must be planted in accordance with the species as listed in LVMC Section 19.09.040 (Specific to Districts) and the planting requirements of LVMC Section 19.04.060 (Amenity Zone). In the case of a conflict, Section 19.09.040 (Specific to Districts) applies.	
All street trees must be planted and maintained to avoid conflicts with large trucks and fire/emergency vehicles. The min. canopy clearance at maturity is 14 ft.	

Note:
[1] Refer to LVMC Section 19.09.020.D (Applicability).

L. Required Open Space

Open Space		
Width		10 ft min.
Depth		10 ft min.
Open space per unit	Up to 30 units	50 sf min.
Miscellaneous		
Open Space shall be provided in compliance with LVMC Section 19.09.080 (Open Space Standards).		
The open space requirement may be met by providing open space on the ground floor, upper floors, and the roof, and may include pools and amenity decks.		
No private open space per residential unit is required.		
Where no residential units are present, a minimum of 5% of the lot area shall be provided as open space on-site.		

Table 1 Building Types Overview

Transect Zones	T3-N	T3-N	T3-N
Building Form	**Small House**	**Medium House**	**Large House**
Example			
Description	A small-size detached structure, consisting of one unit, usually sited on a small lot with private open space. Typically located within a lower-intensity residential neighborhood in a walkable urban setting, and potentially near a neighborhood main street, this building type is important for providing a wide range of housing types and promoting walkability.	A medium-size detached structure, consisting of one unit, usually sited on a medium size lot with private open space. Typically located within a lower-intensity residential neighborhood in a walkable urban setting, and potentially near a neighborhood main street, this building type is important for providing a wide range of housing types and promoting walkability.	A large-size detached structure consisting of one unit usually sited on a large lot with private open space. This building type is frequently located within the lowest-intensity residential neighborhoods. It is important for providing a wide range of housing types.
Building Scale	House-Scale	House-Scale	House-Scale

Exhibit G (7 pages)

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Table 1 Building Types Overview

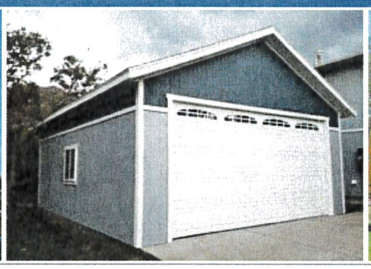
Transect Zones	**T5-N, T4-N, T3-N**	**T5-M, T5-MS, T5-C, T5-N, T4-M, T4-MS, T4-C, T4-N, T3-N**	**T5-N, T4-M, T4-N, T3-N**
Building Form	**Accessory Dwelling Unit (ADU)**	**Accessory Structure**	**Duplex: Side-by-Side**
Example			Source: Opticos Design, Inc.
Description	An additional structure typically located at the rear of a lot constructed as a single-story freestanding structure or placed above a garage to provide space for a single small residential unit. An ADU is important for providing affordable housing opportunities within walkable neighborhoods.	An additional structure typically located at the rear of a lot that provides space for a single small commercial, office, service, or storage use. This building type is important for providing incubator spaces for small businesses within walkable neighborhoods.	A small- to medium-size structure with two attached residential units, both of which have private open space and face the street. This duplex building type has the form of a medium- or large-size single-family house, and is appropriately scaled to fit within lower-intensity residential neighborhoods. It supports well-designed moderate intensity development, and is important for providing a wide range of housing types and promoting walkability.
Building Scale	House-Scale	House-Scale	House-Scale

Table 1 Building Types Overview

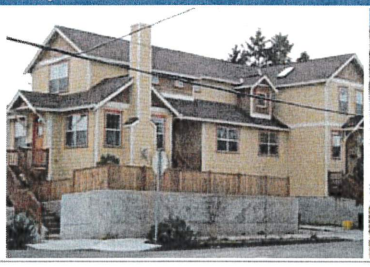
Transect Zones	T5-N, T4-M, T4-N, T3-N	T5-N, T4-M, T4-N, T3-N	T5-N, T4-M, T4-N, T3-N
Building Form	**Duplex: Front-and-back**	**Duplex: Stacked**	**Bungalow Court**
Example		Source: Optics Design, Inc.	
Description	A small- to medium-size structure consisting of two attached units with one unit located behind the other, both of which have private open space. The unit in front faces the street and has the form of a small single-family house. This duplex building type is appropriately scaled to fit within lower-intensity residential neighborhoods. It supports well-designed moderate intensity development, and is important for providing a wide range of housing types and promoting walkability.	A small- to medium-size structure consisting of two units with one located on the ground floor and the other located directly above. Both units face the street and are within one single building that has the form of a small single-family house. This duplex building type is appropriately scaled to fit within lower-intensity residential neighborhoods. It supports well-designed moderate intensity development, and is important for providing a wide range of housing types and promoting walkability.	A series of small, detached single-family structures located on a single lot with individual buildings arranged to define a shared court that is typically perpendicular to the street. The shared court serves as common open space taking the place of a private rear yard, which is not required. The common open space is an essential element of this building type. A bungalow court may be scaled to fit within low or medium-intensity neighborhoods where it allows for appropriately scaled, well-designed moderate intensities and is important for providing a wide range of housing types and promoting walkability. Syn: Cottage Court
Building Scale	House-Scale	House-Scale	House-Scale

Table 1 Building Types Overview

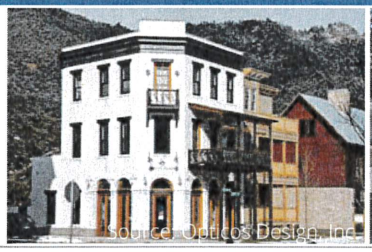
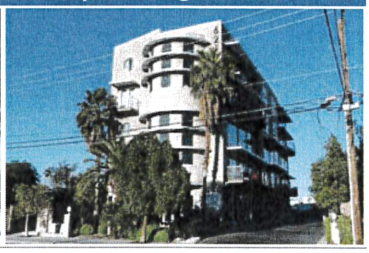
Transect Zones	T5-M, T5-C, T5-N, T4-M, T4-MS, T4-C, T4-N	T5-N, T4-MS, T4-C, T4-N	T5-M, T5-C, T5-N, T4-M, T4-C
Building Form	**Live/Work**	**Multi-plex: Small**	**Multi-plex: Large**
Example	 Source: Opticos Design, Inc.		
Description	A small- to medium-size attached or detached structure that consists of one dwelling unit above and/or behind a flexible ground floor space that can be used for service, artisan, or commercial uses as allowed by the zone. Both the ground-floor flex space and the unit above are owned by one entity. Private open space is not required but can be provided with a balcony. Live/work units are typically located within medium intensity-neighborhoods or in locations that will transition into a neighborhood main street. This building type can be applied in industrial contexts. They are appropriate for incubating neighborhood-serving commercial uses and allowing neighborhood main streets to expand in response to increasing market demands.	A medium-size structure consisting of 3 - 6 side-by-side and/or stacked dwelling units, typically with one shared entry or individual entries along the front of the building. This building type has the appearance of a medium-sized single-family home and is appropriately scaled to fit sparingly within low to medium-intensity neighborhoods. Private open space is not required but can be provided with a balcony. This building type enables appropriately-scaled, well-designed higher intensity of development, and is important for providing a broad choice of housing types and promoting walkability. Syn. Mansion Apartment House	A large-size structure, 2 - 5 stories in height, consisting of 7 - 18 side-by-side and/or stacked dwelling units, typically with one shared entry. Each unit has its own private open space as a small yard or balcony. This building type is appropriately scaled to fit within medium-intensity or more urban neighborhoods. It enables well-designed higher densities, and is important for providing a wide range of housing types and promoting walkability. Syn: Stacked-Flats Building
Building Scale	House-Scale ≤ 3 units Block-Scale > 3 units	House-Scale	Block-Scale

Table 1 Building Types Overview

Transect Zones	T5-M, T5-N, T4-M, T4-C, T4-N	T6-UG, T5-MS, T5-C, T5-N, T4-MS, T4-C, T4-N	T5-M, T5-MS, T5-C, T5-N, T4-M, T4-MS, T4-C, T4-N
Building Form	**Rowhouse**	**Courtyard Building**	**Flex Low-Rise Building**
Example	Source: Opticos Design, Inc.	Source: Opticos Design, Inc.	
Description	A medium-size structure composed of 2 - 8 individual Rowhouse buildings attached in a series with individual entries along the front. Each unit has its own private open space. This type is typically located within medium-intensity neighborhoods or near or on a neighborhood main street. This type enables appropriately-scaled, well-designed higher densities, and is important for providing a wide range of housing types and promoting walkability. Syn: Townhouse	A large-size structure composed of multiple attached or stacked units accessed from a shared courtyard, a series of courtyards, or a common corridor. Each unit may have its own individual entry, or up to three units may share a common entry. Private open space is not required but can be provided with a balcony per unit. This building type is typically integrated sparingly into lower intensity neighborhoods or more consistently into medium-intensity neighborhoods, or it can be applied in non-residential contexts. This building type enables appropriately-scaled, well-designed higher densities, and is important for providing a wide range of housing types and promoting walkability.	A medium- to large-size structure on a medium size lot and 1 - 3 stories in height, that may incorporate structured parking. Each unit may have its own individual entry, or units may share a common entry accessed from the street or a courtyard or series of courtyards. Private open space is not required but can be provided with a balcony per unit. This building type can be used to provide a vertical mix of uses with ground-floor retail, service, or industrial uses and service or residential uses on upper floors; or it may be a single-use building, with residential, service, or industrial uses, where ground floor retail uses are not appropriate. This building type enables appropriately-scaled, well-designed higher densities, and is important for providing a wide range of housing types and promoting walkability.
Building Scale	House-Scale ≤ 3 units Block-Scale > 3 units	House-Scale ≤ 3 units Block-Scale > 3 units	Block-Scale

Table 1 Building Types Overview

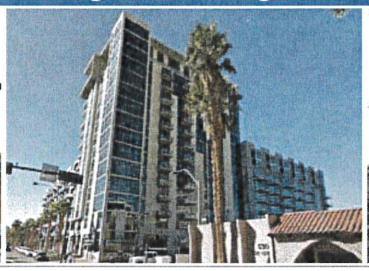
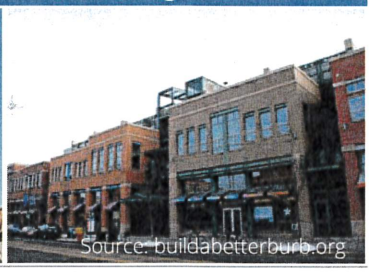
Transect Zones	T6-UC, T6-UG, T5-M, T5-MS, T5-C, T5-N, T4-M, T4-MS, T4-C	T6-UC, T6-UG	T6-UC, T6-UG, T5-M, T5-MS, T5-C, T4-M, T4-MS,
Building Form	**Flex Mid-Rise Building**	**Flex High-Rise Building**	**Lined Building**
Example			
Description	A medium- to large-size structure built on a large lot and 4 – 8 stories in height, that typically incorporates multi-level structured parking. Private open space is not required but can be provided with balconies. This building type can be used to provide a vertical mix of uses with ground-floor retail, service, or industrial uses and service or residential uses on upper floors; or it may be a single-use building, with residential, service, or industrial uses, where ground floor retail uses are not appropriate. This building type is a primary component of an urban downtown or neighborhood as it enables appropriately-scaled, well-designed higher densities, and is important for providing a wide range of housing types and promoting walkability.	A large, tall structure over 8 stories in height built on a large lot that typically incorporates multi-level structured parking. Private open space is not required but can be provided with a balcony per unit. This building type is used to provide a vertical mix of uses with ground-floor retail or service uses, and service or residential uses on upper floors. This building type is a primary component of an urban downtown as it enables the highest densities that are appropriately-scaled and well-designed, and is important for providing a wide range of housing types as well as other commercial uses, and promoting walkability.	A structure that consists of two main components; an interior building that may be a parking garage, movie theater or large retail store (i.e. "big-box store"), and an exterior building to conceal the interior building from the street. The exterior building is usually designed for retail, service, office, and/or residential uses.
Building Scale	Block-Scale	Block-Scale	Block-Scale

Table 1 Building Types Overview

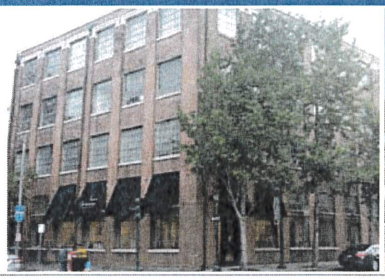
Transect Zones	T5-M, T4-M	T4-M, T4-N
Building Form	**Loft**	**Fourplex Court**
Example		
Description	A multi-story structure with a large footprint, tall ceilings, and a design that facilitates natural light. This building type is adaptable to different individual uses over the course of a life-cycle and offers flexible space to be utilized in areas transitioning between commercial, residential, and light industrial uses.	Two detached structures, each with four units, located on a single lot with each building arranged to define a shared court that is typically perpendicular to the street. The shared court serves as common open space taking the place of a private yard. The common open space is an essential element of this building type. A fourplex court may be scaled to fit within small to medium-intensity neighborhoods where it allows for appropriately scaled, well-designed moderate intensities and is important for providing a wide range of housing types and promoting walkability.
Building Scale	Block-Scale	House-Scale

Table 1 Private Frontages Overview

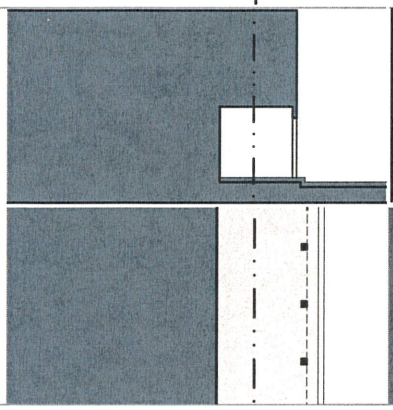
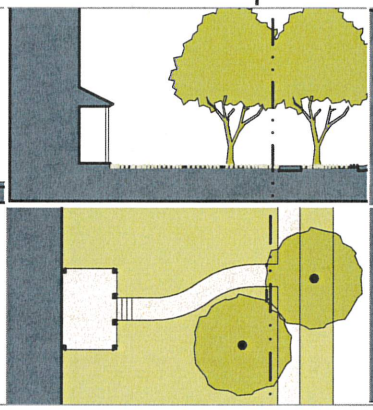
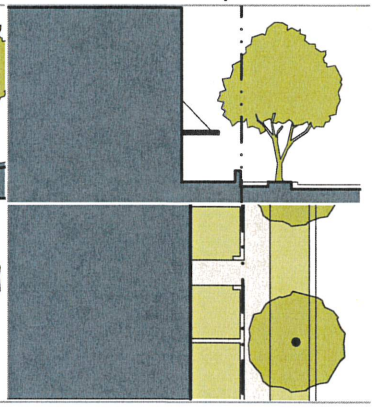
Transect Zones	T6-UC, T6-UG, T5-M, T5-MS, T5-C, T5-N, T4-M, T4-MS, T4-C	T5-N, T4-N, T3-N	T5-M, T5-MS, T5-N, T4-M, T4-MS, T4-N
Frontage Type	**Arcade**	**Common Yard**	**Dooryard**
	LOT > PRIVATE FRONTAGE > | < ROW <	LOT > PRIVATE FRONTAGE > | < ROW <	LOT > PRIVATE FRONTAGE > | < ROW <
Example			
Description	The Arcade Frontage is a covered walkway with habitable space above that often encroaches over a sidewalk into the right-of-way. An arcade is used to provide pedestrian circulation along a frontage and it should extend far enough from the building to provide adequate protection and circulation space for pedestrians. An arcade is intended for buildings with ground floor commercial uses and is common along public courtyards and walkable streets.	The Common Yard Frontage has a landscaped frontage with a facade substantially set back from the frontage line, providing a buffer from thoroughfares. The front yard created remains unfenced and is visually continuous with adjacent yards, supporting a common landscape in conjunction with other private frontages.	In a Dooryard Frontage the main facade of the building is set back a small distance and the frontage line is defined by a low wall or fence, creating a small dooryard. The dooryard must not provide public circulation along a right-of-way. The dooryard may be raised, sunken, or at grade, and is intended primarily for ground-floor residential uses.

Exhibit H (3 pages)
City Council - Page 709

Table 1 Private Frontages Overview

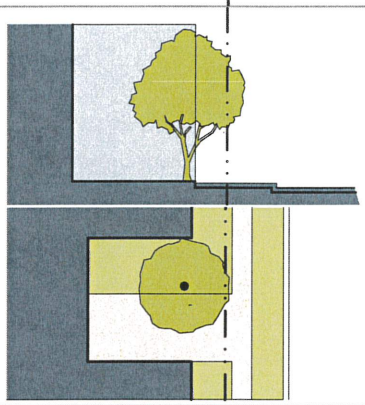
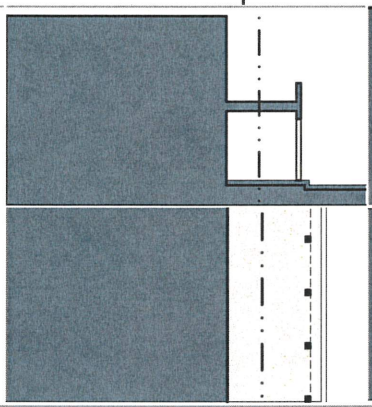
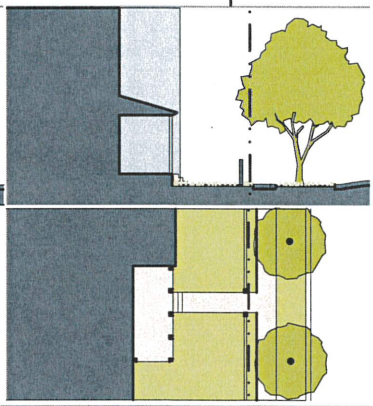
Transect Zones	T6-UC, T6-UG, T5-M, T5-MS, T5-C, T5-N, T4-M, T4-MS, T4-N, T3-N	T6-UC, T6-UG, T5-M, T5-C, T5-MS, T5-N, T4-M, T4-MS, T4-C	T4-C, T4-N, T3-N
Frontage Type	**Forecourt**	**Gallery**	**Porch: Engaged**
	LOT > PRIVATE FRONTAGE > | < ROW <	LOT > PRIVATE FRONTAGE > | < ROW <	LOT > PRIVATE FRONTAGE > | < ROW <
Example			
Description	The Forecourt Frontage has a portion of the facade close to the frontage line and the central portion is set back creating a small courtyard space. The courtyard may be used as an entry court or shared garden space for residential buildings, or as an additional shopping or restaurant seating area within retail and service use areas. A forecourt may be allocated in conjunction with other frontage types.	The Gallery Frontage has a facade aligned close to the frontage line with an attached cantilevered structure or a lightweight colonnade over the sidewalk. Galleries are typical for retail uses, but can be used for offices uses.	The Engaged Porch has two adjacent sides of the porch that are connected to the building while the other two sides are open. The main facade of the building has a small-to-medium setback from the frontage line. The resulting front yard is typically small and can be defined by a wall or fence to spatially define the edge of the street.

Table 1 Private Frontages Overview

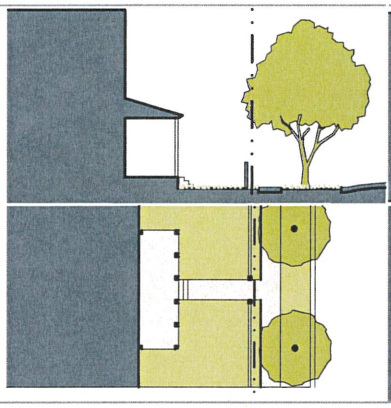
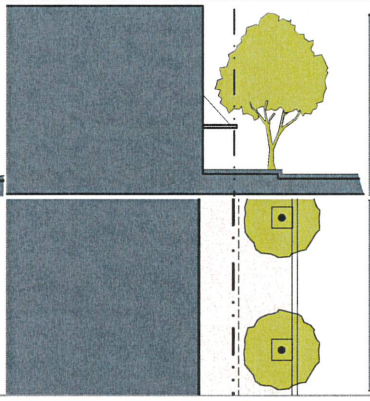
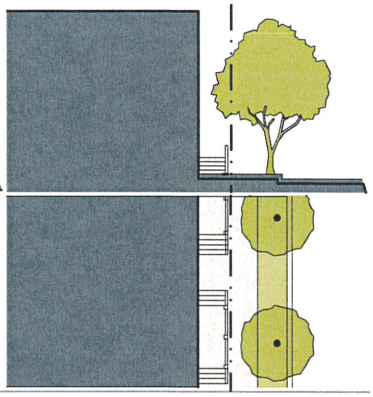
Transect Zones	T4-C, T4-N, T3-N	T6-UC, T6-UG, T5-M, T5-C, T5-MS, T5-N, T4-M, T4-MS, T4-C, T4-N	T5-MS, T5-N, T4-MS, T4-N, T3-N
Frontage Type	**Porch: Projecting**	**Shopfront**	**Stoop**
	LOT > PRIVATE FRONTAGE > < ROW <	LOT > PRIVATE FRONTAGE > < ROW <	LOT > PRIVATE FRONTAGE > < ROW <
Example			
Description	The Projecting Porch Frontage is open on three sides, and it may project in front of a building into the facade zone. The main facade of the building has a small-to-medium setback from the frontage line. The resulting front yard is typically small and can be defined by a wall or fence to spatially define the edge of the street.	In the Shopfront Frontage the main facade of the building is at or near the frontage line with an at-grade entrance along the public right-of-way. Shopfronts are typically intended for retail or office uses and they have substantial glazing at the sidewalk level. Shopfronts may include awnings or cantilevered shade structures that overlap the sidewalk. A shopfront may be used in conjunction with other frontage types. Syn: Retail Frontage.	The Stoop Frontage has a facade aligned close to the frontage line with the first story elevated from the sidewalk sufficiently to secure privacy for first-story windows. The entrance is usually an exterior stair and landing. Stairs or ramps from the stoop may lead directly to the sidewalk or may provide access to the side.

Table 1 Private Frontages Overview

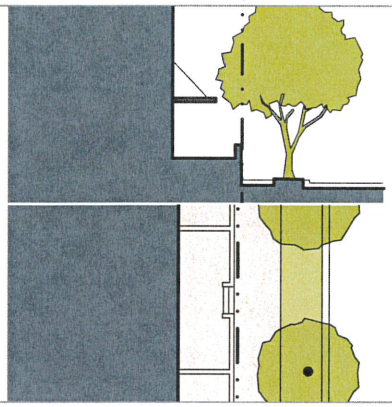
Transect Zones	**T6-UC, T6-UG, T5-M, T5-MS, T5-C, T5-N, T4-M, T4-MS, T4-C, T4-N**
Frontage Type	**Terrace**
	LOT > PRIVATE FRONTAGE > | < ROW <
Example	
Description	In the Terrace Frontage the main facade of the building is at or near the frontage line with an elevated terrace providing public circulation along the facade. A terrace can be used to provide at-grade access while accommodating a grade change. Frequently spaced steps to access the terrace are necessary to avoid dead walls and to maximize accessibility. Terraces are suitable for conversion to outdoor cafes and may be used in historic industrial areas to mimic historic loading docks.

Table 1 Open Space Types Overview

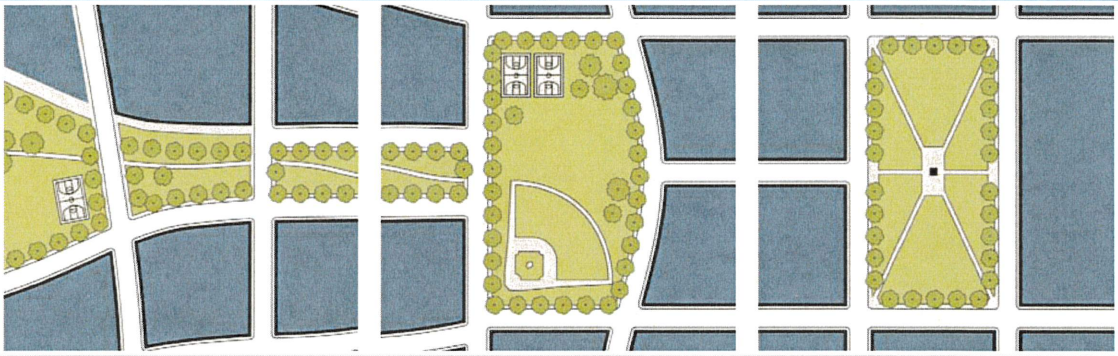
Transect Zones	T6-UC, T5-M, T5-MS, T5-C, T5-N, T4-M, T4-MS, T4-C, T4-N, T3-N	T6-UC, T5-M, T5-MS, T5-C, T5-N, T4-M, T4-MS, T4-C, T4-N, T3-N	T6-UC, T6-UG, T5-MS, T5-C, T5-N, T4-M, T4-MS, T4-C, T4-N, T3-N
Open Space Type	**Greenway**	**Urban Park**	**Square**
Example			
Description	Greenways are linear spaces for community gathering and strolling for nearby residents and employees. These spaces may be defined by tree-lined streets on their flanks as well as by the buildings beyond. Greenways tend to have narrow dimensions that support passive use and can serve as a green connector between destinations.	Urban parks provide a central open-space focus for neighborhoods or groups of neighborhoods. They are useful for unstructured recreation and smaller structured recreational facilities. These larger parks may also serve as civic amenities for the larger community. They are spatially defined by building frontages or landscaping, and typically consist of formal and natural landscape elements that combine paths, lawn, or open areas, and tree planting.	Squares provide a public urban open space for civic purposes, commercial activity, unstructured recreation, and other passive uses. Squares are defined by buildings and tree-lined streets with open shelters, paths, lawns, open areas, hardscape areas, and trees formally arranged. These spaces include seating opportunities, walkways, and landscape materials at all edges.

Exhibit I (3 pages)
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Table 1 Open Space Types Overview

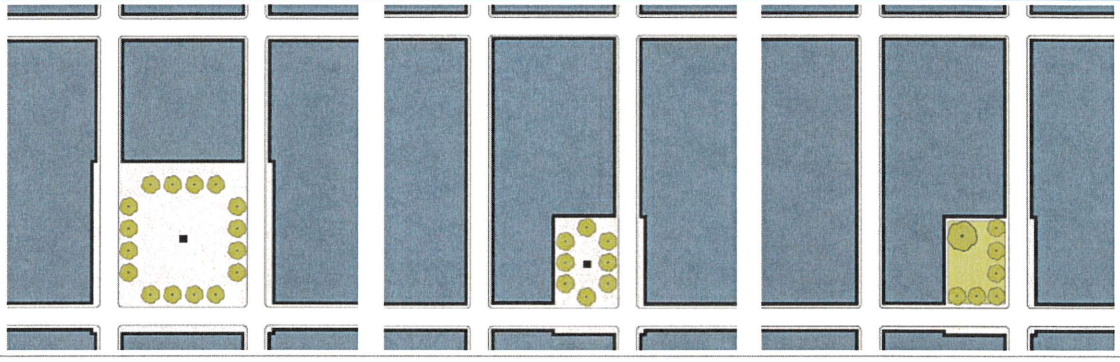
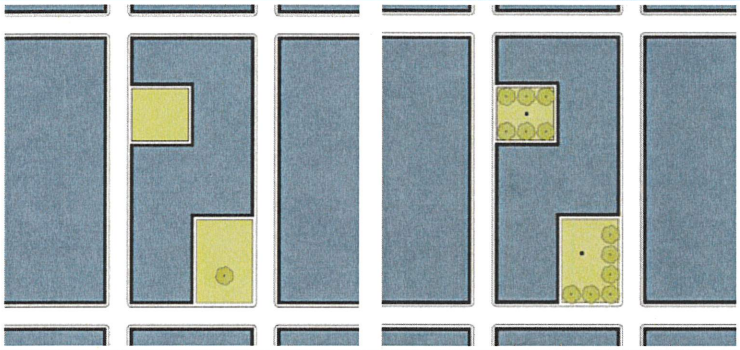
Transect Zones	T6-UC, T6-UG, T5-MS, T5-C, T5-M, T5-N, T4-MS, T4-C	T6-UC, T6-UG, T5-MS, T5-C, T5-M, T5-N, T4-MS, T4-C	T5-M, T5-MS, T5-C, T4-M, T4-MS, T4-C, T4-N, T3-N
Civic Space Type	**Plaza**	**Pocket Plaza**	**Pocket Park**
Example			
Description	Plazas add to the vitality of streets within more urban areas and create formal open spaces available for civic purposes and commercial activity. These spaces are located at street corners and are defined by building frontages. They are typically hardscaped with formally arranged trees.	Pocket plazas are small-scaled civic spaces that function in a similar manner and follow the same rules as a larger plaza. These smaller-scaled spaces create more intimate places for seating or dining and provide a place for commercial and neighborhood activity. These plazas can also be used to create a formal space in front of a prominent building entrance.	Pocket parks provide small-scale public urban open spaces intended to provide recreational opportunities where space is limited in close proximity to neighborhood residences. Pocket parks are often located between buildings and developments, on irregular shaped sites and on single vacant lots.

Table 1 Open Space Types Overview

Transect Zones	T6-UG, T5-MS, T5-N, T4-MS, T4-C, T4-N, T3-N	T6-UG, T5-MS, T5-M, T5-N, T4-M, T4-MS, T4-C, T4-N, T3-N
Supplemental Civic Space Type	**Community Garden**	**Playground**
Example		
Description	Community gardens provide space for garden plots in a publicly accessible area that are available to nearby residents for small-scale cultivation. These gardens may be provided as a component of other publicly accessible civic-space types or may be provided as a freestanding open space.	Playgrounds provide an open space designed and equipped for children's recreation. They are interspersed within residential areas in locations where children do not have to cross major streets. They may be freestanding, placed within a block, or located within larger parks and other civic space types.

19.09.090.K Historic Westside District Thoroughfare Plan

Figure 15 Thoroughfare Plan - Hierarchy

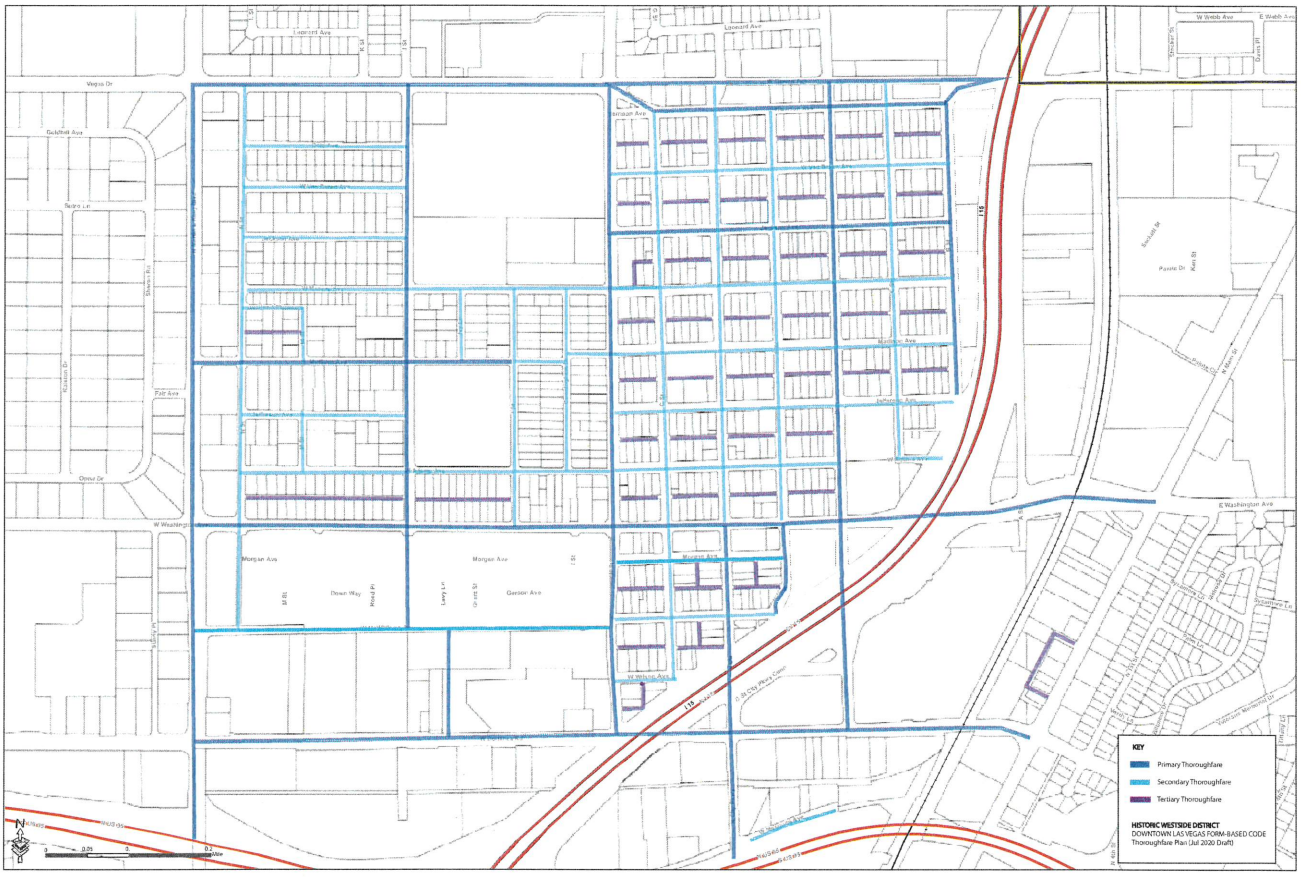
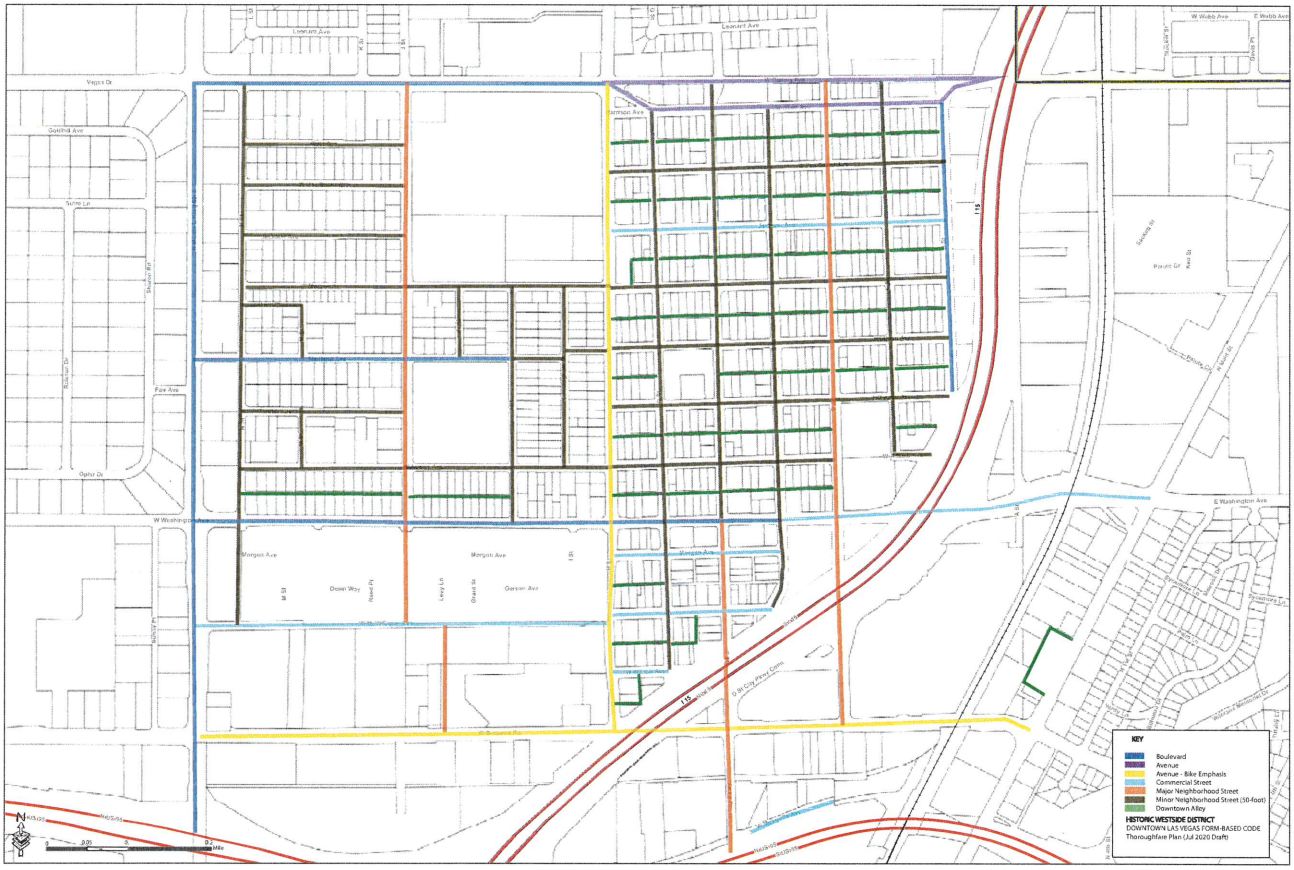


Exhibit J (2 pages)

Figure 16 Thoroughfare Plan - Downtown Thoroughfare Types



Stacey Campbell

#36

From: Bob Olson <bobo@olsonconsultants.com>
Sent: Wednesday, December 2, 2020 8:32 AM
To: Meeting Comments
Subject: Item #36

CAUTION: This email originated from an External Source. Please use caution before opening attachments, clicking links, or responding to this email. Do not sign-in with your City of Las Vegas account credentials.

To: City Council,

My name is Bob Olson & I'm a registered Architect in Iowa, who moved to Las Vegas over a year ago. I also have a background in real estate analysis & taught, as an Adjunct Instructor, @ Iowa State University's College of Design.

I'm very familiar with both the history of Form Based Codes (FBC) & it's connection to Smart Growth & New Urbanism. I'm therefore a strong advocate of adopting FBC guidelines in all appropriate urban & suburban communities. The Historic Westside, in Las Vegas, would be an excellent candidate for FBC; due to its rich history as well as an almost ideal existing grid of streets & alleys.

Please feel free to contact me with any questions @ either 515.975.5090 or my email:
Bobo@olsonconsultants.com

Thx!
Bob Olson, AIA, Appraisal Institute/PA

Submitted at City Council
Date 12/2/20 Item 36
By: E-Comment

AGENDA SUMMARY PAGE
City Council
Meeting of: December 2, 2020

Agenda Item No.:
37

DEPARTMENT: City Attorney **DISCUSSION**
DIRECTOR: Bryan K. Scott

SUBJECT:
RECOMMENDING COMMITTEE: BILLS ELIGIBLE FOR ADOPTION AT A LATER MEETING

Bill No. 2020-37 - Amends LVMC Chapter 6.69, relating to the regulation of reflexology, to update and clarify a number of provisions so as to be consistent with State law, and to establish new recordkeeping and operational requirements for reflexology establishments. Proposed by: Robert Summerfield, Director of Planning

FISCAL IMPACT:
None

PURPOSE/BACKGROUND:
This bill will amend LVMC Chapter 6.69, relating to the regulation of reflexology, to update and clarify a number of provisions so as to be consistent with State law, and to establish new recordkeeping and operational requirements for reflexology establishments. The bill is intended to benefit the City, licensees and clients regarding the operations of reflexology establishments in relation to the public health, safety and welfare.

RECOMMENDATION:
ADOPTION at the 12/16/2020 City Council Meeting, pursuant to the 11/30/2020 Recommending Committee Meeting.

First Read – 11/18/2020 First Publication – 12/3/2020

BACKUP DOCUMENTATION:
1. Bill No. 2020-37

BILL NO. 2020-37

ORDINANCE NO. _____

AN ORDINANCE TO AMEND LVMC CHAPTER 6.69, RELATING TO THE REGULATION OF REFLEXOLOGY, TO UPDATE AND CLARIFY A NUMBER OF PROVISIONS SO AS TO BE CONSISTENT WITH STATE LAW, ESTABLISH NEW RECORDKEEPING AND OPERATIONAL REQUIREMENTS FOR REFLEXOLOGY ESTABLISHMENTS, AND PROVIDE FOR OTHER RELATED MATTERS.

Proposed by: Robert Summerfield, Director of Planning

Summary: Amends LVMC Chapter 6.69, relating to the regulation of reflexology, to update and clarify a number of provisions so as to be consistent with State law, and to establish new recordkeeping and operational requirements for reflexology establishments.

THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Title 6, Chapter 69, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended by adding thereto a new section, designated as Section 5, reading as follows:

6.69.005: (A) The City Council hereby finds that reflexology establishments seriously affect the economic, social and moral well-being of the City and its residents, that such businesses must be regulated strictly for the welfare of the public, and that such businesses must therefore comply with LVMC Chapter 6.06, as well as the provisions of this Chapter. Although the Nevada Legislature has removed the ability of the City to regulate reflexologists as to their qualifications and practices, the City retains its authority to:

(1) Require reflexologists and reflexology establishments to obtain a City business license; and

(2) Regulate the manner in which reflexology establishments themselves may operate.

(B) Except as otherwise provided in this Subsection (B) and this Chapter, the issuance and governance of individual reflexologist licenses, including those for independent reflexologists, shall be in accordance with LVMC Chapter 6.02. The issuance and governance of licenses for reflexology establishment licensee practitioners shall be in accordance with LVMC Chapter 6.06 and this Chapter.

SECTION 2: Title 6, Chapter 69, Section 10, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6.69.010: Unless the context otherwise requires, the following words, as they appear in this Chapter, shall have the meanings ascribed to them in this Section:

"Employee" means any person who performs reflexology as a bona fide employee of a reflexology business.

"Independent reflexologist" means a reflexologist who is not an employee of a reflexology establishment, is a sole practitioner, and hires no employees.

"Outcall service" means reflexology given or provided off the premises of a licensed reflexology business.

"Reflexologist" means any person who, for consideration, engages in the practice of reflexology.

"Reflexology" means a method of using the hands, thumbs or fingers to apply specific pressure to reflex points located in the hands, feet or ears.

"Reflexology establishment licensee practitioner" means the licensee of a reflexology establishment who performs reflexology.

"Sexual activity" means:

(1) Sexual intercourse;

(2) Rubbing against a client for sexual gratification;

(3) Making sexual advances toward a client;

(4) Demanding or requesting sexual favors from a client;

(5) Kissing, hugging, touching, fondling or caressing of a sexual nature;

(6) Encouraging masturbation or any other sex act in the presence of a licensee or other person performing reflexology;

(7) Masturbation or any other sex act by the licensee or other person performing reflexology;

(8) Suggesting or discussing the possibility of beginning a sexual relationship before

the professional relationship ends;

(9) Terminating the professional relationship with the client for the purpose of pursuing a sexual relationship;

(10) Discussing the sexual history, preference or fantasies of the licensee or other person performing reflexology;

(11) Any behavior, gesture or expression that may reasonably be interpreted as seductive or sexual; or

(12) Showing a client sexually explicit photographs.

"Specified anatomical area" means:

(1) Genitals;

(2) Pubic region;

(3) Buttocks; or

(4) Female breast.

SECTION 3: Title 6, Chapter 69, Section 30, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6.69.030: [(A) Without first obtaining and thereafter maintaining a valid unexpired license for that activity pursuant to this Title, no person shall engage in, conduct or carry on:

(1) The operation of a reflexology business; or

(2) The performance of reflexology services for consideration.

(B) A reflexology business licensee shall not permit any person to perform reflexology services for consideration upon the licensee's business premises unless that person has a valid unexpired license to perform those services.] No person shall engage in, conduct or carry on, or permit to be engaged in, conducted or carried on, in or upon any premises, the operation of a reflexology establishment, or the performance of reflexology as a reflexologist or a reflexology establishment licensee practitioner, without first obtaining and thereafter maintaining a valid unexpired license for that activity pursuant to this Chapter.

SECTION 4: Title 6, Chapter 69, Section 40, of the Municipal Code of the City of Las

Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6.69.040: (A) Each reflexology [business] establishment must pay in advance an annual license fee of one hundred dollars[.], together with the additional license fees for professional employees described in LVMC 6.04.060. As an alternative to paying the license fees for professional employees, an establishment may elect to require those employees to pay a license fee as if they were independent reflexologists under Subsection (B), in which case each such employee must do so.

(B) Each [person licensed to perform reflexology] independent reflexologist and reflexology establishment licensee practitioner must pay in advance an annual license fee of seventy-five dollars.

SECTION 5: Title 6, Chapter 69, Section 50, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6.69.050: [Except as otherwise provided in LVMC 6.69.140, no person may perform reflexology services for consideration other than on the premises of a licensed reflexology business.]

(A) An independent reflexologist license authorizes the licensee to:

(1) Administer reflexology to a client in a licensed reflexology establishment;

(2) Administer reflexology to a client at the client's temporary or permanent residence, transient lodging or at the client's place of business; and

(3) Advertise as an independent reflexologist.

(B) An independent reflexologist licensee must comply with all applicable provisions of the City zoning regulations.

SECTION 6: Title 6, Chapter 69, Section 60, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6.69.060: Each applicant for a license [to perform a reflexology business shall submit, in connection with the license application, one of the following issued in the applicant's favor:

(A) A diploma or certification issued by a duly licensed school of reflexology:

(1) Which is accredited by an independent national reflexology association; and

(2) Whose curriculum includes a minimum of one hundred ten hours of instruction covering theory, history, application, anatomy and physiology corresponding to reflexology, business practices, and knowledge of pertinent State and local laws; and a minimum of ninety hours of practicum; or

(B) A certification from an independent national reflexology testing entity which is not aligned with any school, training program or membership.] under this Chapter shall provide to the Department proof of temporary or permanent licensure by the Nevada State Board of Massage Therapy.

SECTION 7: Title 6, Chapter 69, Section 70, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6.69.070: In connection with a license application [under this Chapter,] for a reflexology establishment, each principal of [a business] the reflexology establishment shall submit to investigation by Metro on standard forms established by the Department and pay the standard investigation fee.

SECTION 8: Title 6, Chapter 69, Section 80, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6.69.080: (A) Upon receipt of a complete application for a reflexology establishment license and a report concerning Metro's investigation for suitability, the Director shall approve, deny, or take such other action concerning the license application as the Director considers appropriate. The Director may deny, revoke or suspend a license for good cause, which includes but is not limited to the grounds set forth in LVMC 6.02.090 and LVMC 6.02.330 to 6.02.360, inclusive.

(B) With regard to an application for a license for a reflexologist, the Director shall issue a license to perform reflexology to an applicant upon the acceptance of a completed application, payment of appropriate license fees, and proof of a valid unexpired reflexologist license issued by the Nevada Board of Massage Therapy. However, the Director may deny, refuse to renew, or revoke an application for a license to perform reflexology for the following reasons:

(1) The applicant or licensee fails to possess or maintain a valid unexpired reflexologist license issued by the Nevada State Board of Massage Therapy.

(2) The applicant or licensee has been convicted of a charge of solicitation of prostitution during the three-year period immediately preceding the Director's action.

SECTION 9: Title 6, Chapter 69, Section 90, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6.69.090: It is unlawful for a reflexology business licensee or a person acting for the licensee to employ any person, whether as an employee or under contract, to perform reflexology unless that person[:

(A) Is at least eighteen years of age; and

(B) Is in compliance with LVMC 6.69.100.] is at least eighteen years of age.

SECTION 10: Title 6, Chapter 69, Section 110, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6.69.110: It is unlawful for any licensee, principal or employee of a reflexology establishment to:

(A) Operate from a residentially zoned location except in compliance with LVMC Title 19;

(B) Dispatch any person to perform outcall service unless that person is an employee of, or has been contracted by, the licensee and is licensed to perform reflexology under this Chapter;

(C) Perform massage as defined in LVMC Chapter 6.52 unless the licensee possesses a valid unexpired license to do so at the location in question;

(D) Advertise as a massage establishment, outcall entertainment service, or other business in a manner which would be deceptive to members of the community;

(E) Employ to perform massage, as defined in LVMC Chapter 6.52, any massage therapist or independent massage therapist who is licensed as such under that Chapter, unless the holder of the reflexology business license also possesses a valid unexpired massage establishment license under that Chapter;

(F) Engage in sexual activity with, or solicit sexual activity from, a client in connection with the performance of reflexology;

(G) Allow a person to engage in or solicit sexual activity in violation of Subsection (F)

above;

(H) Engage in false, deceptive or misleading advertising regarding the services available within a reflexology establishment, including, without limitation, false, deceptive or misleading advertising regarding the training that a reflexology establishment licensee, principal or employee has received;

(I) Utilize any audio or video recording device for any purpose in a room where reflexology is being performed;

(J) Fondle or touch with any part of the body, or allow any other person to fondle or so touch, any specified anatomical area of a client; or

(K) Require or allow a client to remove any article of clothing, other than [outerwear or clothing items] coats, shoes, socks and gloves whose removal is necessary for the performance of reflexology.

SECTION 11: Title 6, Chapter 69, Section 120, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6.69.120: The following requirements apply to all reflexology establishments:

(A) Every reflexology establishment and all licensed reflexologists shall post the licenses required by this Chapter in a prominent place in the reception area of the establishment.

(B) The licensee, or a person designated by the licensee of a reflexology establishment, shall maintain a current register of all persons employed or contracted by the establishment [as reflexologists and their license numbers. Such register shall be open for inspection by agents of the Department, Metro and the Health District at all times the establishment is open for the conduct of business.] to perform any function or service within the establishment, whether or not related to the provision of reflexology. The register must show each such person's full legal name, as well as each alias or nickname used by that person; the person's date of birth; the person's title or function; and each applicable State and City license and registration held by that person. The register must be updated to include any such person before the person is allowed on the premises. At all times the establishment is open for business, the register shall be made available upon request to representatives of the Department, Metro, and any other regulatory agency having jurisdiction. In addition, each reflexology establishment is responsible for ensuring that any person entering the establishment in any

capacity is in possession of valid identification issued by a government entity to and regarding that person.

(C) At least one qualified person shall be on the premises of a reflexology establishment at all times the establishment is in operation. For purposes of the preceding sentence, a "qualified person" means a principal who has been approved for suitability pursuant to LVMC 6.69.070 and 6.69.080 or a manager who has been approved for suitability pursuant to those Sections as in the case of a principal.

(D) Rates for all services shall be prominently posted in the reception area in a location and manner readily visible to prospective and actual clients.

(E) Each reflexologist shall wear a uniform similar in nature and appearance to medical scrubs.

(F) Exterior windows shall not be tinted or covered in any manner that prevents a view of the inside of the establishment from the exterior.

(G) All front reception, hallway and front exterior doors (except back or rear exterior doors used only for employee entrance to and exit from the reflexology establishment) shall be kept unlocked during business hours. No electronic locking device may be utilized on any interior door.

(H) [No reflexology may be performed within any cubicle, room, booth or other area of the reflexology establishment which is fitted with a door, unless that door is an exterior door. Establishments in existence on the effective date of the ordinance codified in part in this Section must comply with this Section by removing doors to rooms or areas where reflexology is performed, and the doorways shall remain unobstructed.

(I)] Reflexology establishments licensed after the effective date of the ordinance codified in part in this Section shall provide or permit reflexology only within an unenclosed room defined by walls not taller than three feet in height, as measured from the finished floor of the occupied space.

[(J)] (I) Except as otherwise specifically permitted by action of the City Council, no person shall operate a reflexology establishment or perform reflexology for consideration (whether outcall service or otherwise) outside of the hours of 6:00 a.m. to 10:00 p.m.

SECTION 12: Title 6, Chapter 69, Sections 100, 130 and 140, of the Municipal Code of

the City of Las Vegas, Nevada, 1983 Edition, are hereby repealed in their entirety.

SECTION 13: If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective.

SECTION 14: Whenever in this ordinance any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in this ordinance the doing of any act is required or the failure to do any act is made or declared to be unlawful or an offense or a misdemeanor, the doing of such prohibited act or the failure to do any such required act shall constitute a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than $1,000.00 or by imprisonment for a term of not more than six months, or by any combination of such fine and imprisonment. Any day of any violation of this ordinance shall constitute a separate offense.

SECTION 15: All ordinances or parts of ordinances or sections, subsections, phrases, sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, in conflict herewith are hereby repealed.

PASSED, ADOPTED and APPROVED this _____ day of _____, 2020.

APPROVED:

By _____
CAROLYN G. GOODMAN, Mayor

ATTEST:

_____
LUANN D. HOLMES, MMC
City Clerk

APPROVED AS TO FORM:

Val Steed 11-2-2020
Val Steed, Date
Deputy City Attorney

The above and foregoing ordinance was first proposed and read by title to the City Council on the _____ day of _____, 2020, and referred to a committee for recommendation, the committee being composed of the following members _____; thereafter the said committee reported favorably on said ordinance on the _____ day of _____, 2020, which was a _____ meeting of said Council; that at said _____ meeting, the proposed ordinance was read by title to the City Council as first introduced and adopted by the following vote:

VOTING "AYE": _____

VOTING "NAY": _____

ABSENT: _____

APPROVED:

By _____
CAROLYN G. GOODMAN, Mayor

ATTEST:

_____
LUANN D. HOLMES, MMC
City Clerk

AGENDA SUMMARY PAGE
City Council
Meeting of: December 2, 2020

Agenda Item No.:
38

DEPARTMENT: City Attorney **DISCUSSION**
DIRECTOR: Bryan K. Scott

SUBJECT:
RECOMMENDING COMMITTEE: BILLS ELIGIBLE FOR ADOPTION AT A LATER MEETING

Bill No. 2020-38 - Amends various provisions of LVMC Chapter 6.52 to clarify licensing requirements for massage therapists, and establish new recordkeeping and operational requirements for massage establishments. Proposed by: Robert Summerfield, Director of Planning

FISCAL IMPACT:
None

PURPOSE/BACKGROUND:
This bill will amend various provisions of LVMC Chapter 6.52 to clarify licensing requirements for massage therapists, and establish new recordkeeping and operational requirements for massage establishments. The bill is intended to benefit the City, licensees and clients regarding the operations of massage establishments in relation to the public health, safety and welfare.

RECOMMENDATION:
FORWARDED with no recommendation to the Full Council of the 12/16/2020 City Council Meeting, pursuant to the 11/30/2020 Recommending Committee Meeting.

First Read – 11/18/2020 First Publication – 12/3/2020

BACKUP DOCUMENTATION:
1. Bill No. 2020-38
2. Submitted after Final Agenda - Backup Documentation Submitted at the November 30, 2020 Recommending Committee Meeting

BILL NO. 2020-38

ORDINANCE NO. _____

AN ORDINANCE TO AMEND VARIOUS PROVISIONS OF LVMC CHAPTER 6.52 TO CLARIFY LICENSING REQUIREMENTS FOR MASSAGE THERAPISTS, ESTABLISH NEW RECORDKEEPING AND OPERATIONAL REQUIREMENTS FOR MASSAGE ESTABLISHMENTS, AND PROVIDE FOR OTHER RELATED MATTERS.

Proposed by: Robert Summerfield, Director of Planning

Summary: Amends various provisions of LVMC Chapter 6.52 to clarify licensing requirements for massage therapists, and establish new recordkeeping and operational requirements for massage establishments.

THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Title 6, Chapter 52, Section 10, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6.52.010: (A) The City Council hereby finds that massage establishments seriously affect the economic, social and moral well-being of the City and its residents, that such businesses must be regulated strictly for the welfare of the public, and that such businesses must therefore comply with LVMC Chapter 6.06, as well as the provisions of this Chapter. Although the Nevada Legislature has removed the ability of the City to regulate massage therapists as to their qualifications and practices, the City retains its authority to:

[(A)] (1) Require massage therapists and massage establishments to obtain a City business license; and

[(B)] (2) Regulate the manner in which massage establishments themselves may operate.

(B) Except as otherwise provided in this Subsection (B) and LVMC 6.52.180, the issuance and governance of individual massage therapist licenses, including those for independent massage therapists, shall be in accordance with LVMC Chapter 6.02. The issuance and governance of licenses for massage establishment licensee practitioners shall be in accordance with LVMC Chapter 6.06 and this

Chapter.

SECTION 2: Title 6, Chapter 52, Section 50, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6.52.050: (A) Each massage establishment must pay in advance an annual license fee of four hundred dollars, together with the additional license fees for professional employees described in LVMC 6.04.060. As an alternative to paying the license fees for professional employees, an establishment may elect to require those employees to pay a license fee as if they were independent massage therapists under Subsection (B), in which case each such employee must do so. A massage establishment with separate facilities for men and women shall be considered a single massage establishment and shall be charged a single license fee every year.

(B) Each independent massage therapist and massage establishment licensee practitioner must pay in advance an annual license fee of two hundred dollars.

SECTION 3: Title 6, Chapter 52, Section 80, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6.52.080: The licensee or principal of a massage establishment shall maintain a register of all persons who at any time are employed or contracted [as massage therapists and their City and State license numbers. Such register must be made available upon request to representatives of the Department or Metro during regular business hours.] to perform any function or service within the establishment, whether or not related to the provision of massage therapy. The register must show each such person's full legal name, as well as each alias or nickname used by that person; the person's date of birth; the person's title or function; and each applicable State and City license and registration held by that person. The register must be updated to include any such person before the person is allowed on the premises. At all times the establishment is open for business, the register shall be made available upon request to representatives of the Department, Metro, and any other regulatory agency having jurisdiction. In addition, each massage establishment is responsible for ensuring that any person entering the establishment in any capacity is in possession of valid identification issued by a government entity to and regarding that person.

SECTION 4: Title 6, Chapter 52, Section 160, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6.52.160: An applicant for a license under this Chapter shall provide to the Department [evidence of a valid health permit or health card issued by the Health District, if and to the extent required by the Health District, and] proof of temporary or permanent licensure by the Nevada State Board of Massage [Therapists.] Therapy.

SECTION 5: Title 6, Chapter 52, Section 180, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6.52.180: (A) Except as otherwise provided in this Section, the Director shall issue a license to perform massage therapy to an applicant upon the acceptance of a completed application, payment of appropriate license fees, proof of a valid unexpired massage therapist license issued by the Nevada Board of Massage [Therapists, and a valid health card issued by the Health District, if one is required by the Health District.] Therapy.

(B) The Director may deny, refuse to renew, or revoke an application for a license to perform massage therapy for the following reasons:

(1) The applicant or licensee fails to possess or maintain a valid unexpired massage therapist license issued by the Nevada State Board of Massage [Therapists.] Therapy.

(2) The applicant or licensee has been convicted of a charge of solicitation of prostitution during the three-year period immediately preceding the Director's action.

SECTION 6: If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective.

SECTION 7: Whenever in this ordinance any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in this ordinance the doing of any act is required or the failure to do any act is made or declared to be unlawful or an offense or a misdemeanor, the doing of such prohibited act or the failure to do any such required act shall constitute a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than $1,000.00 or by imprisonment for a term of not more than six months, or by any combination of such fine and imprisonment. Any day of any violation of this ordinance shall constitute a separate offense.

SECTION 8: All ordinances or parts of ordinances or sections, subsections, phrases, sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, in conflict herewith are hereby repealed.

PASSED, ADOPTED and APPROVED this _____ day of _____, 2020.

APPROVED:

By _____
CAROLYN G. GOODMAN, Mayor

ATTEST:

_____
LUANN D. HOLMES, MMC
City Clerk

APPROVED AS TO FORM:

Val Steed 11-2-2020
_____
Val Steed, Date
Deputy City Attorney

The above and foregoing ordinance was first proposed and read by title to the City Council on the _____ day of _____, 2020, and referred to a committee for recommendation, the committee being composed of the following members _____; thereafter the said committee reported favorably on said ordinance on the _____ day of _____, 2020, which was a _____ meeting of said Council; that at said _____ meeting, the proposed ordinance was read by title to the City Council as first introduced and adopted by the following vote:

VOTING "AYE": _____

VOTING "NAY": _____

ABSENT: _____

APPROVED:

By _____
CAROLYN G. GOODMAN, Mayor

ATTEST:

_____
LUANN D. HOLMES, MMC
City Clerk

Gaby Portillo

From: Kerry E. Kleiman <kkleiman@rrblf.com>
Sent: Tuesday, November 24, 2020 6:50 PM
To: Meeting Comments
Subject: Comment re: Recommending Committee Nov. 30 Meeting, Item #5 (Bill 2020-38 amending LVMC 6.52)

CAUTION: This email originated from an **External Source**. Please **use caution** before opening attachments, clicking links, or responding to this email. **Do not sign-in with your City of Las Vegas account credentials.**

Good evening,

I am writing in advance of the November 30, 2020 Recommending Committee Meeting to be held at 10:00AM to request further amendment of Bill 2020-38, which is Agenda Item 5.

Currently, the definition of "Licensed Medical Professional" in LVMC 6.52.020 includes medical providers licensed under NRS Sections 630, 630A, 633, and 634. Unfortunately, this definition fails to include licensed physical therapists pursuant to NRS 640. Soft tissue mobilization and/or manual therapy are integral components of a physical therapist's scope of practice, however, these interventions would arguably fall within the definition of "Massage Therapy" set forth in NRS 640C.060(1)(g). Therefore, without specifically and expressly exempting licensed physical therapists from LVMC 6.52.020, Las Vegas PTs are left in a gray area regarding appropriate business licensing requirements.

Accordingly, I am asking that the Committee recommend to the City Council the amendment of proposed bill 2020-38 to include the following:

> SECTION 1.5: Title 6, Chapter 52, Section 20, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:
> **6.52.020:** "Licensed medical professional" means a licensed physician pursuant to NRS 630, a licensed homeopathic physician pursuant to NRS 630A, a licensed osteopathic physician pursuant to NRS 633, ~~or~~ a licensed chiropractor pursuant to NRS 634, or a licensed physical therapist pursuant to NRS 640.

There would be no adverse impact (fiscal or otherwise) to the City for making this amendment, and the amendment would bring the Las Vegas Code into agreement with the codes of Clark County, North Las Vegas, and Henderson.

Thank you for your thoughtful consideration of this requested amendment, which would provide clarity and uniformity to the valley's physical therapists.

Sincerely,

REID RUBINSTEIN BOGATZ
Attorneys at Law

Kerry E. Kleiman, Esq.
ATTORNEY
Bank of America Plaza | 300 South 4th Street, Suite 830 | Las Vegas, Nevada 89101
702.776.7002 Direct | 917.678.0673 Mobile | 702.776.7900 Fax
website | bio | vCard | map | email

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Submitted At
Recommending Meeting
Item 5
by Kerry Kleiman
Comment

AGENDA SUMMARY PAGE
City Council
Meeting of: December 2, 2020

Agenda Item No.:
39

DEPARTMENT: City Attorney **DISCUSSION**
DIRECTOR: Bryan K. Scott

SUBJECT:
RECOMMENDING COMMITTEE: BILLS ELIGIBLE FOR ADOPTION AT A LATER MEETING

Bill No. 2020-39 - Amends LVMC Chapter 6.50 to establish a new alcohol delivery support service alcoholic beverage license category, together with associated requirements and limitations, and expand the categories under which a business can exercise an ancillary alcoholic beverage license. Sponsored by: Councilman Stavros S. Anthony

FISCAL IMPACT:
None

PURPOSE/BACKGROUND:
This bill will amend LVMC Chapter 6.50 to establish a new alcohol delivery support service alcoholic beverage license category, together with associated requirements and limitations, and expand the categories under which a business can exercise an ancillary alcoholic beverage license. The principal intent of the bill is to expand the ability of various types of alcoholic beverage licensees to deliver alcoholic beverages, subject to appropriate safeguards.

RECOMMENDATION:
ABEYANCE to the 1/4/2021 Recommending Committee Meeting, pursuant to the 11/30/2020 Recommending Committee Meeting.

First Read – 11/18/2020

BACKUP DOCUMENTATION:
1. Bill No. 2020-39
2. Submitted after Final Agenda - Backup Documentation Submitted at the November 30, 2020 Recommending Committee Meeting

BILL NO. 2020-39

ORDINANCE NO. _____

AN ORDINANCE TO AMEND LVMC CHAPTER 6.50 TO ESTABLISH A NEW ALCOHOL DELIVERY SUPPORT SERVICE ALCOHOLIC BEVERAGE LICENSE CATEGORY, TOGETHER WITH ASSOCIATED REQUIREMENTS AND LIMITATIONS; EXPAND THE CATEGORIES UNDER WHICH A BUSINESS CAN EXERCISE AN ANCILLARY ALCOHOLIC BEVERAGE LICENSE; AND PROVIDE FOR OTHER RELATED MATTERS.

Sponsored by: Councilman Stavros S. Anthony

Summary: Amends LVMC Chapter 6.50 to establish a new alcohol delivery support service alcoholic beverage license category, together with associated requirements and limitations, and expand the categories under which a business can exercise an ancillary alcoholic beverage license.

THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Title 6, Chapter 50, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended by adding thereto a new section, designated as Section 95, reading as follows:

6.50.095: (A) An alcohol delivery support service alcoholic beverage license authorizes a person to deliver alcoholic beverages on behalf of an establishment that sells alcoholic beverages for off-premise consumption. Each alcoholic beverage delivered pursuant to this license:

(1) Must be in the original manufacturer-sealed container or a sealed container qualifying under LVMC 6.50.085(C);

(2) Must have been purchased from the establishment by a consumer for delivery to the premises requested by the purchaser;

(3) Must have been purchased by telephone, internet or other electronic means; and

(4) Is subject to the sales and delivery restrictions set forth in LVMC 6.50.100(B).

(B) Before a license described in this Section may be issued, the applicant must establish

and provide to the Department for Director approval a delivery policy designed to ensure that the requirements of this Section and State law in relation to the delivery of alcoholic beverages are met. The delivery policy must include at a minimum:

(1) Protocols to ensure that drivers are twenty-one years or older;

(2) Alcohol awareness training for drivers, which includes at a minimum:

(a) Reviewing relevant State laws, including those that prohibit buying for or selling to minors;

(b) Reviewing possible criminal and civil penalties that might be imposed for the violation of laws and ordinances governing the licensee's operation;

(c) Checking for valid identification documents, recognizing false identification documents, and refusing delivery in the case of suspicious or false identification documents;

(d) Verifying and tracking the personal information of recipients and recipient signatures; and

(e) Identifying and refusing delivery to intoxicated recipients.

(3) Procedures to ensure that each delivery address is in a jurisdiction in which the delivery of alcohol is permitted and that the delivery will be in accordance with the applicable delivery regulations of that jurisdiction;

(4) Procedures to document how delivery data will help ensure compliance, with such documentation to be made available for audit when requested by the City;

(5) Procedures for conducting background checks regarding drivers; and

(6) Procedures documenting how certain delivery information is gathered and maintained that includes at a minimum the items described in LVMC 6.50.100(B)(2).

(C) Each holder of an alcohol delivery support service alcoholic beverage license shall maintain a list of the establishments with which the holder has entered into contracts for delivery service pursuant to this Section.

(D) The delivery policy referred to in Subsection (B) must be maintained in force and a

copy produced to the Department or Metro upon request.

(E) Each licensee is responsible for the conduct and violations of any driver it employs, whether the driver is an employee or independent contractor and regardless of any contractual arrangement between the selling establishment and the driver.

SECTION 2: Title 6, Chapter 50, Section 100, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6.50.100: (A) An ancillary license authorizes the sale of alcoholic beverages for [specialty] particularized sales, instruction or tasting as follows:

(1) Internet and Related Sales. A person [that offers alcoholic beverages for sale at a grocery store in excess of five thousand square feet pursuant to a package liquor license may sell alcoholic beverages by delivery to a purchaser's premises pursuant to an internet purchase order placed by the purchaser subject to sales and delivery restrictions in LVMC 6.50.100(B), below.] licensed pursuant to this Chapter to sell alcoholic beverages for off-premise consumption may offer and sell such beverages by telephone, internet or other electronic means, and may provide for the delivery of such beverages to the premises requested by the purchaser, either through direct delivery by the licensee or by means of an alcohol delivery support service that is licensed pursuant to LVMC 6.50.095 and that meets the requirements of that Section and Subsection (B) of this Section.

(2) Instructional Wine-Making. A person authorized to sell alcoholic beverages pursuant to a package liquor license may instruct persons regarding the making of wine provided that such licensee first acquires, and maintains in good standing, any required State license or permit.

(a) Wines made during the instructional process may be served by the glass for consumption on the premises of the instructional establishment to those persons involved with the instructional process.

(b) Notwithstanding the provisions of LVMC 6.50.430, persons who have made wine during an instructional process pursuant to this Section may place such wine in bottles or containers and remove them from the instructional establishment, but only for their personal use.

(3) Tasting. A person authorized to sell alcoholic beverages pursuant to a package liquor, wholesale general or beer/wine/cooler off sale license may provide the tasting of wines and beers, and cordials or liqueurs (if permitted pursuant to the person's license) pursuant to the following conditions:

(a) The sample must not exceed one-half ounce per drink;

(b) The samples must be served on the premises of the licensee for educational purposes or to promote the sale of packaged alcoholic beverages;

(c) The samples shall not be offered in conjunction with a meal at a restaurant;

(d) Persons offering samples of alcoholic beverages must be employees of the licensee and the person must possess a valid work card; and

(e) Bottles of wines, beers, cordials or liqueurs opened for tasting shall not be sold, otherwise distributed or given away.

(4) Individual Access. An owner or beneficial owner of a hotel that is authorized to sell alcoholic beverages pursuant to a hotel lounge bar license, or an owner or beneficial owner of a sports arena or convention center that is authorized to sell alcoholic beverages pursuant to a general on-sale or a tavern license may sell alcoholic beverages by individual access pursuant to the following conditions:

(a) For individual access in a hotel room:

(i) The hotel must provide a full-service restaurant that serves meals no less than twelve hours every day, room service of meals to all rooms no less than twelve hours every day, and no less than one full-time security guard on duty at all times;

(ii) The hotel must provide a secure means by which an adult transient guest may control the access to the secured cabinet or refrigerator from minors that occupy the hotel room; and

(iii) The adult transient guest shall not permit any minors that

are occupying the hotel room to access the secured cabinet or refrigerator.

(b) For individual access in a booth or viewing suite at a convention center or sports arena:

(i) The alcoholic beverages for the booths or viewing suites shall be provided to the tenant by the licensee. Notwithstanding any other provision of this Chapter, a tenant of the booth or viewing suite shall not bring any alcoholic beverages into the booth or viewing suite nor consume any alcohol within the booth or suite that was not provided by the licensee;

(ii) The booth or viewing suite must be under the operational control of the licensee;

(iii) The licensee shall possess ultimate control of the cabinet or refrigerator inside the booth or viewing suite, and the lock of the refrigerator or cabinet shall be designed such that the key may not be removed from the refrigerator or cabinet without locking the refrigerator or cabinet;

(iv) The licensee shall only deliver the key to the refrigerator or cabinet to an adult utilizing the booth or viewing area; and

(v) The adult in receipt of the key shall not permit any minors that have access to the booth or viewing area access to the key or access to the open refrigerator or cabinet containing the alcoholic beverages.

(B) Delivery Restrictions. Delivery of alcoholic beverages pursuant to LVMC 6.50.095 or 6.50.100(A)(1) above may only occur pursuant to the following conditions:

(1) [Delivery of alcoholic beverages must be in conjunction with the delivery of groceries in the same purchase order;

(2)] The person placing an order and the person receiving the alcoholic beverages must be of legal age to purchase alcoholic beverages;

[(3)] (2) Each sales transaction for delivery shall have written documentation of the sale and delivery, [on forms acceptable by the Director,] which shall include at a minimum:

(a) The business name and address of the [grocery or general retail store;] selling establishment;

(b) A detailed list of alcoholic beverages and [groceries] other items purchased in each sales transaction;

(c) The name and address of the purchaser[;] and of the recipient;

(d) The type of identification used to prove the age of the purchaser[;] and of the recipient; and

(e) The signature of the delivery person. [and purchaser involved in the sales transaction.]

(3) If delivery is to be accomplished by someone other than the selling establishment, the delivery service provider must hold an alcohol delivery support service alcoholic beverage license pursuant to LVMC 6.50.095 and be in compliance with that Section.

(C) Alcoholic beverages sold pursuant to this ancillary license shall be stored in such a manner that prevents public access.

(D) Any ancillary license issued shall be approved on an individual basis indicating the specialty sale allowed and accounted for based upon the fees specified in LVMC 6.50.350.

(E) Notwithstanding [anything] any provision of this Title to the contrary, an ancillary license is nontransferable.

SECTION 3: Title 6, Chapter 50, Section 360, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6.50.360: Each licensee shall pay to the Department in advance, the semiannual license fees set forth in the following schedule:

. . .

. . .

. . .

. . .

License Category	Semiannual License Fee (Dollars)
Alcohol delivery support service	500.00
Alcoholic beverage caterer	[$]500.00
Ancillary	500.00 per category authorized or 1% of gross sales, whichever is greater
Ancillary brew pub	500.00 or 1% of sales to licensed wholesale dealers, whichever is greater
Ancillary craft distillery	500.00 or 1% of gross sales, whichever is greater
Ancillary gift basket	500.00
Ancillary lounge bar	1,200.00
Ancillary winery	500.00 or 1% of gross sales, whichever is greater
Banquet or event establishment	500.00
Beer and wine room	700.00
Plus: fee for each additional bar	400.00
Beer/wine/cooler on-sale	300.00
Beer/wine/cooler off-sale	300.00
General on-sale	1,200.00
Plus: fee for each additional bar	900.00
General on-sale (beer and wine)	500.00
Liquor manufacturer	1,000.00
Nonprofit club general on-sale	200.00
Package	750.00
Permanent trade show facility	2,400.00
Restaurant service bar	600.00
Restaurant with alcohol	800.00
Plus: fee for each additional bar	750.00
Tavern (one bar)	1,200.00
Plus: fee for each additional bar	900.00
Plus: fee for resort hotel owned gift shop	900.00
Tavern-limited (one bar)	800.00
Plus: fee for each additional bar	500.00
Tavern-restricted (one bar)	800.00
Plus: fee for each additional bar	500.00
Urban lounge (one bar)	1,000.00
Plus: fee for each additional bar	750.00
Wholesale general	1,000.00

Each time-limited special event general licensee shall pay the following license fee for each day (or for each event, in the case of a multi-day event): One hundred dollars, plus seventy-five dollars for each additional bar.

Each time-limited special event beer/wine/cooler licensee shall pay the following license fee for each day (or

for each event, in the case of a multi-day event): Fifty dollars, plus twenty-five dollars for each additional bar.

SECTION 4: Title 6, Chapter 50, Section 380, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6.50.380: (A) The origination charge listed in this Section is a one time charge which is due and payable at the time of filing an application for an alcoholic beverage license. Origination charges are as follows:

License Category	**Origination Charge (Dollars)**
Alcohol delivery support service	4,000.00
Alcoholic beverage caterer	4,000.00
Ancillary lounge bar	40,000.00
Banquet or event establishment	20,000.00
Beer and wine room	7,500.00
Beer/wine/cooler on-sale	2,500.00
Beer/wine/cooler off-sale	2,500.00
General on-sale	75,000.00
General on-sale (beer and wine)	20,000.00
Liquor manufacturer	10,000.00
Nonprofit club general on-sale	2,000.00
Package	40,000.00
Permanent trade show facility	60,000.00
Restaurant service bar	30,000.00
Restaurant with alcohol	40,000.00
Tavern	75,000.00
Tavern-limited	20,000.00
Tavern-restricted	20,000.00
Urban lounge	50,000.00
Wholesale general	10,000.00

(B) The transfer of an alcoholic beverage license from one licensee to another is exempt from the origination charge set forth in this Section.

(C) In connection with the issuance of an original new City alcoholic beverage license to an existing County alcoholic beverage licensee whose business premises have been annexed into the City, the Department shall waive the origination charge at the request of the applicant. However, a license concerning which such a waiver has been granted may not be sold, transferred to a third party, or transferred

to a new location, notwithstanding any provision of this Title to the contrary.

SECTION 5: Title 6, Chapter 50, Section 450, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6.50.450: It is unlawful for any person to sell any alcoholic beverage:

(A) Without a valid unexpired license issued pursuant to this Chapter; provided, however, that this prohibition does not apply to employees of persons licensed pursuant to this Chapter during the course of such employment;

(B) To a person who is intoxicated;

(C) For delivery to a personal residence pursuant to a request for such delivery; provided, however, that this prohibition does not apply to deliveries of beer in kegs having a capacity of not less than one-quarter barrel or to deliveries authorized by LVMC 6.50.095 or 6.50.100;

(D) Except as otherwise specifically provided in LVMC 6.50.285, through or by means of a drive-in or walk-up window, door or other opening;

(E) In any manner not authorized by the license under which authority the person making such sale is authorized to do business; and

(F) At any place where persons under twenty-one years of age are present, unless they are continuously accompanied by a parent or legal guardian.

SECTION 6: Regarding any person who engages in a business within the City that facilitates the provision of alcohol delivery service but who does not engage in the actual delivery of alcohol, nothing in this Ordinance shall be deemed to:

(A) Require such a person to obtain a license pursuant to Section 1 of this Ordinance; or

(B) Eliminate, reduce or modify the requirement for such a person to obtain a business license under the appropriate licensing category.

SECTION 7: If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the

remaining portions of this ordinance or any part thereof. The City Council of the City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective.

SECTION 8: Whenever in this ordinance any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in this ordinance the doing of any act is required or the failure to do any act is made or declared to be unlawful or an offense or a misdemeanor, the doing of such prohibited act or the failure to do any such required act shall constitute a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than $1,000.00 or by imprisonment for a term of not more than six months, or by any combination of such fine and imprisonment. Any day of any violation of this ordinance shall constitute a separate offense.

SECTION 9: All ordinances or parts of ordinances or sections, subsections, phrases, sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, in conflict herewith are hereby repealed.

PASSED, ADOPTED and APPROVED this _____ day of _____, 2020.

APPROVED:

By _____
CAROLYN G. GOODMAN, Mayor

ATTEST:

_____
LUANN D. HOLMES, MMC
City Clerk

APPROVED AS TO FORM:

Val Steed 11-2-2020
_____
Val Steed, Date
Deputy City Attorney

The above and foregoing ordinance was first proposed and read by title to the City Council on the _____ day of _____, 2020, and referred to a committee for recommendation, the committee being composed of the following members _____; thereafter the said committee reported favorably on said ordinance on the _____ day of _____, 2020, which was a _____ meeting of said Council; that at said _____ meeting, the proposed ordinance was read by title to the City Council as first introduced and adopted by the following vote:

VOTING "AYE": _____

VOTING "NAY": _____

ABSENT: _____

APPROVED:

By _____
CAROLYN G. GOODMAN, Mayor

ATTEST:

_____
LUANN D. HOLMES, MMC
City Clerk

Nevada Resort Association
10000 W. Charleston, Suite 165
Las Vegas, Nevada 89135

November 29, 2020

The Honorable LuAnn D. Holmes
City Clerk
City of Las Vegas
495 South Main Street
Las Vegas, Nevada. 89101

Dear Mayor,

It has come to our attention that an ordinance creating a new category of business license regarding the delivery of alcohol will come before a Recommending Committee on Monday, and the City Council on Wednesday. We are not aware that any gaming companies received notice of the Business Impact Statement (BIS) and the difficulties of running our businesses during this pandemic, have given us limited time to analyze the impacts on non-restricted gaming licensees.

The Downtown Las Vegas resort hotels and casinos have a long history of being involved in all discussions regarding the sale of alcoholic beverages due to the significant impacts it has upon our businesses. Regarding temporary deliveries of alcoholic beverages during the pandemic, we've consistently expressed our opinion that as long as the deliveries were of limited duration, and were not available inside of resort hotel casinos, we would not want to stand in the way of small businesses remaining viable. Our position has not changed.

The ordinance as proposed would clearly allow a non-privileged licensee (the newly created alcohol delivery support service) to deliver directly to hotel and motel rooms within resort hotel casinos. The delivery of alcoholic beverages over which a non-restricted licensee has zero control would put our privileged licenses in significant jeopardy. We've had this discussion going back many years regarding the sale of packaged liquor on Fremont Street. Liquor sold at our bars is controlled by trained bartenders with TAM cards and liquor sold in our gift shops is sold in limited quantities. Opening up hotel casinos to having packaged liquor delivered by anyone outside of our control is a complete non-starter for us. Aside from the need to increase our security staff to limit such deliveries, we would become responsible for any on-site consumption of alcoholic beverages over which we have zero control.

Finally, we have been contacted by Mr. Mac McCarley of the firm Parker Poe. It is our understanding this firm has been retained by the city and is already undertaking an analysis of all current City of Las Vegas Liquor codes. We intend to fully participate in this study and we are puzzled as to why the city would add an entirely new, non-privileged license category involving

Submitted At
Recommending Meeting
Item 6
By Virginia Valentine E-comment

the delivery of alcoholic beverages to anywhere in the city, including resort hotel casinos prior to undertaking a study which the city has already begun.

We respectfully request that you do not adopt this ordinance but rather have the thorough analysis which we believe it requires conducted by your newly retained alcoholic beverage licensing consultant.

Should the city desire to allow alcoholic beverage deliveries to continue during the pandemic, we have no objection to that so long as they are not permitted to occur within the confines of resort hotel casinos.

Please feel free to contact me at (702) 340-3387.

Sincerely,

Virginia Valentine
President
Nevada Resort Association

cc: Mayor Carolyn Goodman
Pro Tem Stavros Anthony
Councilman Cedric Crear
Councilwoman Olivia Diaz
Councilwoman Michelle Fiore
Councilman Brian Knudsen
Councilwoman Victoria Seaman

BOYD GAMING

Erin McMullen Midby
Vice President of Government Affairs
Cell: (702) 409-1813
erinmcmullen@boydgaming.com

November 27, 2020

Via Email: ***MGomez@LasVegasNevada.Gov***
Minerva Gomez, Business License Section Manager
Planning Department, Business Licensing Division
Las Vegas City Hall
495 S. Main St.
Las Vegas, Nevada 89101

Re: Bill No. 2020-39—Liquor Delivery Support Services (Item #6 on November 30th Recommending Committee Meeting Agenda)

Dear Manager Gomez:

Please accept this letter on behalf of Boyd Gaming Corporation with respect to the above-referenced bill. Boyd Gaming objects to the modification of the City's alcohol code to permit the delivery of alcohol to nonrestricted gaming establishments and to locations within the Downtown Casino Overlay District (DCOD) through the use of a alcohol delivery support service license as defined in the bill. The gaming industry and the City have worked in partnership over many years to improve and maintain the environment and safety of visitors in the downtown area, in part due to the prevalence of packaged liquor establishments concentrated in and around the Fremont Street Experience. Allowing delivery of packaged liquor to resort properties and to individuals requesting delivery within the DCOD threatens to undue the years of cooperatively working to ensure this area is welcoming and safe to those wishing to visit our exciting City.

Additionally, nonrestricted licensees are subject to stringent state requirements with respect to the management and consumption of alcohol within its premises, particularly with respect to preventing sales to minors and to intoxicated individuals. Boyd Gaming approaches this responsibility with the utmost seriousness. Legalizing the delivery of alcohol to our properties by unknown third parties and for individuals within our properties beyond the control of our personnel is an unacceptable scenario that creates potential liabilities for our properties over which we will have no control.

Moreover, as crafted, the bill appears to have no limits on the amount of alcohol that may be delivered nor any restrictions on delivery into the Fremont Street Experience (FSE) and

surrounding resort area. Boyd Gaming along with its FSE members, including the City, have invested greatly in providing an unparalleled experience for visitors to downtown. FSE and its members spend millions annually to ensure the safety and security of the Experience. The introduction of alcohol delivery into this area creates a tremendous risk to maintaining a harmonious environment for the annual millions of visitors.

The City is currently conducting a comprehensive review of its alcohol code. Boyd Gaming commends the City for undertaking this task and has already actively participated in this process. Prior to adding another layer to an already complex alcohol code, perhaps it would be best to assess the necessity and extent of alcohol delivery as part of this comprehensive review.

We appreciate you taking our concerns into consideration, and please do not hesitate to contact me at (702) 409-1813 if you have any questions or if you need more information.

Sincerely,

Erin McMullen Midby

CC: Robert Summerfield, Director of Planning
Mayor Carolyn Goodman
Councilman Stavros Anthony, Mayor Pro Tem
Councilman Cedric Crear
Councilwoman Olivia Diaz
Councilwoman Michele Fiore
Councilman Brian Knudsen
Councilwoman Victoria Seaman

AGENDA SUMMARY PAGE
City Council
Meeting of: December 2, 2020

Agenda Item No.:
40

DEPARTMENT: City Attorney **DISCUSSION**
DIRECTOR: Bryan K. Scott

SUBJECT:
NEW BILLS:

Bill No. 2020-40 - Updates various provisions of LVMC Chapter 6.08 regarding the operational and franchise requirements for ambulance services, including the addition of provisions to permit the City Council to select one or more contract ambulance service providers through a competitive or other process. Proposed by: Jeff Buchanan, Acting Chief of Fire and Rescue

FISCAL IMPACT:
None

PURPOSE/BACKGROUND:
This bill will update various provisions of LVMC Chapter 6.08 regarding the operational and franchise requirements for ambulance services, including the addition of provisions to permit the City Council to select one or more contract ambulance service providers through a competitive or other process.

RECOMMENDATION:
This bill should be submitted to a Recommending Committee for review, hearing and recommendation to the City Council for final action.

BACKUP DOCUMENTATION:
1. Bill No. 2020-40

BILL NO. 2020-40

ORDINANCE NO. _____

AN ORDINANCE TO UPDATE VARIOUS PROVISIONS OF LVMC CHAPTER 6.08 REGARDING THE OPERATIONAL AND FRANCHISE REQUIREMENTS FOR AMBULANCE SERVICES, INCLUDING THE ADDITION OF PROVISIONS PERMITTING THE CITY COUNCIL TO SELECT ONE OR MORE CONTRACT AMBULANCE SERVICE PROVIDERS THROUGH A COMPETITIVE OR OTHER PROCESS, AND PROVIDING FOR OTHER RELATED MATTERS.

Proposed by: Jeff Buchanan, Acting Chief of Fire and Rescue

Summary: Updates various provisions of LVMC Chapter 6.08 regarding the operational and franchise requirements for ambulance services, including the addition of provisions to permit the City Council to select one or more contract ambulance service providers through a competitive or other process.

THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Title 6, Chapter 8, Section 20, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6.08.020: As used in this Chapter, unless the context otherwise requires, the words and terms defined in this Section have the meanings ascribed to them herein, as follows:

"Advanced emergency medical technician" or "Advanced EMT" means a person who is qualified, in accordance with the Health District regulations as an EMT-Basic and who is also qualified in accordance with the Health District regulations to perform essential advanced techniques and to administer a limited number of medications.

"Advanced life support" or "ALS," whether used alone or as a modifier of other nouns, has the same meaning as the definition of that term in the Code of Federal Regulations (42 CFR 414.605), as may be amended. Likewise, the terms "ALS1" and "ALS2" have the same meanings as the definitions of those terms in 42 CFR 414.605, as may be amended.

"Air ambulance" means an aircraft, both fixed wing and rotary wing aircraft, especially designed, constructed, modified or equipped to be used for the transportation of injured or sick persons. "Air ambulance" does not include any commercial aircraft carrying passengers on regularly scheduled flights.

"Ambulance" means a motor vehicle which is specially designed, constructed, equipped and staffed to provide basic, intermediate or advanced care for one or more:

(1) Sick or injured persons; or

(2) Persons whose medical condition may require special observation during transportation.

For the purposes of this Chapter, the term "ambulance" specifically excludes nonmedically supervised patient transports and special event medical service transports.

"Ambulance service" means the emergency medical care and transport, the non-emergency medical care and transport service, including inter-facility ambulance transport service, or both, which are provided to patients utilizing an ambulance with appropriately licensed personnel. The term "ambulance service" does not include the use of vehicles for nonmedically supervised patient transport service, air ambulance service or special event medical service transports.

"Applicant" means a person who submits a completed application for a franchise as set forth in this Chapter.

"Application" means all written documentation, statements, representations and warranties provided to the City by an applicant, in accordance with this Chapter, to be relied upon by the City Council in making its determination of whether to grant or withhold a franchise.

"Automatic Vehicle Locator," "AVL/GPS" or "AVL" means the automated system used to track or determine the physical location of ambulance vehicles through a Global Positioning System (GPS), on a computerized mapping system that is integrated with the Fire Alarm Office.

"AVL/GPS data reports" means Global Positioning System (GPS) data that a franchisee may use to report that it was "on scene," thereby providing a means to calculate an official response time.

"Basic life support" or "BLS" has the same meaning as the definition of that term in the Code of Federal Regulations (42 CFR 414.605), as may be amended.

"City" means the City of Las Vegas, Nevada.

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

"City Manager" means the City Manager appointed by the City Council to perform such administrative functions of the City government as may be required of him or her by the City Council, or his or her designee.

"Computer-aided dispatch" or "CAD" means dispatching of emergency and non-emergency resources through the computer technology to calls for service.

"CPI-MCS" means the Consumer Price Index (CPI) for all Urban Consumers: U.S. City Average, Series CUUR0000SAM2, Medical Care Services, as published by the U.S. Department of Labor, Bureau of Labor Statistics, Washington, D.C.

"Critical care transport" (CCT) or "specialty care transport" (SCT) both have the same meaning as the term "specialty care transport" as defined in the Code of Federal Regulations (42 CFR 414.605), as may be amended.

"Department" means the Department of [Planning.] Finance or a designee.

"Director" means the Director of the Department of [Planning, or his or her] Finance or a designee.

"Dispatched [Ambulance Service"] ambulance service" means ambulance service that is dispatched by or required to be electronically transferred for dispatch by the Fire Alarm Office to [Franchisee.] a franchisee.

"Emergency" has the same meaning as that term is defined by the Health District, as may be amended.

"Emergency medical care" means medical care given to a patient in an emergency situation before the patient arrives at a hospital or other medical facility and until responsibility for the patient is assumed by the medical staff at such facility.

"Emergency medical service" or "EMS" means a system consisting of a chain of services linked together to provide emergency medical care for the patient at the scene, during transport, and upon entry at a hospital or other medical facility.

"Emergency [Medical Technician Basic"] medical technician basic" or "EMT [Basic"] basic" means a person who is qualified, in accordance with the Health District regulations to provide basic emergency

medical care.

"EMS priority dispatch" means a dispatch system:

(1) Whereby [“Certified Emergency Medical Dispatchers”] “certified emergency medical dispatchers” (EMD’s) give lifesaving pre-arrival instructions to person requesting the same; and

(2) Which provides for the dispatch of the appropriate level of emergency vehicle response, A, B, C, D, E, or O as determined by use of a priority card or computer program, based on the severity of the medical emergency.

[(3) The different levels of dispatch priority levels are as defined as follows:

(a) Priority Level 1: B, C, D, and E for 911-dispatched ambulance service;

(b) Priority Level 2: A and O for 911-dispatched ambulance service;

(c) Priority Level 3 Urgent: Immediate transfer requests for critical patients needing a higher level of care at another facility;

(d) Priority Level 3 Scheduled: Non-emergency pre-scheduled transfer request with four hours prior notice from the facility requesting the transport; and

(e) Priority Level 3 Unscheduled: Non-emergency unscheduled transfer request.]

(3) In which the different levels of dispatch priority are defined as follows:

(a) Priority Level 1: specified critical-level Bravo (B), Charlie (C), Delta (D) and Echo (E) calls for 911-dispatched ambulance service;

(b) Priority Level 2: specified high-level Bravo (B), Charlie (C), Delta (D) and Echo (E) calls for 911-dispatched ambulance service;

(c) Priority Level 3: specified moderate-level Bravo (B), Charlie (C), Delta (D) and Echo (E) calls for 911-dispatched ambulance service;

(d) Priority Level 4: specified low-level Alpha (A), Bravo (B) and Omega (O) calls for 911-dispatched ambulance service;

(e) Priority Level 5: specified medical aid-level Alpha (A) and Omega (O) calls

for 911-dispatched ambulance service;

(f) Priority Level 11 Urgent: Immediate transfer requests for critical patients needing a higher level of care at another facility;

(g) Priority Level 11 Scheduled: Non-emergency pre-scheduled transfer request with four hours prior notice from the facility requesting the transport; and

(h) Priority Level 11 Unscheduled: Non-emergency unscheduled transfer request.

For purposes of this Paragraph (3), "specified," with respect to a priority level, refers to call types that are selected by the LVFR Medical Director and designated in a separate document as pertaining to that priority level.

"Emergency medical technician-paramedic" or "EMT-Paramedic" means a person possessing the qualifications of the Advanced EMT and also, in accordance with the Health District regulations, as having enhanced skills that include being able to administer additional advanced life support interventions and medications.

"Emergency response" has the same meaning as the definition of that term in the Code of Federal Regulations (42 CFR 414.605), as may be amended.

"Emergency triage, treatment and transport" or "ET3" means the provision of services in accordance with a model program designed by the Federal Government's Centers for Medicare and Medicaid Innovation ("CMMI") wherein EMS and fire department crews identify patients best served by a healthcare facility other than the emergency department. ET3 encourages appropriate utilization of emergency medical services, increased efficiency in the EMS system, and provides person-centered care at the most appropriate care level. Under ET3, EMS providers can treat the patient on scene or enable emergency physician triage via telehealth. Under ET3, urgent care facilities serve as the main alternative destination for patients, but EMS crews could also transport patients to any approved qualified healthcare provider destination covered under the regulations, including primary care clinics or mental health facilities.

"Financial statements" means audited financial statements of the local operation of the franchised

business. Financial statements are to include: balance sheet, income statement, statements of cash flows, and statement of retained earnings.

"Fire Alarm Office" or "FAO" means the office referred to as Firecom in the Health District regulations which is administered by the City of Las Vegas through an interlocal agreement among the City of Las Vegas, the City of North Las Vegas, and Clark County, or the successor to that office.

"Fire Department" means the City's Department of Fire and Rescue.

"Fire Chief" means the Director of the Fire Department or a designee.

"Franchise" means the authorization granted to a person by the City Council to provide ambulance service within the City's rights-of way, highways, streets, roads and alleys. The terms and conditions of such authorization will be described in a franchise agreement specific to such purpose.

"Franchise agreement" means the written agreement entered into between the City and a franchisee evidencing the City's authorization for a franchisee to provide ambulance service requiring the franchisee to comply with the terms of this Chapter and incorporating such other reasonable provisions as the City Council deems appropriate.

"Franchise service area" or "service area" means the geographic area of the City, including any sub-zones thereof, specified in a franchise agreement wherein a franchisee is authorized and required to provide ambulance service.

"Franchisee" means the person to whom an ambulance service franchise is granted by the City Council pursuant to this Chapter.

"Health District" means the Southern Nevada Health District, its officers and authorized agents.

"Health District regulations" means the applicable EMS regulations adopted by the District Board of Health, as they may be amended from time to time.

"Health Officer" means the Health Officer of the Health District.

"Inter-facility ambulance transport service" means an emergency or a nonemergency transport of a patient by ambulance that originates and terminates at previously designated medical facilities or locations.

"Intermediate life support" or "ILS," whether used alone or as a modifier of other nouns, means

transportation by ground ambulance vehicle and medically necessary supplies and services that must be staffed by not less than two individuals, at least one of whom must be trained and qualified to the level of an Advanced EMT.

"LVFR Medical Director" means the medical director of the Fire Department.

"Loaded mileage" has the same meaning as the definition of that term in the Code of Federal Regulations (42 CFR 414.605), as may be amended.

"MDT" means a mobile data terminal, or a computerized device used in emergency vehicles to communicate with a central dispatch office.

"Maximum ambulance service rate" means the maximum amount that a franchisee may bill a patient or other payer for the level of ambulance service provided to the patient, as established in this Chapter, including all ancillary services and supplies used in providing ambulance service.

"Mobile integrated healthcare" means the delivery of patient-centered healthcare in the out-of-hospital environment utilizing technology and mobile pre-hospital resources to address the needs of the community. [Mobile Integrated Healthcare] "Mobile integrated healthcare" may also be referred to as ["Community Paramedicine."] "community paramedicine."

"Mutual aid" means ambulance service provided within the franchise service area in response to a request by a franchisee for assistance from another franchisee to provide ambulance service in the requesting franchisee's authorized service area pursuant to an agreement between the franchisees that is on file with the City.

"Nonemergency ambulance service" means: 1) prearranged non-911 dispatched ambulance service provided to patients with non-life-threatening conditions that does not require the use of lights and sirens, including without limitation nonemergency ambulance service requested at special events and other non-911-dispatched ambulance service requests that would be categorized as nonemergency transfers or level 33-A calls (as that term is approved and endorsed by the Health District) when processed through EMS priority dispatch protocol or 2) inter-facility ambulance transport service as defined by a franchisee's agreement.

"Nonmedically supervised patient transfer service" means the transportation of a person that does

not require any medical supervision, observation or care while en route, as permitted by the State of Nevada Transportation Services Authority.

"On-scene" means when an ambulance unit actually arrives at the specific address or location dispatched with a speed of zero miles per hour, or when the ambulance unit actually arrives at the point closest to the specified address or location to which it can reasonably be driven.

"Performance standards" means response time requirements that are required to be met by a franchisee as specified in Section 6.08.150 in the performance of providing ambulance service by the franchisee.

"Response time" means the time period measured from receipt by a franchisee of electronically transferred information from the FAO dispatch facility or the franchisee's dispatch center on the patient location, EMS priority dispatch code, and call-back number to the time when the ambulance dispatched to the incident or facility arrives and reports that it is "on scene" as that term is defined herein, or when the dispatched ambulance en route to an incident is canceled by the FAO dispatch.

"Rights-of-way" means property dedicated to, granted to, or held or prescriptively used by the City for public street, alley, road and highway purposes.

"Scheduled" means non-emergency pre-scheduled transports within four hours' prior notice from a facility.

"Service category" means the type or level of ambulance service that is specified in a franchise [granted] agreement pursuant to this Chapter.

"Special event" means activities such as, but not limited to, sporting events, off-road vehicle races, speedway races, concerts, fairs and parades occurring on a specific date and time at a specific location.

"Special event medical service" or "SEMS" means the providing of medical care to the participants and members of the public in attendance at a special event pursuant to a contractual arrangement between a special event medical service provider or a franchisee and the special event owner, operator, promoter, organizer or any other person authorized to enter into such contractual arrangements on behalf of the special event.

"Special event medical service provider" or "SEMS provider" means a person who has obtained a special event medical service provider business license pursuant to Title 6 of this Code and special purpose ambulance service permits required pursuant to Health District regulations.

"Special event vehicle" means the special purpose vehicle permitted by Health District regulations which for the purposes of this Chapter may be used for the sole purpose of providing standby medical coverage at predesignated special events. Except as otherwise provided in this Chapter, the term does not include a vehicle which provides ambulance service over City rights-of-way.

"Street" means the surface of the full width of the right-of-way, including alleys, sidewalks and thoroughfares, places or ways of any kind used by the public or open to the public as a matter of right for the purpose of vehicular traffic or vehicular and pedestrian traffic.

"Sub-zone" means a portion of a franchise service area as defined in a franchise agreement.

"Ten-digit request for emergency service" means any telephone request for emergency ambulance service that is received directly by a franchisee from any source, including representatives of law enforcement agencies, which is required to be electronically transferred immediately to the FAO system.

"Transfer of ownership or control" means any transaction in which:

(1) Any ownership or other right, title, or interest of more than five percent in a franchisee or its ambulance service is transferred, sold, assigned, leased, sublet, or mortgaged, directly or indirectly, voluntarily or involuntarily, in whole or in part;

(2) There is any change or transfer of control of a franchise or ambulance service;

(3) The rights, obligations, or both, which are held by a franchisee under its ambulance franchise are transferred, directly or indirectly, to another party;

(4) Any change or substitution occurs in the managing general partners of a franchisee, where applicable; or

(5) A franchisee, or its corporate parents at any level, enter into any transaction that materially increases the debt that is to be borne by the franchisee, directly or indirectly, in a manner that will adversely affect users of the ambulance service.

"Transponder" means an electronic device affixed to an ambulance that activates the private access gates located within the franchise service area.

"Unforeseen economic circumstance" means:

(1) That within a given twelve-month calculation period the percentage change in the CPI-MCS was greater than ten percent or less than zero (decrease); or

(2) Another circumstance or set of circumstances which the City Council determines to have had a significant effect on the cost of providing ambulance service.

"Unscheduled" means non-emergency unscheduled transfer request from a facility.

"Urgent" means non-emergency immediate transfer requests for critical patients needing higher level of care at another facility.

"Volunteer ambulance service" means volunteer ambulance service which is authorized and operated under the direct supervision of the Fire Department.

SECTION 2: Title 6, Chapter 8, Section 40, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6.08.040: (A) Except as provided in Subsection (C) of this Section[,] and LVMC 6.08.330(A), it is unlawful for any person to provide ambulance service in the City without first obtaining and thereafter maintaining an ambulance service franchise and paying the franchise fee as required by this Chapter.

(B) Each franchise granted under this Chapter will be a nonexclusive franchise.

(C) A franchise is not required of any out-of-jurisdiction ambulance service providing emergency cross-jurisdictional transport services originating outside the City, provided such ambulance service has complied with all license, permit and franchise requirements of the jurisdiction where the transport originated.

SECTION 3: Title 6, Chapter 8, Section 50, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6.08.050: The franchise fee shall be the amount set forth in a franchise agreement which has been determined necessary to partially reimburse the City for costs incurred in dispatch processing, providing or

arranging for services, administering the franchise agreement, regulatory oversight, and such other service as permitted by applicable law. Franchise fees shall be paid according to the provisions of the franchise agreement, and shall be accompanied by such supporting documentation as the Director deems necessary. If a franchise fee is received by the City after its due date, the City is authorized to charge the franchisee a late fee of two percent per month (or fraction thereof) of the delinquent amount.

SECTION 4: Title 6, Chapter 8, Section 100, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6.08.100: A franchisee may request [renewal] extension of its franchise [within] at least twelve months prior to the franchise expiration date. [The City Manager may waive or add any application requirements of Section 6.08.070 for renewal of a franchise.] In connection with the request for extension, the City Manager may require compliance with any or all of the requirements for an initial application under Section 6.08.070 and add such additional requirements as deemed appropriate. A franchisee shall cooperate with the City in any [renewal] proceeding for extension and shall provide such information as the City shall reasonably request in [such a renewal proceeding.] connection therewith.

SECTION 5: Title 6, Chapter 8, Section 125, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6.08.125: A franchisee may provide [mobile integrated healthcare] one or both of the following, but only if [the franchisee's franchise agreement permits the franchisee to provide such care, and only upon the terms and conditions as provided by the franchisee's franchise agreement.] permitted by and pursuant to the terms of its franchise agreement:

(A) Mobile integrated healthcare.

(B) ET3 services in accordance with the ET3 model.

SECTION 6: Title 6, Chapter 8, Section 130, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6.08.130: (A) No franchisee shall deviate from the color scheme, logo or design approved by the Fire Chief without his or her prior consent.

(B) The franchisee shall maintain records within Clark County, Nevada and allow for audits as provided in applicable Sections of this Chapter and Title 6 of this Code.

(C) A franchisee shall adhere to response time standards and staffing requirements of this Chapter in its service area and individually in each subzone that the franchisee is authorized to serve. The franchisee shall ensure that each sub-zone in its service area receives the same level of service or level of performance as compares with other sub-zones it serves within the franchise service area.

(D) A franchisee shall not use, encourage, advocate or solicit the use of any telephone number or system of communication in lieu of the 911 emergency telephone system number for the dispatch of an ambulance to any call except for non-emergency service as defined by this Chapter.

(E) Unless otherwise specified in its franchise agreement or required by the LVFR Medical Director's regulations and procedures, when a franchisee receives, through any means, a request for service which if processed through EMS priority dispatch protocols would be determined to be a Priority Level 1, 2, 3, 4 or 5 call under a Category Alpha (A), Bravo (B), Charlie (C), Delta (D), Echo (E), or Omega (O) level [call] category for EMS ambulance service, the franchisee shall electronically transfer information on the call to the FAO, including patient location, condition and call-back number.

(F) A franchisee shall not use any ambulance once the vehicle mileage on an ambulance reaches three hundred thousand miles.

(G) Except with respect to nonemergency ambulance service, when a franchisee is providing special event medical service and a patient's condition requires transport, or a franchisee is directly called to transport a patient from a special event, the franchisee shall electronically transfer information on patient location, condition, availability of or need for the dispatch of an ambulance and call-back number to the FAO.

(H) A franchisee shall provide integration of the franchisee's emergency and non-emergency resources onto the FAO dispatching consoles.

SECTION 7: Title 6, Chapter 8, Section 150, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6.08.150: (A) Requests for ambulance service which are received through the FAO, including ten-digit requests for emergency service, through a 911-emergency telephone system, or franchisee's dispatch center, shall meet the following response time performance standards:

[(1) For all EMS Priority 1 dispatch level emergency calls, the response time shall be not greater than eleven minutes and fifty-nine seconds (11:59).

(2) For all EMS Priority 2 dispatch level emergency calls, the response time shall be no greater than nineteen minutes and fifty-nine seconds (19:59).

(3) For all EMS Priority 3 Urgent level non-emergency calls, the response time shall be no greater than nineteen minutes and fifty-nine seconds (19:59).

(4) For all EMS Priority 3 Scheduled level non-emergency calls, the response time shall be no greater than the scheduled time.

(5) For all EMS Priority 3 Unscheduled level non-emergency calls, the response time shall be no greater than fifty-nine minutes and fifty-nine seconds (59:59).]

(1) For all dispatch level emergency calls of EMS Priority Levels 1, 2 and 3, the response time shall be no greater than eleven minutes and fifty-nine seconds (11:59).

(2) For all dispatch level emergency calls of EMS Priority Level 4, the response time shall be no greater than fifteen minutes and fifty-nine seconds (15:59).

(3) For all dispatch level emergency calls of EMS Priority Level 5 and non-emergency calls of Priority Level 11 Urgent, the response time shall be no greater than nineteen minutes and fifty-nine seconds (19:59).

(4) For all non-emergency calls of Priority 11 Scheduled, the response time shall be no greater than the scheduled time.

(5) For all non-emergency calls of Priority 11 Unscheduled, the response time shall be no greater than fifty-nine minutes and fifty-nine seconds (59:59).

(B) [A franchisee must have ninety percent compliance with the response time standards of Subsection (A) of this Section for the combined total of EMS Priority 1 and 2 dispatch level emergency

calls and/or Priority 3 non-emergency calls during each calendar month within a service area or each sub-zone of the service area as such service area or sub-zones thereof are established or amended in accordance with the terms of the franchise agreement.] During each calendar month, and within a franchisee's service area and within each sub-zone within that area, as established or amended in accordance with the terms of the franchise agreement, a franchisee must have a minimum ninety percent compliance rate with the response time standards set forth in Subsection (A) of this Section, as measured in each of the following categories:

(1) The combined total of emergency calls of EMS Priority Levels 1 and 2, separately from the calls of any other Priority Level;

(2) The total of emergency calls of EMS Priority Level 3, separately from the calls of any other Priority Level;

(3) The total of emergency calls of EMS Priority Level 4, separately from the calls of any other Priority Level;

(4) The total of emergency calls of EMS Priority Level 5, separately from the calls of any other Priority Level; and

(5) The combined total of non-emergency calls (all types) of EMS Priority Level 11, separately from the calls of any other Priority Level.

(C) In addition to the provisions of Subsection (A) of this Section, a franchisee's failure to arrive on the scene [in response to EMS Priority 1 dispatch level emergency calls within fourteen minutes and fifty-nine seconds (14:59) of dispatch by the FAO and EMS Priority 3 Urgent level calls within ten minutes of response time or Priority 3 Scheduled and Unscheduled level calls thirty minutes of response time] within the times set forth in this Subsection (C) may be grounds for taking [further] disciplinary action against a franchisee, including assessment of liquidated damages, penalties or other actions as provided [herein,] in this Chapter or in the franchise agreement, to include possible termination of the franchise as provided by this Chapter or the franchise agreement. The arrival times beyond which disciplinary and related actions under this Subsection (C) may be taken are as follows:

(1) For dispatch level emergency calls of EMS Priority Levels 1, 2 and 3, within

fourteen minutes and fifty-nine seconds (14:59) after dispatch.

(2) For dispatch level emergency calls of EMS Priority Level 4, within nineteen minutes and fifty-nine seconds (19:59) after dispatch.

(3) For dispatch level emergency calls of EMS Priority Level 5, within twenty-four minutes and fifty-nine seconds (24:59) after dispatch.

(4) For dispatch level non-emergency calls of EMS Priority Level 11 Urgent, within ten minutes after the response time set forth in Subsection (A) of this Section.

(5) For dispatch level non-emergency calls of EMS Priority Level 11 Scheduled and Unscheduled, within thirty minutes after the response times set forth in Subsection (A) of this Section.

(D) Calls not canceled by the FAO before the response time requirement has expired but for which the ambulance crew failed to substantiate the on-scene time through usage of AVL/GPS data reports or, if the AVL/GPS was not functioning, failed to report through alternative methods established by the Director and LVFR Medical Director, will be considered as failing to meet the [11:59, 14:59, 19:59, 59:59 or Scheduled response time requirements of this Section.] applicable response time standards set forth in Subsection (A) of this Section.

(E) A call for which an ambulance did not respond within the applicable [11:59, 14:59, 19:59, 59:59 or Scheduled response time requirements] response time standards set forth in Subsection (A) of this Section, either by the franchisee or by an authorized ambulance service provider through a mutual aid agreement, will be considered as failing to meet the response time requirements of this Section if the call was not canceled by the FAO before the expiration of the response time requirements.

(F) When the FAO closes a call, the call is terminated and the applicable response time standard [specified in] set forth in Subsection (A) of this Section will apply. If the FAO reopens the call, the franchisee shall consider it a new call and calculate the response time from the time the franchisee receives information that the call has been reopened to the time when the ambulance dispatched to the incident arrives and reports that it is on scene, or when the dispatched ambulance en route to an incident is canceled by the FAO dispatch.

(G) When multiple ambulances are dispatched by FAO to a single incident, the applicable [11:59 or 14:59 response time standard specified in] response time standards set forth in Subsection (A) of this Section will apply only to the first ambulance dispatched by FAO, and additional ambulances responding to the incident will not have a response time requirement nor be counted as a separate call by a franchisee in calculating its monthly ninety percent response time compliance required by this Section.

(H) When a franchisee requests mutual aid from an authorized franchisee, the requesting franchisee will count that call in its total monthly calls in calculating its ninety percent on-time response requirements of this Section and will be responsible for any incidental late penalties for such response.

(I) The franchise agreement may specify an area of the City wherein the response time requirements of this Section shall not apply.

(J) In addition to any other liquidated damage assessment, remedy or penalty provided in this Chapter or the franchise agreement, failure of a franchisee to meet the monthly ninety percent response time requirements set forth in this Chapter within its service area or any sub-zone thereof, as defined by the franchise agreement, for any four months during any period consisting of twelve consecutive calendar months shall be grounds for readjustment of the service area or any other appropriate action as may be determined by the City Council, in its sole discretion, including but not limited to action authorized by Section 6.08.290.

SECTION 8: Title 6, Chapter 8, Section 190, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6.08.190: (A) A franchisee may charge no more than the maximum ambulance service rates plus loaded mileage rates established in this Section for the following regulated levels of service:

(1) Emergency response ALS1, including medical supplies and services: [Nine hundred sixty-one dollars and ninety-six] One thousand one hundred nine dollars and sixty-five cents or the maximum allowed by applicable Federal law, whichever is higher;

(2) Emergency response ALS2, including medical supplies and services: One thousand [fifty-three dollars and ten] two hundred fourteen dollars and seventy-eight cents or the maximum

allowed by applicable [federal] Federal law, whichever is higher.

(3) Emergency response BLS, including medical supplies and services: [Nine hundred fourteen dollars and twenty-two] One thousand fifty-four dollars and fifty-eight cents or the maximum allowed by applicable Federal law, whichever is higher;

(4) Nonemergency response ALS1, including medical supplies and services: [Eight hundred fifty-seven dollars and seventy-nine] Nine hundred eighty-nine dollars and forty-eight cents or the maximum allowed by applicable [federal] Federal law, whichever is higher;

(5) Nonemergency response BLS, including medical supplies and services: [Eight hundred eighteen dollars and seventy-seven] Nine hundred forty-four dollars and forty-seven cents or the maximum allowed by applicable Federal law, whichever is higher;

(6) Critical care transport, including medical supplies and services: One thousand [one hundred forty-two dollars and seventy-eight] three hundred eighteen dollars and twenty-three cents or the maximum allowed by applicable Federal law, whichever is higher; and

(7) Loaded mileage: [Twenty-seven dollars and twenty-one] Thirty-one dollars and thirty-nine cents or the maximum allowed by applicable Federal law, whichever is higher.

(B) Ambulance service rate charges specified in Subsection (A) of this Section are subject to the following:

(1) When there are transports involving two or more patients in the same ambulance, the mileage charge shall be equally divided between the patients;

(2) A franchisee shall not charge for wait time as a result of or in proximity to any transport;

(3) A franchisee may discount an ambulance service rate to the degree allowed by Federal, state and local laws from the maximum ambulance service rates, provided that:

(a) No cost shifting shall occur, and

(b) The same discounted rate shall be charged to all patients or third-party payers;

(4) A franchisee shall not capitate any rate nor charge a uniform average per capita rate for any group or category of persons to whom it provides service; and

(5) An ALS assessment does not necessarily result in a determination that the patient requires an ALS level of service.

(C) Ambulance service rates of this Section shall be adjusted as follows:

(1) The rates shall be adjusted annually on February 1st, by the percentage, rounded to the nearest hundredth of a percent, of change in the annual average of the CPI-MCS between the most recent twelve-month period ending on the preceding December 31st as compared with the prior twelve-month period ending on December 31st; provided, however, the adjustment in rates shall not be greater than ten percent of the then current ambulance service rates unless the City Council, in its sole discretion, approves an adjustment pursuant to Subsection (C)(2) of this Section; and

(2) When an unforeseen economic circumstance has occurred during a twelve-month period for which the CPI-MCS is being calculated pursuant to Subsection (C)(1) of this Section, the City Council may approve a method for adjusting rates which is not based on changes in the CPI-MCS. In any year following a period when the adjustment to rates was based on some other method, rate adjustments shall again be based on changes in the CPI-MCS.

(D) Annually on the first City business day of February, the Director shall publish a written record of the rates as adjusted pursuant to Subsection (C) of this Section and file such record with the City Clerk for public inspection.

SECTION 9: Title 6, Chapter 8, Section 280, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6.08.280: (A) A franchisee's obligations under its franchise involve personal services whose performance involves personal credit, trust and confidence in the franchisee.

(B) No transfer of ownership or control shall occur unless prior application is made by the franchisee to the City, and the City Council's prior written consent is obtained, pursuant to this Chapter and the franchise agreement, and only then upon such terms and conditions as the City Council deems

necessary and proper. Any such transfer of ownership or control without the prior written consent of the City Council shall be considered to impair the City's assurance of due performance. The granting of approval for a transfer of ownership or control in one instance shall not be deemed as granting approval of any subsequent transfer of ownership or control.

(C) Approval by the City Council of a transfer of ownership or control does not constitute a waiver or release of any of the rights of the City under this Chapter or a franchise agreement, whether arising before or after the date of the transfer of ownership or control.

(D) A franchisee shall promptly notify the Director of any proposed transfer of ownership or control.

(E) Prior to any transfer of ownership or control, the franchisee shall submit to the Director a written request for approval of the transfer of ownership or control. Such request shall provide complete information on the proposed transaction, including details on the legal, financial, technical, and other qualifications of the transferee, and any other information as determined necessary by the Director.

(F) For the purposes of determining whether it shall consent to a transfer of ownership or control, the City or its agents may inquire into all qualifications of the prospective transferee and such other matters as the City may deem necessary to determine whether the transfer of ownership or control is in the public interest and should be approved, denied, or conditioned. The franchisee and any prospective transferee shall assist the City in any such inquiry, and if they fail to do so, the request for transfer of ownership or control may be denied.

(G) Any transfer of ownership or control without the City Council's prior approval shall be ineffective, and shall be grounds for revocation of the franchise, at the City Council's sole discretion, and to any other remedies available under the agreement or applicable law.

(H) A franchisee shall be fully liable under its franchise agreement for any transfer of ownership or control that is in violation of the terms of its franchise agreement or of this Chapter and caused in whole or in part by any other entity or entities, including but not limited to any parent or affiliated entities, as if such transfer of ownership or control had been caused by the franchisee itself.

(I) The City Council, in its sole discretion, may approve or deny a transfer of ownership or control of a franchise. As part of its determination the City Council may approve a transfer subject to such conditions as the City Council may deem necessary. In addition, the following conditions to any approval of transfer of ownership or control of a franchise shall apply:

(1) The City reserves the right to review, among other things, the purchase price of any transfer of ownership or control of a franchise or ambulance service operation, and to take any necessary steps, including denial of the transfer of ownership or control, to ensure that any negotiated sale value which the City deems unreasonable will not adversely affect rates charged by the ambulance service franchisee; and

(2) Any mortgage, pledge or lease shall be subject and subordinate to the rights of the City under the franchise agreement, this Chapter, and other applicable law.

(J) No application for a transfer of ownership or control shall be approved unless the transferee agrees in writing that it will abide by and accept all terms of the franchise agreement, any other agreements between the City and franchisee, and this Chapter, and that it will assume the obligations, liabilities, and responsibility for all acts and omissions, known and unknown, of the previous franchisee under its franchise agreement, other agreements between the City and franchisee and this Chapter for all purposes, including [renewal,] <u>any extension of the franchise,</u> unless the City Council, in its sole discretion, expressly waives this requirement in whole or in part.

(K) A rebuttable presumption that a transfer of control has occurred shall arise upon the acquisition or accumulation of five percent or more of the ownership of an entity by any person or group of persons acting in concert, none of whom already own or control fifty percent or more of such right or control, singularly or collectively.

(L) A franchisee is responsible for ensuring that the intent of this Chapter regarding transfers is carried out. If for any reason an event occurs that would require the City's approval of a transfer pursuant to this Chapter, whether or not such event is directly or indirectly within the franchisee's control, such event shall constitute a transfer for purposes of this Chapter and any applicable law.

SECTION 10: Title 6, Chapter 8, Section 290, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6.08.290: (A) The City Council may revoke a franchise if it finds that:

(1) The franchisee has failed to meet any of the performance standards of this Chapter;

(2) The franchise was obtained by fraud or misrepresentation;

(3) The franchisee has failed to operate its ambulance service business in accordance with all applicable laws and regulations and the franchise agreement; [or]

(4) The franchisee has failed to pay franchise fees, associated late fees, penalties, or other financial obligations under a franchise agreement or this Chapter; or

[(4)] (5) The franchisee otherwise has failed to meet any of the provisions of any state, local or federal law or regulation.

(B) The City Council may revoke a franchise upon twelve hours' notice to a franchisee in the event that any failure of the franchisee which constitutes a significant and immediate threat to public health and safety is not cured to the satisfaction of the City Council within such time.

(C) Except as provided in Subsection (B) of this Section, prior to revoking a franchise the City Council shall first provide written notice to the franchisee stating its intent to revoke the franchise and the nature of the deficiency. The franchisee shall have twenty days from receipt of notice to cure such deficiency to the satisfaction of the City Council. If such deficiency is not so cured, the City Council may issue a notice of revocation stating any deficiencies and the effective date of the revocation.

(D) The City shall provide the franchise written notice, at the time the public receives written notice pursuant to NRS Chapter 241, of any City Council meeting at which a franchise is being considered for revocation.

(E) In an emergency, as defined in NRS 241.020, the City Council may revoke a franchise without prior notification.

SECTION 11: Title 6, Chapter 8, Section 330, of the Municipal Code of the City of Las

Vegas, Nevada, 1983 Edition, is hereby amended to read as follows:

6.08.330: Nothing contained in this Chapter:

(A) Prevents the Fire Department from furnishing ambulance service with City Council approval[.], or the City Council from contracting with one or more service providers to provide that service, selected by such competitive or other selection process as the City determines appropriate.

(B) Applies to any service provided by the Fire Department pursuant to Subsection (A) of this Section.

(C) Applies to any volunteer emergency ambulance service that is furnished with City Council approval and is under Fire Department supervision and control.

SECTION 12: Title 6, Chapter 8, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended by adding thereto a new section, designated as Section 335, reading as follows:

6.08.335: If the City Council selects one or more service providers to provide ambulance service pursuant to LVMC 6.08.330(A), the only provisions of this Chapter automatically applicable to any agreement for such services shall be LVMC 6.08.330(A) and any other provisions of this Chapter expressly delineated or incorporated in the agreement.

SECTION 13: If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective.

SECTION 14: Whenever in this ordinance any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in this ordinance the doing of any act is required or the failure to do any act is made or declared to be unlawful or an offense or a misdemeanor, the doing of

such prohibited act or the failure to do any such required act shall constitute a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than $1,000.00 or by imprisonment for a term of not more than six months, or by any combination of such fine and imprisonment. Any day of any violation of this ordinance shall constitute a separate offense.

SECTION 15: All ordinances or parts of ordinances or sections, subsections, phrases, sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, in conflict herewith are hereby repealed.

PASSED, ADOPTED and APPROVED this _____ day of _____, 2020.

APPROVED:

By _____
CAROLYN G. GOODMAN, Mayor

ATTEST:

_____
LUANN D. HOLMES, MMC
City Clerk

APPROVED AS TO FORM:

Val Steed 11-19-20
Val Steed, Date
Deputy City Attorney

The above and foregoing ordinance was first proposed and read by title to the City Council on the _____ day of _____, 2020, and referred to a committee for recommendation, the committee being composed of the following members _____; thereafter the said committee reported favorably on said ordinance on the _____ day of _____, 2020, which was a _____ meeting of said Council; that at said _____ meeting, the proposed ordinance was read by title to the City Council as first introduced and adopted by the following vote:

VOTING "AYE": _____

VOTING "NAY": _____

ABSENT: _____

APPROVED:

By _____
CAROLYN G. GOODMAN, Mayor

ATTEST:

_____
LUANN D. HOLMES, MMC
City Clerk

AGENDA SUMMARY PAGE
City Council
Meeting of: December 2, 2020

Agenda Item No.:
41

DEPARTMENT: Planning **DISCUSSION**
DIRECTOR: Robert Summerfield

SUBJECT:
Public hearing and discussion for possible action regarding a request for a Waiver and/or Reduction of Fees for $6,892.25 in out-of-pocket costs and $24,100 in civil penalties for a total of $30,992.25 recorded against property at 6620 HARTMAN STREET - PROPERTY OWNER: 6620 HARTMAN TRUST FRIED ARMAND TRS - Ward 4 (Anthony)

FISCAL IMPACT:
None

PURPOSE/BACKGROUND:
Today's hearing is a request from 6620 Hartman Trust to consider a request for a waiver and/or reduction of fees that have been assessed for failed inspection fees and penalties.

The first case originated December 10, 2018 by a citizen complaint the property of shopping carts and other refuse at the property. The Department of Planning declared the property in violation and started legal notification. When no corrective action was taken nor an appeal filed, the Department of Planning hired Weaver to board all doors, windows, and openings; remove all trash and debris; remove shed; remove weeds, and apply herbicide. A total of 14 inspections were completed before the case was closed July 30, 2019. Liens were recorded with the Clark County Recorder's office.

The second case originated August 10, 2019 by a citizen complaint of a dilapidated carport. The Department of Planning declared the property in violation and started legal notification. When no corrective action was taken nor an appeal filed, the Department of Planning hired Weaver to board all doors, windows, and openings; remove all trash and debris; secure shed; and remove graffiti. A total of 9 inspections were completed before the case was closed October 29, 2019. Liens were recorded with the Clark County Recorder's office.

On June 5, 2020 the property was acquired for $76,000 by 6620 Hartman Trust.

Planning received a Request for Waiver and/or Reduction of Civil Penalties Application dated September 21, 2020 from Armand Fried requesting the fees and civil penalties be waived.

RECOMMENDATION:
That the City Council deny the request for waiver and/or reduction of fees.

BACKUP DOCUMENTATION:
1. Notification Letter
2. Case Information
3. Supporting Documentation
4. Submitted at Meeting - PowerPoint Presentation Submitted by Staff

LAS VEGAS CITY COUNCIL

CAROLYN G. GOODMAN
Mayor

STAVROS S. ANTHONY
Mayor Pro-Tem

CEDRIC CREAR
BRIAN KNUDSEN
VICTORIA SEAMAN
OLIVIA DIAZ
MICHELE FIORE

SCOTT D. ADAMS
City Manager

DEPARTMENT OF PLANNING
ROBERT SUMMERFIELD
DIRECTOR

DEVELOPMENT SERVICES CENTER
333 N. RANCHO DRIVE
LAS VEGAS, NV 89106
702.229.4830 | VOICE
711 | TTY

cityoflasvegas
lasvegasnevada.gov

November 1, 2020
CASE #CE-195186, CE19-01559

Certified/Regular Mail
Return Receipt Requested

Certified Mail
7019 0700 0002 0872 2353

6620 HARTMAN TRUST
FRIED ARMAND TRS
2545 SOUTH TORREY PINES DR
LAS VEGAS NV 89146

RE: 6620 HARTMAN STREET

Dear Property Owner:

The hearing scheduled on **December 2, 2020 at 9:00 AM** in the City Council Chambers, 495 South Main Street, Las Vegas, NV 89101, will be a hearing for possible action regarding a request for waiver and/or reduction of fees totaling $6,892.25 in out of pocket costs and $24,100 in civil penalties for a total of $30,992.25 recorded against the property located at 6620 Hartman Street.

You may be present at the hearing. You may be, but need not be, represented by an attorney.

If you have any questions concerning this procedure, please contact the Code Enforcement Division located in the Department of Planning, by telephoning (702) 229-6615.

Sincerely,

Vicki R. Ozuna, Code Enforcement Section Manager
Code Enforcement Division
Department of Planning

Code Enforcement Agenda Item Information Sheet

Ward 4 (Stavros S. Anthony)

Case # CE-195186

Address: 6620 HARTMAN ST

Description:

Major Cross Street: Craig & Rainbow

Zip Code: 89108

Foreclosure: N

Registration Status:
Meets Registration Status: N
Property Registrered: Claimed
Lender Notified: N

Property Owner at time of Abatement: TRISSEL JUNE E

Property Owner: 6620 HARTMAN TRUST

Since: 6/5/2020

Case Opened: 12/10/2018

Notice & Order Issued: 7/12/2019

Case Closed: 7/30/2019

City Council Approved Lien: 8/28/2019

Certified Mail Receipt Sent to: NATIONAL FIELD REPRESENTATIVES, 136 MAPLE AVE, CLAREMONT NH 03743
TRISSEL JUNE E, 6620 HARTMAN ST, LAS VEGAS, NV 89108-5625
WELLS FARGO HOME MORTGAGE, 2701 WELLS FARGO WAY MAC 9287-011, MINNEAPOLIS, MN 55467

# of Inspections Completed: TOTAL (14), Fail (10); PartPassed (3); Passed (1)

Abatement Started: 7/23/2019 **Abatement Completed:** 7/23/2019

Abatement of: Board all doors, windows, and openings; remove all trash and debris; remove shed; remove weeds, apply herbicide.

OUT-OF-POCKET COSTS	ASSESSED	PAID	OUTSTANDING
Administrative Fee	$262.50	$0.00	$262.50
Lien Released Fee	$80.00	$0.00	$80.00
Nuisance Abatement Fee	$1,750.00	$0.00	$1,750.00
INSPECTION COST RECOVERY FEE	$1,380.00	$0.00	$1,380.00
LATE FEES	$84.00	$0.00	$84.00
SUB-TOTAL OUT-OF-POCKET COSTS:	$3,556.50	$0.00	$3,556.50
CIVIL PENALTIES			
DAILY CIVIL PENALTIES	$4,600.00	$0.00	$4,600.00
TOTAL ALL COSTS, LATE FEE AND PENALTIES			$8,156.50

Property Value Per Zillow.com: **As of:** 11/2/2020

Staff Recommendation:
DENIAL OF THE WAIVER REQUEST.

Condition of Waiver: Amount to be paid within 30 days or reverts back to original amount due.

Code Enforcement Agenda Item Information Sheet

Ward 4 (Stavros S. Anthony)

Case # CE19-01559

Address: 6620 HARTMAN ST

Description:

Major Cross Street: Craig & Rainbow

Zip Code: 89108

Foreclosure: N

Registration Status:
Meets Registration Status: N
Property Registrered: Claimed
Lender Notified: N

Property Owner at time of Abatement: TRISSEL JUNE E

Property Owner: 6620 HARTMAN TRUST

Since: 6/5/2020

Notice & Order Issued: 8/10/2019

Case Closed: 10/29/2019

City Council Approved Lien: 12/19/2019

Certified Mail Receipt Sent to: TRISSEL JUNE E, 6620 HARTMAN ST, LAS VEGAS, NV 89105-5625

# of Inspections Completed: TOTAL (9), Fail (7); PartPassed (1); Passed (1)

Abatement Started: 10/24/2019

Abatement Completed: 10/25/2019

Abatement of: Board all doors, windows, and openings; remove all trash and debris; secure shed; remove graffiti.

OUT-OF-POCKET COSTS	ASSESSED	PAID	OUTSTANDING
Administrative Fee	$288.75	$0.00	$288.75
Nuisance Abatement Fee	$1,925.00	$0.00	$1,925.00
INSPECTION COST RECOVERY FEE	$1,020.00	$0.00	$1,020.00
LATE FEES	$102.00	$0.00	$102.00
SUB-TOTAL OUT-OF-POCKET COSTS:	$3,335.75	$0.00	$3,335.75
CIVIL PENALTIES			
DAILY CIVIL PENALTIES	$19,500.00	$0.00	$19,500.00
TOTAL ALL COSTS, LATE FEE AND PENALTIES			$22,835.75

Property Value Per Zillow.com:

As of: 11/2/2020

Staff Recommendation:
DENIAL OF THE WAIVER REQUEST.

Condition of Waiver: Amount to be paid within 30 days or reverts back to original amount due.

Code Enforcement Agenda Item Information Sheet

OUT-OF-POCKET COSTS	ASSESSED	PAID	OUTSTANDING
Administrative Fee	$551.25	$0.00	$551.25
Nuisance Abatement Fee	$3,675.00	$0.00	$3,675.00
Lien released fee	$80.00	$0.00	$80.00
INSPECTION COST RECOVERY FEE	$2,400.00	$0.00	$2,400.00
LATE FEES	$186.00	$0.00	$186.00
SUB-TOTAL OUT-OF-POCKET COSTS:	$6,892.25	$0.00	$6,892.25
CIVIL PENALTIES			
DAILY CIVIL PENALTIES	$24,100.00	$0.00	$24,100.00
TOTAL ALL COSTS, LATE FEE AND PENALTIES			$30,992.25

Assessor

Briana Johnson, Assessor

GENERAL INFORMATION	
PARCEL NO.	138-02-310-048
OWNER AND MAILING ADDRESS	6620 HARTMAN TRUST FRIED ARMAND TRS 2545 S TORREY PINES DR LAS VEGAS NV 89146-5195
LOCATION ADDRESS	6620 HARTMAN ST
CITY/UNINCORPORATED TOWN	LAS VEGAS
ASSESSOR DESCRIPTION	JADE PARK UNIT #5 PLAT BOOK 20 PAGE 11 LOT 51 BLOCK 8
RECORDED DOCUMENT NO.	* 20200605:02149
RECORDED DATE	JUN 5 2020
VESTING	NS
COMMENT	

*Note: Only documents from September 15, 1999 through present are available for viewing.

ASSESSMENT INFORMATION AND VALUE EXCLUDED FROM PARTIAL ABATEMENT	
TAX DISTRICT	200
APPRAISAL YEAR	2019
FISCAL YEAR	2020-21
SUPPLEMENTAL IMPROVEMENT VALUE	0
INCREMENTAL LAND	0
INCREMENTAL IMPROVEMENTS	0

REAL PROPERTY ASSESSED VALUE

FISCAL YEAR	2019-20	2020-21
LAND	7,000	10,500
IMPROVEMENTS	844	842
EXEMPT		
GROSS ASSESSED (SUBTOTAL)	7,844	11,342
TAXABLE LAND + IMP (SUBTOTAL)	22,411	32,406
COMMON ELEMENT ALLOCATION ASSESSED	0	0
TOTAL ASSESSED VALUE	7,844	11,342
TOTAL TAXABLE VALUE	22,411	32,406

Click here for Treasurer Information regarding real property taxes.

Click here for Flood Control Information.

ESTIMATED LOT SIZE AND APPRAISAL INFORMATION

ESTIMATED SIZE	0.16 ACRES
ORIGINAL CONST. YEAR	1973
LAST SALE PRICE	76,000
MONTH/YEAR	6/2020
SALE TYPE	R - RECORDED VALUE
LAND USE	23.185 - MANUFACTURED HOME. ESTATES
DWELLING UNITS	1

PRIMARY RESIDENTIAL STRUCTURE

1ST FLOOR SQ. FT.		CASITA SQ. FT.		ADDN/CONV	
2ND FLOOR SQ. FT.		CARPORT SQ. FT.		POOL	NO
3RD FLOOR SQ. FT.		STYLE		SPA	NO
UNFINISHED BASEMENT SQ. FT.	0	BEDROOMS	0	TYPE OF CONSTRUCTION	
FINISHED BASEMENT SQ. FT.	0	BATHROOMS	0	ROOF TYPE	
BASEMENT GARAGE SQ. FT.	0			FIREPLACE	0
TOTAL GARAGE SQ. FT.	0				

ASSESSORMAP VIEWING GUIDELINES

MAP	138023
	In order to view the Assessor map you must have Adobe Reader installed on your computer system. If you do not have the Reader it can be downloaded from the Adobe site by clicking the following button. Once you have downloaded and installed the Reader from the Adobe site, it is not necessary to perform the download a second time to access the maps. Get Adobe Reader

Note: This record is for assessment use only. No liability is assumed as to the accuracy of the data delineated hereon.

CITY OF LAS VEGAS
DEPARTMENT OF PLANNING
CODE ENFORCEMENT DIVISION
333 N. Rancho Dr., 6th Floor
Las Vegas, NV 89106

Fax (702) 382-4341
TDD (702) 229-6615
E-mail us at codeenforcement@lasvegasnevada.gov

Print Form

Reset Form

Request for a Waiver and/or Reduction of Civil Penalties Application

Date of Application: 9/30/2020

Address of Subject Property: 6620 Hartman St. Las Vegas NV 89108

Closest Major Intersection: W. Craig Rd. & Rainbow Blvd. Parcel Number: 138-02-310-048

Applicant Information

Name: Armand Fried Applicant type: (•) Owner ( ) Purchaser ( ) Agent ( ) Other

Address: 8668 Spring Mountain RD. #102 City: Las Vegas State: NV Zip: 89117

Phone: 917 359-8654 Fax: 702 876-4099 E-mail: armandfried@msn.com

Property Owner Information

Name: 6620 Hartman Trust

Address: 2545 S. Torrey Pines Dr. City: Las Vegas State: NV Zip: 89146

Phone: 702 876-4098 Fax: 702 876-4099 E-mail: ARMANDFRIED@MSN.COM

Describe the reason for the waiver/reduction request (Additional sheets may be attached if needed)

Civil Penalty's are requested to be waived.

Describe the existing condition/situation of the subject property (Additional sheets may be attached if needed)

Total renovation is complete

Describe the immediate plans for the property, including any planned improvements (Additional sheets may be attached if needed)

TOTAL RENOVATION IS COMPLETE

Amount of City of Las Vegas Lien on Property: $ 22,835.73 Amount requested for waiver and/or reduction: $ 19,500

Property Owners Only

Please review and initial one

AF I acknowledge that I am the property owner and understand that I must attend the waiver request hearing.

I as the owner understand that I may only utilize representation by a lawyer if I am not in attendance of the hearing.
My legal representation will be _____

I am the legal property owner and am requesting a hearing by conference call.
The contact number to reach me is _____

Acknowledgements

Please Initial

_____ I acknowledge real estate personnel cannot represent my interest.

AF I acknowledge that paid fees and fines will not be refunded.

Signature of Applicant: _____ Date: 9/30/2020

Signature of Property Owner: _____ Date: _____
(must be notarized)

STATE OF NEVADA

COUNTY OF CLARK

Subscribed and sworn to before me, a Notary Public, on this

30th day of SEPTEMBER, 20 20

Gregory Joseph Logan

NOTARY PUBLIC in and for said County and State

GREGORY JOSEPH LOGAN
Notary Public, State of Nevada
No. 93-2154-1
My Appt. Exp. May 3, 2023

Submit application by fax to 702 382-4341 or mail to: **City of Las Vegas / Code Enforcement Division**
333 N. Rancho Dr., 6th Floor
Las Vegas, NV 89106

For Office Use Only

Council Ward: _____ Case/File Number: _____ Council Action date of Lien: _____

Inst #: 20190905-0001092
Fees: $0.00
09/05/2019 09:25:21 AM
Receipt #: 3825818
Requestor:
CITY OF LAS VEGAS, BUILDING
Recorded By: WONGC Pgs: 1
DEBBIE CONWAY
CLARK COUNTY RECORDER
Src: MAIL
Ofc: MAIN OFFICE

APN 138-02-310-048

NOTICE AND CLAIM OF LIEN OF ASSESSMENT
TO: **TRISSEL JUNE E**
Reputed Owner(s) at time of abatement.

Assessor's Parcel No.: 138-02-310-048
Commonly known as: 6620 HARTMAN ST
Legal Description: JADE PARK UNIT #5
PLAT BOOK 20 PAGE 11
LOT 51 BLOCK 8

On **7/23/2019** as provided in the Title 9, Chapter 4, the City of Las Vegas caused the abatement of a nuisance condition on the following property after due and proper notification.

Expenses costs and fees ("Actual Cost") in the amount of **$3,530.50** were incurred by the City of Las Vegas in the above-referenced nuisance abatement procedure. Additionally, pursuant to Las Vegas Municipal Code, including without limitation Sections 9.04.040 and/or .100 thereof, civil liability/penalties in the amount of **$2,300** were approved against the property for causing or maintaining a public nuisance as defined by 9.04.010 and/or other Municipal Code sections. The City Council Designee, at a duly noticed hearing held on **August 28, 2019** ordered the above Actual Cost in the amount of **$3,530.50**, be immediately assessed against the property by means of this Lien of Assessment with the lien duly recorded and certified copies of said lien given to the County Treasurer for collection as ordinary property taxes. Said lien shall also be prior to and superior to all liens, claims, encumbrances and titles, other than liens of assessment and general taxes. All laws applicable to the levy, collection, and enforcement of property taxes shall be applicable to this lien.

All or any portion of this Lien of Assessment, which remains unpaid after 30 days from the date of the recording thereof on the assessment roll, shall become delinquent and shall accrue interest at the rate of 7 percent per annum from and after said date. This lien shall continue until the assessment, which forms the subject matter thereof, and all interest due and payable thereon, shall have been paid in full.

NOTE: The City Council Designee ordered the above civil penalties in the amount of **$2,300** be assessed against the property by recording a Lien of Assessment on or after **July 23, 2020**.

Mary McElhone, Deputy City Clerk
495 South Main Street
Las Vegas, NV 89101

STATE OF NEVADA)
)
COUNTY OF CLARK)

Mary McElhone, being duly sworn, deposes and says that she is the person who executed the foregoing instrument on behalf of the City of Las Vegas and that she has read the same and knows the contents thereof, that the matters stated herein are true to her own knowledge, except such matters as are stated to be on information and belief, and as to those matters, she believes them to be true.

Mary McElhone, Deputy City Clerk

Subscribed and sworn to before me this 29 day of August, 2019

Jennifer L. Lancaster
NOTARY PUBLIC, in and for said County and State

JENNIFER L. LANCASTER
Notary Public-State of Nevada
Appointment No. 10-1829-1
My Appointment Expires April 1, 2022

WHEN RECORDED, RETURN TO:
CITY OF LAS VEGAS, DEPARTMENT OF PLANNING
333 N RANCHO DRIVE, LAS VEGAS, NV 89106 Case #CE-195186

Inst #: 20200723-0001824
Fees: $42.00
07/23/2020 02:07:19 PM
Receipt #: 4145622
Requestor:
CITY OF LAS VEGAS, BUILDIN
Recorded By: CHERIE Pgs: 1
Debbie Conway
CLARK COUNTY RECORDER
Src: MAIL
Ofc: MAIN OFFICE

APN 138-02-310-048

NOTICE AND CLAIM OF LIEN OF ASSESSMENT

TO: **TRISSEL JUNE E**
Reputed Owner(s) at time of abatement.

Assessor's Parcel No.: 138-02-310-048
Commonly known as: 6620 HARTMAN ST
Legal Description: JADE PARK UNIT #5
PLAT BOOK 20 PAGE 11
LOT 51 BLOCK 8

On **7/23/2019** as provided in the Title 9, Chapter 9, the City of Las Vegas caused the abatement of a nuisance condition on the following property after due notification.

Pursuant to las Vegas Municipal Code, including without limitation Sections 9.04.040 and/or .100 thereof, civil liability/penalties in the amount of **$2,300** were approved against the property for causing or maintaining a public nuisance as defined by 9.04.010 and/or other Municipal Code sections.

The City Council Designee, at a duly noticed hearing held on **August 28, 2019** ordered the above charges in the amount of **$2,300**, assessed against the property by means of a Lien of Assessment, such a lien to be duly recorded and certified copies of said lien given to the County Treasurer for collection as ordinary property taxes. Said lien shall also be prior to and superior to all liens, claims, encumbrances and titles, other than liens of assessment and general taxes. All laws applicable to the levy, collection, and enforcement of property taxes shall be applicable to this lien.

All or any portion of this lien of assessment, which remains unpaid after 30 days from the date of the recording thereof on the assessment roll, shall become delinquent and shall accrue interest at the rate of 7 percent per annum from and after said date. This lien shall continue until the assessment, which forms the subject matter thereof, and all interest due and payable thereon, shall have been paid in full.

Mary McElhone, Deputy City Clerk
495 South Main Street
Las Vegas, NV 89101

STATE OF NEVADA)
)
COUNTY OF CLARK)

Mary McElhone, being duly sworn, deposes and says that she is the person who executed the foregoing instrument on behalf of the City of Las Vegas and that she has read the same and knows the contents thereof, that the matters stated herein are true to her own knowledge, except such matters as are stated to be on information and belief, and as to those matters, she believes them to be true.

Mary McElhone, Deputy City Clerk

Subscribed and sworn to before me this 29 day of August, 2019

NOTARY PUBLIC, in and for said County and State

JENNIFER L. LANCASTER
Notary Public-State of Nevada
Appointment No. 10-1829-1
My Appointment Expires April 1, 2022

WHEN RECORDED, RETURN TO:
CITY OF LAS VEGAS, DEPARTMENT OF PLANNING
333 N RANCHO DRIVE, LAS VEGAS, NV 89106 Case #CE-195186

6620 Hartman Dr.

Case 195186

PRE-ABATEMENT

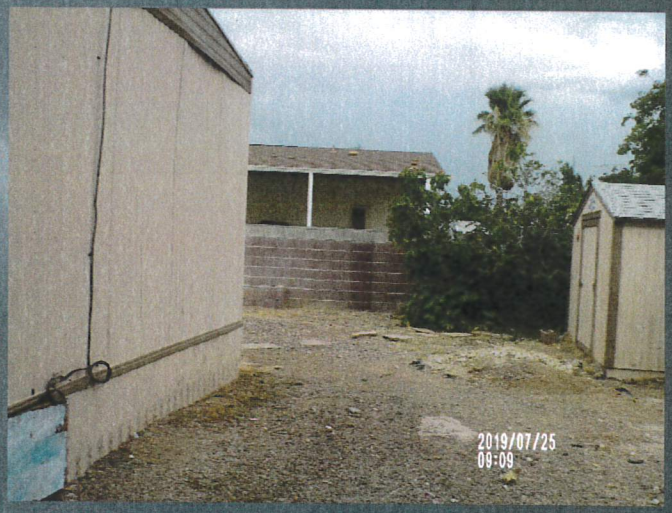
POST ABATEMENT

6620 Hartman Dr.

Case 195186

PRE-ABATEMENT

POST ABATEMENT



6620 Hartman Dr.

Case 195186

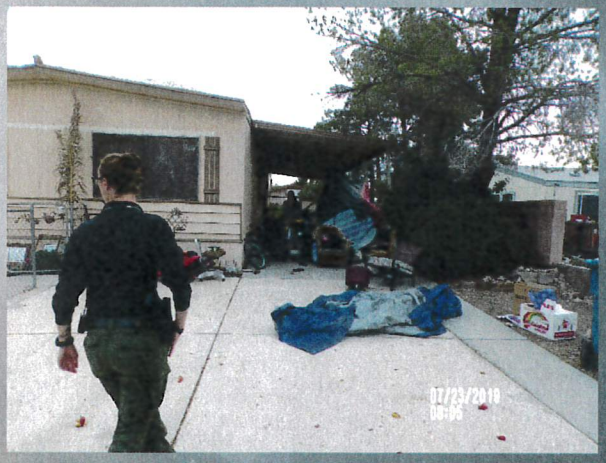
PRE-ABATEMENT

POST ABATEMENT

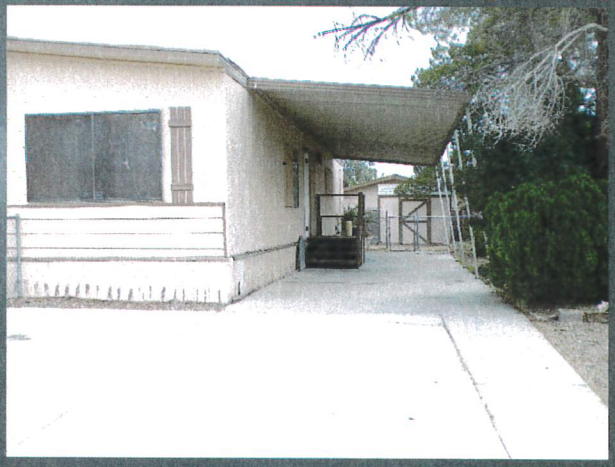
6620 Hartman Dr.

Case 195186

PRE-ABATEMENT



POST ABATEMENT



6620 Hartman Dr.

Case 195186

PRE- ABATEMENT

POST ABATEMENT

6620 Hartman Dr.

Case 195186

PRE – ABATEMENT

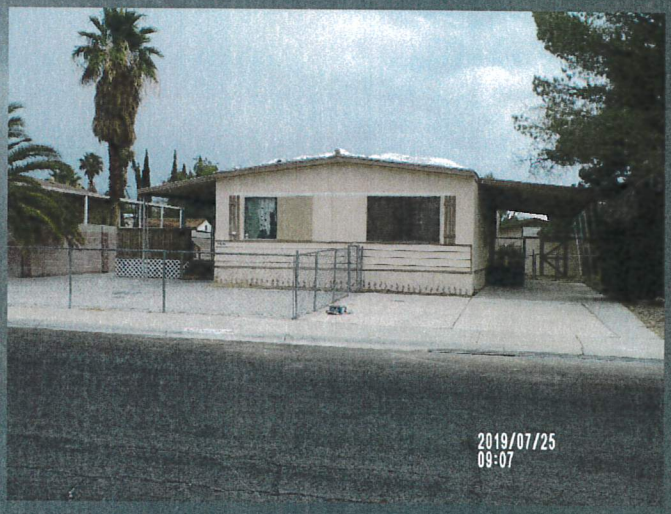
POST ABATEMENT

6620 Hartman Dr.

Case 195186

PRE - ABATEMENT

POST ABATEMENT



City of Las Vegas
Department of Planning
Code Enforcement Case Report

Case #: CE-195186

6620 Hartman St - Map # 01819-62 Parcel 13802310048

Owner Information:

TRISSEL JUNE E
6620 HARTMAN ST
LAS VEGAS, NV 89108-5625

Zoning Information: R-MH (Mobile/Manufactured Home)

Case Comments: 10-12 shopping carts in yard as well as old furniture and trash

Case Assigned To: STEPHANIE DEMOLEAS (17)

Date Case Opened:	12/10/2018	**Ward:**	4	**Source:**	CITZ
Date Case Resolved:	7/30/2019	**Disposition:**	Abate		
Property Info / Status:	**Vacant:** N	**Foreclosure:**	N	**Secure:**	

Violations:

Violation		Date	Status
AB-006	16.08.010 UDB SEC 403	3/27/2019	Transfer
Location:	Dwelling, all points of entry		
Comments:	Property must be secured to City of Las Vegas specification after it is vacated.		
AB-006	16.08.010 UDB SEC 403	7/11/2019	Complied
Location:	Dwelling,		
Comments:	Property must be secured to City of Las Vegas specifications after it is vacated.		
AB-008A	HC- 202 SUBSTANDARD BLDG	3/27/2019	Transfer
Location:	Dwelling		
Comments:	Residence must have active electrical account, an essential service. Dwelling is deemed substandard without all required utilities.		
AB-008A	HC- 202 SUBSTANDARD BLDG	7/11/2019	Complied
Location:	Residence		
Comments:	Obtain active electrical account. Dwelling is deemed substandard without all required utilities.		
AB-008I	HC-SEC 701.2 ELECTRICAL EQUIP	3/22/2019	Transfer
Location:	Dwelling		
Comments:	Obtain active electric account, a required essential service.		
AB-008I	HC-SEC 701.2 ELECTRICAL EQUIP	7/11/2019	Complied
Location:	Residence		
Comments:	Electrical services is required to occupy home. Re-establish electrical service or vacate.		
AB-008X	HC-SEC 1103 VACATE ORDER	3/22/2019	Transfer
Location:	Dwelling		
Comments:	Residence may not be occupied until a City electrical service is obtained. Obtain service or vacate premises.		

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Department of Planning
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Violations:

Violation		**Date**	**Status**
AB-008X	HC-SEC 1103 VACATE ORDER	7/11/2019	Complied
Location:	Residence		
Comments:	Residence may not be occupied until electrical service is obtained. Re-establish electrical service or vacate.		
AF-003	16.33.030 A INSP, REG, & DESIG	3/22/2019	Transfer
Location:	Registration and Maintenance		
Comments:	Properties in foreclosure are required to be registered and maintained.		
AF-003	16.33.030 A INSP, REG, & DESIG	3/27/2019	Transfer
Location:	Registration and maintenance		
Comments:	Properties in foreclosure are required to be registered and maintained.		
AN-003	9.04.010 (4) REFUSE & WASTE	12/12/2018	Transfer
Location:	All areas		
Comments:	Remove all refuse and waste from all areas of property. Maintain at all times.		
AN-006	9.04.010(8)(A) HIGH VEGETATION	4/23/2019	Transfer
Location:	All yards		
Comments:	Remove all high weeds and grass and keep maintained.		
AN-015	9.12.030 STORED MATERIALS	12/12/2018	Transfer
Location:	All yards, porch area		
Comments:	Remove all stored items or refuse within public view from all area of property to include appliances, household items and carts.		
AZ1-7B1A	19.12.020(B)(1)GARAGE SALES	12/12/2018	Transfer
Location:	Informational		
Comments:	Read and adhere to restrictions.		

Chronology of Events:

December 12, 2018	**Notice And Order Request** 17) To 25. MH in pre-foreclosure, owner occupied by senior.
December 12, 2018	**Insp# : 655984 (Fail)** 17) Property has a large amount of trash and/or storage all yards. No information on registry but research indicated that property is in a pre-foreclosure status with Wells Fargo, Initiating immediate N&O because there is history of violations at property. Research also shows that owner: June Trissel (80 yrs old) may share residence with relative Karlenda Trissel. Emailed her at (ktrissel@aol.com) which is no longer valid. Photos to come at posting.
December 13, 2018	**Phone Call** caller id 702-266-5503- calling to say property is still a mess
December 17, 2018	**Notice & Order Processing** 25] N&O review. File to EW for N&O
December 19, 2018	**Insp# : 656175 (PartPassed)** 17. 46) Posted N&O on site and took photos. No change in condition. No one would come to door, however a male voice was screaming at us from within to leave property.

City of Las Vegas
Department of Planning
Code Enforcement Case Report

Chronology of Events:	
January 5, 2019	**Insp# : 656676 (Fail)** 17) Pix, assess fee. No change in condition, initiating court ordered abatement.
January 18, 2019	**Insp# : 657630 (PartPassed)** 17) Property has been largely cleaned, met with mail carrier who related onwer, June Trissell is deceased and residence is occupied by son, Sean Munz who is unstable, Residence is in foreclosure. Will monitor. No fee today
January 31, 2019	**Phone Call** noise complaint - plays music super loud all day, junk in front yard
February 2, 2019	**Insp# : 658645 (PartPassed)** 17) There is no sale today, still has minor storage and trash but not eniough to go forward with abatement. No response at door. Status 2 weeks. Emailed mortgage company to see if we could status of foreclosure,
March 22, 2019	**Insp# : 659698 (Fail)** 17) Trash is now on front yard and electric meter is onsite but inactive, see photo reading "open". Revising N&O to vacate status. No change to ownership, requesting a revised vacate N&O.
March 28, 2019	**Phone Call** Complainant states a girl living in a car in front of this place-old Chevy sedan-rust color.
March 28, 2019	**Notice & Order Processing** 25] File back to officer missing dates for VACATE. WB research and codes ffoor secure when empty and sub std bldg
March 29, 2019	**Research** 17) No change status. Residenc eis in forelcosure with wells Fargo. There is no information on foreclosure registry. CPuld not find death record but mail carrier told me that owner, June Tissell died approximately 10 years ago and residence is currently occupied by her adult son, Sean D. Munz.
March 29, 2019	**Research** 17) No change status. Residence is in forelcosure with Wells Fargo per recorder records. There is no information on foreclosure registry. CPuld not find death record but mail carrier told me that owner, June Tissell died approximately 10 years ago and residence is currently occupied by her adult son, Sean D. Munz.
March 29, 2019	**Notice & Order Processing** 25] File to REW for N&O
April 3, 2019	**Insp# : 664014 (Fail)** 17) Pix assess fee. Condition worse. Posted N&O revised.
April 4, 2019	**Phone Call** Complainant states: Indoor furniture left in front on the sidewalk with people sitting. Obstruction to pedestrians and not good looking.
April 8, 2019	**Phone Call** Compl.says this guy is taking discarded furniture from the lg.dumpster at 6613 Hartman, and bringing it to 6620 Hartman. Believed to be selling at location. Also, an airstream trailer from here parked on property at 1620 Hartman. Compl.Dave.
April 9, 2019	**Phone Call** Trailer moved to 4212 Touchstone, parked on gravel.
April 15, 2019	**Phone Call** Complainant states more junk and carts, plus other items too numerous to mention. Compl._Karen_702-544-0695
April 19, 2019	**Insp# : 665534 (Fail)** 17) PIx,, assess fee. Proceed with vacant, electric service has not been obtained.

City of Las Vegas
Department of Planning
Code Enforcement Case Report

Chronology of Events:	
April 20, 2019	**Proceed With Abatement** 17) To 25 to proceed with vacate and subsequent abatement.
April 23, 2019	**Phone Call** Complainant states the guy was allegedly arrested, and is in jail.
April 23, 2019	**Review** 25] Reviewed case. Bid sheet and file to GF for 10 DAY
April 24, 2019	**Bid Preperation** Bid Preparation - awaiting fax receipt & email
April 29, 2019	**Phone Call** 40- I spoke with Kevin, Junkman, 509-701-0814. He had questions about the property. Requesting 17 call him back on Wed.
May 1, 2019	**Phone Call** 17) Returned call to Kevin at Junkman, left message,
May 1, 2019	**Bid Received** Scanned & recorded - bids received
May 1, 2019	**Adminstrative** Bid Approval given to # 25
May 1, 2019	**10 Day Notice Processing** 10 Day notice before abatement sent, file given to #17 for posting.
May 2, 2019	**Review** 25] BID REVIEW - Weaver $1,750.oo
May 3, 2019	**Insp# : 667686 (Fail)** 17) 10-day posted. Power is still not active. Email to City Attorney to request court ordered abatement and lockout at vacate order.
May 23, 2019	**Foreclosure Registry Update** Foreclosure Registry: This property was registered in the Foreclosure Registry. The property has been deregistered or a new ownership has occurred.
May 23, 2019	**Insp# : 669279 (Fail)** 17) Pix, assess fee. More storage in all yards, confirmed electric service is not active meter reads *OPEN* (picture). No response at door but residence is likely still occupied by deaceased owner's son: Sean D Munz (Munz added to mailing) Revised vacate Notice and Order requested. No change in ownership.
May 30, 2019	**Notice & Order Processing** 25] File reviewed for 72 HOUR VACATE due to lack of electricity. File to EW
June 5, 2019	**Insp# : 671650 (Fail)** 17) 72 hour vacate handed to male occupant who was outside. No change in condition.
June 26, 2019	**Phone Call** Complainant states problems remain, and many neighbors talking about it, wanting to know when something will be done?
July 10, 2019	**Notice & Order Processing** 25] Review of file for 72 hour VACATE. Prior vacate was not accomplished in May. file to LB

City of Las Vegas
Department of Planning
Code Enforcement Case Report

Chronology of Events:

July 12, 2019	**Insp# : 675153 (Post)** 47) and 25) When we arrived we observed that the violations of high weeds, refuse, and storage still existed. We observed a dark colored motorcycle in the driveway. We also observed that the cover to the water service was open. Home may not have legal water. Spoke to Shawn who is the occupant at the property and provided him the notice and order. 25) explained notice in detail and explained that the contractor and metro would come and remove occupants and board residence in 72 hours if the power was not restored. 25) gave a business card and requested that Shawn call him to get more information about social services available. CB 7/17
July 17, 2019	**Adminstrative** jlancaster: requisition# 310514 for PO request for weaver to abate for $1750
July 18, 2019	**Adminstrative** jlancaster: PO received- 409689. email to 25 that it was received. Also award of bid letter sent to weaver as 25 already scheduled this rush abatement with them for 7/23
July 22, 2019	13) As I drove up to the property, a male, who claims to be the property owner, was sitting out front and said they're cleaning it up, but won't be done today because they need to order a dumpster and have no money for that. I advised gentleman to call the office and speak to the area officer about that, I also advised him that a contractor should be starting cleanup tomorrow. I took some pre-abatement photos; condition are exactly the same as last photos in EB,
July 23, 2019	**Phone Call** 25] Checked in with Weaver on site. No problems. will finish tomorrow.
July 23, 2019	46) with 25) Arrived to do pre abatement check. Metro was staged nearby when we arrived. Observed that cover was off of water access. Power meter showed "Open". I observed that the property still contained outdoor storage and refuse to include: several grocery carts filled with refuse and numerous stored items, part of a chest freezer full of water, trash containers were stored in the front yard, indoor furniture, tall weeds, crates and boxes storing items. I took photos of the property as metro worked to move the residents out of the property and coordinated with the contractor to abate the nuisances and board the property.
July 24, 2019	**Insp# : 679333 (Fail)** 25] Pre-arranged meeting with Metro COP for 72 Hour Vacate. 4 officers met with Sean and instructed him to leave the property. After 30 min of gathering belongings, Sean, the occupant, and a WFA departed leaving some stored items on side walk. I instructed Sean he had 48 hours to remove items or RRT would remove. Weaver arrived on time and began cleaning property. A check later in the day found no issues between Weaver/contractor and occupants. Home to be boarded and secured. Power was not on, water meter on street was obviously tampered with. Possibly no water as well.
July 25, 2019	**Adminstrative** Emailed Raven with Streets and Sanitation for pick up of trash left on the street for removal.
July 25, 2019	13) Upon pulling up to site, previous owner was asleep at door. No problems, he got up and left immediately. I Took post-abatement photos. Observed all trash/debris/storage were gone from ALL yards. All open windows/doors were boarded. Red-Tagged front of property & at side entrance per #25. Filed pictures in Abatements/pre-post videos/pics & in EB. Sheets to #25 for review and closing.
July 26, 2019	**Correspondence Email** 25] E-mail to Ed L. last inspection did not generate future inspection. Cant close case
July 30, 2019	**Adminstrative** jlancaster - ok to pay from 25. uploaded receipts to AR file to EW

City of Las Vegas
Department of Planning
Code Enforcement Case Report

Chronology of Events:

July 30, 2019	**Insp# : 681181 (Passed)** 25] Reviewed pictures taken by 13 on 7/25/19. Appears all work done to bid. E-mail to JL to pay contractor. Case closed
August 14, 2019	**Notice Of Public Hearing Post** 17) Notice of public hearing posted.

NOTICES AND DELIVERY TRACKING

Notice/Log	Issued	Mailed	Recorded	Recipient Name
N-N&O Notice and Order Sent	12/19/2018	12/19/2018 1) CERTMAIL Reg/Cert#: 7018 1130 0001 5995 9148 Receipt Ret: 1/3/2019 2) MAIL Status: Accepted	2/1/2019 Instrument: 20190201002790	WELLS FARGO HOME MORTGAGE, 2701 WELLS FARGO WAY MAC 9287-011, MINNEAPOLIS, MN 55467
N-N&OA Additional Notice and Order Sent	12/19/2018	12/19/2018 1) CERTMAIL Reg/Cert#: 7018 1130 0001 5995 9155 Receipt Ret: 1/3/2019 2) MAIL Status: Accepted		NATIONAL FIELD REPRESENTATIVES, 136 MAPLE AVE, CLAREMONT, NH 03743
N-N&OA Additional Notice and Order Sent	12/19/2018	12/19/2018 1) CERTMAIL Reg/Cert#: 7018 1130 0001 5995 9162 Receipt Ret: 12/26/2018 2) MAIL Status: Accepted		TRISSELL JUNE R, 6620 HARTMAN ST , LAS VEGAS, NV 89108-5625
N-N&OA Additional Notice and Order Sent	4/3/2019	4/3/2019 1) CERTMAIL Reg/Cert#: 7019 0140 0000 7561 5677 2) MAIL		TRISSEL JUNE E, 6620 HARTMAN ST, LAS VEGAS, NV 89108-5625

City of Las Vegas
Department of Planning
Code Enforcement Case Report

NOTICES AND DELIVERY TRACKING

Notice/Log	Issued	Mailed	Recorded	Recipient Name
N-N&OA Additional Notice and Order Sent	4/3/2019	4/3/2019 1) CERTMAIL Reg/Cert#: 7019 0140 0000 7561 5660 2) MAIL		NATIONAL FIELD REPRESENTATIVES, 136 MAPLE AVE, CLAREMONT NH 03743
N-N&O Notice and Order Sent	4/3/2019	4/3/2019 1) CERTMAIL Reg/Cert#: 7019 0140 0000 7561 5653 2) MAIL		WELLS FARGO HOME MORTGAGE, 2701 WELLS FARGO WAY MAC 9287- 011, MINNEAPOLIS MN 55467
N-NTAA Additional 10-Day Notice to Abate Sent	5/1/2019	5/1/2019 1) CERTMAIL Reg/Cert#: 7018 3090 0000 3967 7169 2) MAIL		NATIONAL FIELD REPRESENTATIVES 136 MAPLE AVE CLAREMONT, NH 03743
N-NTA 10-Day Notice to Abate Sent	5/1/2019	5/1/2019 1) CERTMAIL Reg/Cert#: 7018 3090 0000 3967 7183 Receipt Ret: 5/6/2019 2) MAIL Status: Returned		TRISSEL JUNE E 6620 HARTMAN ST LAS VEGAS, NV 89108-5625
N-NTAA Additional 10-Day Notice to Abate Sent	5/1/2019	5/1/2019 1) CERTMAIL Reg/Cert#: 7018 3090 0000 3967 7176 2) MAIL		WELLS FARGO HOME MORTGAGE 2701 WELLS FARGO WAY MAC N9287- 011 MINNEAPOLIS, MN 55467
N-N&O Notice and Order Sent	5/30/2019			

City of Las Vegas
Department of Planning
Code Enforcement Case Report

NOTICES AND DELIVERY TRACKING

Notice/Log	Issued	Mailed	Recorded	Recipient Name
N-N&OA Additional Notice and Order Sent	6/5/2019	6/5/2019 1) CERTMAIL Reg/Cert#: 70190140000102019904 2) MAIL Status:		NATIONAL FIELD REPRESENTATIVES
N-N&OA Additional Notice and Order Sent	6/5/2019	6/5/2019 1) CERTMAIL Reg/Cert#: 70190140000102019898 2) MAIL Status:		WELLS FARGO HOME MORTGAGE
N-N&O Notice and Order Sent	6/5/2019	6/5/2019 1) CERTMAIL Reg/Cert#: 70190140000102019881 2) MAIL Status:	6/17/2019 Instrument: 20190617-0001111	TRISSEL JUNE E, 6620 HARTMAN ST, LAS VEGAS, NV 89108-5625
LETTER Letter	8/14/2019	8/14/2019 1) CERTMAIL Reg/Cert#: 7019 0700 0001 5443 2528 2) MAIL Status:		TRISSEL JUNE E, 6620 HARTMAN ST, LAS VEGAS, NV 89108-5625
LETTER Letter	8/14/2019	8/14/2019 1) CERTMAIL Reg/Cert#: 7019 0700 0001 5443 2535 Receipt Ret: 8/20/2019 2) MAIL Status: Returned		NATIONAL FIELD REPRESENTATIVES, 136 MAPLE AVE, CLAREMONT, NH 03743
N-VAC N-VAC		1) 2) Status:		

City of Las Vegas
Department of Planning
Code Enforcement Case Report

Fee Information:

Fee Name	Fee Added	Status	Liened	Fee Amount	Fee Paid	Fee Due
Residential Inspection Fee	1/5/2019	U	Y	$120.00	$0.00	$120.00
Late Fee	2/20/2019	U	Y	$12.00	$0.00	$12.00
Residential Reinspection Fee	4/3/2019	U	Y	$180.00	$0.00	$180.00
Second Residential Civil Penalty	4/3/2019	U	Y	$300.00	$0.00	$300.00
Residential Reinspection Fee	4/19/2019	U	Y	$180.00	$0.00	$180.00
Third Residential Civil Penalty	4/19/2019	U	Y	$500.00	$0.00	$500.00
Residential Reinspection Fee	5/3/2019	U	Y	$180.00	$0.00	$180.00
Fourth Residential Civil Penalty	5/3/2019	U	Y	$500.00	$0.00	$500.00
Late Fee	5/19/2019	U	Y	$18.00	$0.00	$18.00
Residential Reinspection Fee	5/23/2019	U	Y	$180.00	$0.00	$180.00
Recurring Residential Civil Penalty	5/23/2019	U	Y	$500.00	$0.00	$500.00
Re-Inspection Fee	6/5/2019	U	Y	$180.00	$0.00	$180.00
Re-Inspection Fee	7/12/2019	U	Y	$180.00	$0.00	$180.00
Re-Inspection Fee	7/30/2019	U	Y	$180.00	$0.00	$180.00
Civil Penalty Fee	7/30/2019	U	Y	$500.00	$0.00	$500.00
Nuisance Abatement Fee	7/30/2019	U	Y	$1,750.00	$0.00	$1,750.00
Administrative Fee	7/30/2019	U	Y	$262.50	$0.00	$262.50
Daily Civil Penalty Fee	8/28/2019	U	Y	$2,300.00	$0.00	$2,300.00
Lien Released Fee	9/18/2019	U	Y	$40.00	$0.00	$40.00
Lien Released Fee	9/18/2019	U	Y	$40.00	$0.00	$40.00
			Totals	$8,102.50	$0.00	$8,102.50

Inst #: 20200108-0002705
Fees: $0.00
01/08/2020 04:14:40 PM
Receipt #: 3952118
Requestor:
CITY OF LAS VEGAS, BUILDING
Recorded By: RYUD Pgs: 1
DEBBIE CONWAY
CLARK COUNTY RECORDER
Src: MAIL
Ofc: MAIN OFFICE

APN 138-02-310-048

NOTICE AND CLAIM OF LIEN OF ASSESSMENT

TO: **TRISSEL JUNE E C/O TRUSTEE CLARK COUNTY TREASURER**
Reputed Owner(s) at time of abatement.

Assessor's Parcel No.: 138-02-310-048
Commonly known as: 6620 HARTMAN ST
Legal Description: JADE PARK UNIT #5
PLAT BOOK 20 PAGE 11
LOT 51 BLOCK 8

On **10/25/2019** as provided in the Title 9, Chapter 4, the City of Las Vegas caused the abatement of a nuisance condition on the following property after due and proper notification.

Expenses costs and fees ("Actual Cost") in the amount of **$3,335.75** were incurred by the City of Las Vegas in the above-referenced nuisance abatement procedure. Additionally, pursuant to Las Vegas Municipal Code, including without limitation Sections 9.04.040 and/or .100 thereof, civil liability/penalties in the amount of **$19,500** were approved against the property for causing or maintaining a public nuisance as defined by 9.04.010 and/or other Municipal Code sections. The City Council Designee, at a duly noticed hearing held on **December 19, 2019** ordered the above Actual Cost in the amount of **$3,335.75**, be immediately assessed against the property by means of this Lien of Assessment with the lien duly recorded and certified copies of said lien given to the County Treasurer for collection as ordinary property taxes. Said lien shall also be prior to and superior to all liens, claims, encumbrances and titles, other than liens of assessment and general taxes. All laws applicable to the levy, collection, and enforcement of property taxes shall be applicable to this lien.

All or any portion of this Lien of Assessment, which remains unpaid after 30 days from the date of the recording thereof on the assessment roll, shall become delinquent and shall accrue interest at the rate of 7 percent per annum from and after said date. This lien shall continue until the assessment, which forms the subject matter thereof, and all interest due and payable thereon, shall have been paid in full.

NOTE: The City Council Designee ordered the above civil penalties in the amount of **$19,500** be assessed against the property by recording a Lien of Assessment on or after **August 21, 2019**.

Mary McElhone, Deputy City Clerk
495 South Main Street
Las Vegas, NV 89101

STATE OF NEVADA)
)
COUNTY OF CLARK)

Mary McElhone, being duly sworn, deposes and says that she is the person who executed the foregoing instrument on behalf of the City of Las Vegas and that she has read the same and knows the contents thereof, that the matters stated herein are true to her own knowledge, except such matters as are stated to be on information and belief, and as to those matters, she believes them to be true.

Mary McElhone, Deputy City Clerk

Subscribed and sworn to before me this 31 day of December, 2019

NOTARY PUBLIC, in and for said County and State

JENNIFER L. LANCASTER
Notary Public-State of Nevada
Appointment No. 10-1829-1
My Appointment Expires April 1, 2022

WHEN RECORDED, RETURN TO:
CITY OF LAS VEGAS, DEPARTMENT OF PLANNING
333 N RANCHO DRIVE, LAS VEGAS, NV 89106 Case #CE19-01559

Inst #: 20201007-0000840
Fees: $42.00
10/07/2020 08:55:54 AM
Receipt #: 4241837
Requestor:
CITY OF LAS VEGAS, BUILDING
Recorded By: HAMMV Pgs: 1
Debbie Conway
CLARK COUNTY RECORDER
Src: MAIL
Ofc: MAIN OFFICE

APN 138-02-310-048

NOTICE AND CLAIM OF LIEN OF ASSESSMENT

TO: **TRISSEL JUNE E C/O TRUSTEE CLARK COUNTY TREASURER**
Reputed Owner(s) at time of abatement.

Assessor's Parcel No.: 138-02-310-048
Commonly known as: 6620 HARTMAN ST
Legal Description: JADE PARK UNIT #5
PLAT BOOK 20 PAGE 11
LOT 51 BLOCK 8

On **10/25/2019** as provided in the Title 9, Chapter 9, the City of Las Vegas caused the abatement of a nuisance condition on the following property after due notification.

Pursuant to las Vegas Municipal Code, including without limitation Sections 9.04.040 and/or .100 thereof, civil liability/penalties in the amount of **$19,500** were approved against the property for causing or maintaining a public nuisance as defined by 9.04.010 and/or other Municipal Code sections.

The City Council Designee, at a duly noticed hearing held on **December 19, 2019** ordered the above charges in the amount of **$19,500**, assessed against the property by means of a Lien of Assessment, such a lien to be duly recorded and certified copies of said lien given to the County Treasurer for collection as ordinary property taxes. Said lien shall also be prior to and superior to all liens, claims, encumbrances and titles, other than liens of assessment and general taxes. All laws applicable to the levy, collection, and enforcement of property taxes shall be applicable to this lien.

All or any portion of this lien of assessment, which remains unpaid after 30 days from the date of the recording thereof on the assessment roll, shall become delinquent and shall accrue interest at the rate of 7 percent per annum from and after said date. This lien shall continue until the assessment, which forms the subject matter thereof, and all interest due and payable thereon, shall have been paid in full.

Mary McElhone, Deputy City Clerk
495 South Main Street
Las Vegas, NV 89101

STATE OF NEVADA)
)
COUNTY OF CLARK)

Mary McElhone, being duly sworn, deposes and says that she is the person who executed the foregoing instrument on behalf of the City of Las Vegas and that she has read the same and knows the contents thereof, that the matters stated herein are true to her own knowledge, except such matters as are stated to be on information and belief, and as to those matters, she believes them to be true.

Mary McElhone, Deputy City Clerk

Subscribed and sworn to before me this 31 day of December, 2019

NOTARY PUBLIC, in and for said County and State

WHEN RECORDED, RETURN TO:
CITY OF LAS VEGAS, DEPARTMENT OF PLANNING
333 N RANCHO DRIVE, LAS VEGAS, NV 89106 Case #CE19-01559

JENNIFER L. LANCASTER
Notary Public-State of Nevada
Appointment No. 10-1829-1
My Appointment Expires April 1, 2022

6620 HARTMAN ST

Case CE19-01559

PRE-ABATEMENT

POST ABATEMENT

6620 HARTMAN ST

Case CE19-01559

PRE-ABATEMENT

POST ABATEMENT

6620 HARTMAN ST

Case CE19-01559

PRE-ABATEMENT

POST ABATEMENT

6620 HARTMAN ST

Case CE19-01559

PRE-ABATEMENT

POST ABATEMENT

6620 HARTMAN ST

Case CE19-01559

PRE-ABATEMENT

POST ABATEMENT

City of Las Vegas
Department of Planning
Code Enforcement Case Report

Case #: CE19-01559

6620 Hartman St - Map # 01819-62 Parcel 13802310048

Owner Information:

TRISSEL JUNE E
6620 HARTMAN ST
LAS VEGAS, NV 89108-5625

Zoning Information:	R-MH (Mobile/Manufactured Home)				
Case Comments:	carport is dilapidated all the window have been broken into as well.compl_ID_702-658-1789				
Case Assigned To:	LIDIA M MCKENZIE-WHITE (13)				
Date Case Opened:	8/1/2019	**Ward:**	4	**Source:**	CITZ
Date Case Resolved:	10/29/2019	**Disposition:**	Abate		
Property Info / Status:	**Vacant:** Y	**Foreclosure:**	N	**Secure:**	N

Violations:

Violation		Date	Status
AB-006	16.08.010 UDB SEC 403	8/2/2019	Complied
Location:	Mobile Home All points of entry		
Comments:	Board all windows and doors to specifications.		
AN-003	9.04.010 (4) REFUSE & WASTE	8/2/2019	Complied
Location:	All areas		
Comments:	Remove all refuse from property to include large fallen metal carport, broken glass, dumped trash.		

Chronology of Events:

August 2, 2019	**Research** 17) Mobile is vacant and was abated by contractor last week. Since abatement windows have been broken out and carport has been damaged so that it is now refuse. There is no clear ownership on property and is in collections with County. Owner of record: June Trissel is deceased. Leinholder, Wells Fargo no longer has interest in property. Property is not registered and has MERs info is reversed and no longer valid.
August 2, 2019	**Notice And Order Request** 17) To 25 with photos.
August 2, 2019	**Insp# : 681571 (Fail)** 17) No person on site at this time but several broken windows and carport on east side of property has been damaged and is now fallen. Refuse of glass, dumped trash and damaged carport, Initiating N&O.
August 5, 2019	**Phone Call** Complainant neighbor states the "son" trashed up this place after he was told to leave. Says he threw something into the window, and kicked or busted the lattice legs of the carport so it would fall.Compl._702-655-6619
August 7, 2019	**Notice & Order Processing** 25] Reviewed file. File to EW for N&O

City of Las Vegas
Department of Planning
Code Enforcement Case Report

Chronology of Events:	
August 10, 2019	**Insp# : 681632 (Post)** 17) No change in condition N&O posted.
August 23, 2019	**Insp# : 682548 (Fail)** 17) No change in condition, pix, assess fee. Proceed with bids.
August 28, 2019	**Meeting** 25] Met with Sean Munz 657-365-9568 presumed son of dead owner and friend/advocate Brenda "Lee" Cebular 656-0892 of 4317 Zinnia Ln. Had waiver request today, was informed by 19 and Council Designee John B. to speak to me about case. In short. There is no documentation this is the owners son nor that he has legal right to the property. They wanted to know if he could move back in if power/water returned.Supposedly he is the executor of the dead mom's will but, has done no legal proceedings to disseminate the assists pendingof the mom-namely- this house. I explained unless there was somelegal document giving him possession or governship over the house, we would not let him back in even with power/water unlee the City Atty reviewed his claim to the house. Before occupation was not a question but, re-occupation after being a public nuisance with the high probability of being a public nuisance again - I would need the ownership right reviewed before he could get in.I did agree I would not prevent them from cleaning or securing the home as long as entry to the home wasn't made.I made it clear being in the home, in the shed or camping on the property was not allowed. Sean asked all mail be sent to Brend's house.
August 28, 2019	**Notice & Order Processing** 25] Review file and bid request. file to GF for 10 DAY
August 28, 2019	**Directive** 25] 6620 Hartmen Contact Sean's advocate/friend Brenda when you get 10 DAY. Ask when they will be securing. If you feel P-pass is appropriate -ok-with me when posting 10 DAY. Brenda 656-0892 Sean 657-365-9568
August 28, 2019	**Bid Preperation** GF) Bid Preparation - awaiting fax receipt & email
August 28, 2019	**Bid Request Sent** GF) RFQ sent to contractors due 9-3-2019 by 5:00 pm
September 6, 2019	**Insp# : 684138 (Fail)** 17) Pix, assess fee. Residence has refuse and condition remains same with several accessible windows. Shed on west side of rear yard also open. Awaiting 10-day, bid deadline passed. Email to office staff.
September 9, 2019	**Bid Received** GF) Scanned & recorded - bids received
September 9, 2019	**Adminstrative** GF) Bid Approval given to # 25
September 9, 2019	**10 Day Notice Processing** GF) 10 Day notice before abatement sent, file given to #17 for posting.
September 10, 2019	**Bid Review / Supervisor** 25] BID REVIEW Weaver $1,925.oo
September 11, 2019	**Phone Call** 17) Left message for advocate, Brenda, requesting update. 702-656-0892. Attempted to contact, Sean 657-365-9568, this phone is invalid.

City of Las Vegas
Department of Planning
Code Enforcement Case Report

Chronology of Events:	
September 11, 2019	**Insp# : 685721 (Fail)** 17) No change in condition, posted 10-day. Spoke with advocate. She stated she has contacted family members of deceased owner of record, Trissell and none are willing to contribute to Sean Munz moving back or abating these violations. She further stated mail carrier will not deliver mail to Sean at her address without a formal change of address card. I explained we were moving ahead with abatement after 10-day.
September 17, 2019	**Phone Call** Complainant Dave states the guy who damaged the unit, is sleeping on the porch, with his feet hanging over the edge.
September 21, 2019	**Insp# : 686166 (Fail)** 17) No change in condition or ownership, residence remain accessible with refuse. No contact from any family member of deceased owner: June Trissel. To 25 to award bid.
September 24, 2019	**Proceed With Abatement** 25] Reviewed file. Per 17 se contacted Brenda via phone and they do not have the money to board on their owne. Case sent to Jl to obtain PO and start date
September 24, 2019	**Adminstrative** jlancaster- order PO at request of 25. requisition# 313752 awarded to Weaver for $1925
October 14, 2019	**Adminstrative** JLancaster- PO 413584 was received. Will call Weaver today to schedule
October 16, 2019	**Phone Call** JLancaster- called weaver to find out about start date. States she will let me no no later than tomorrow morning. But looks like they'd be able to start by next Wed or Thurs but not before b/c they have job with county at beginning of the week. She did state they'd need metrobcperson living on property. relayed to 25.
October 17, 2019	**Adminstrative** JLancaster- weaver emailed me and said they can start Thurs 10/24. Sent award of bid letter & cc'd 25 as they'll need metro assist. pre/post sheets to LMW and on calendar
October 21, 2019	**Phone Call** EW - new complaint - squatter is back, woman inside who put stuff in windows to conceal, trash
October 23, 2019	13) Took PRE-abatement photos. Observed trash/debris in side and back yards; all windows broken/open & accessible. shed in back is open. Back wall has graffiti. Photos saved in EB & Abatement/pre-post file.
October 23, 2019	**Insp# : 687404 (Fail)** 17) Pix, assess fee. Violations remain. In front of residence is a birthday banner hanging from window and refuse / storage visible in side yard. Abatement delayed to due finance issues but is schedule for tomorrow. Vagrant activity is suspected and Metro presence was requested. Ofc. J. Mina P#16889, Northwest Area Command (NW25), Ph. (702)236-0770,E-Mail: J16889M@LVMPD.COM. COP has agreed to meet contractor on site at 1100 hrs to clear residence is necessary. Phyllis at Weaver has related she will board and secure tomorrow and remove refuse the following day.
October 24, 2019	**Service Request** GF) New Service Request#1073041, "Squatter in house 6620 Hartman street 89108 it is vacant house with the windows broken out doors not on and broken in people running in and out selling drugs." Anonymous (10-23-19)
October 24, 2019	**Phone Call** GF) New phone complaint for the water meter lid that had been removed, and left the opening in the sidewalk, by one of the squatters at the property. A potential hazard for pedestrians.Compl._702-544-0695

City of Las Vegas
Department of Planning
Code Enforcement Case Report

Chronology of Events:

October 26, 2019	**Insp# : 690747 (PartPassed)** 170 property scraped clean, remains secure all yards, no persons seen on site. Abatement completed.
October 28, 2019	13) Took POST-abatement photos. Observed all openings boarded to specs. (lower board on base of house at East side removed). All trash/debris removed. Graffiti removed. All sheds secured. Photos filed in abatements/pre-post file & EB.
October 29, 2019	**Correspondence Email** 25] E-mail to JL to pay contractor
October 29, 2019	**Insp# : 690965 (Passed)** 25] Reviewed pictures taken by 13 on 10/28/19. Property is clean and secure according to bid. Property owners adult son was arrested on site for trespassing. expect more problems connected with this as reports of him sleeping on sidewalk have been made. Small opening allowing access to under trailer was report by 13 but, pictures appear to show too small for a person. Will monitor property with new area officer have him check this opening. CASE CLOSED
October 31, 2019	**Adminstrative** JLancaster- per 25 ok to pay. uploaded receipts to AR receipt# 520455
December 11, 2019	**Notice Of Public Hearing Post** 47) Posted Affadavit of hearing to front of house. No change to property.

NOTICES AND DELIVERY TRACKING

Notice/Log	Issued	Mailed	Recorded	Recipient Name
N-N&O Notice and Order Sent	8/8/2019	8/8/2019 1) CERTMAIL Reg/Cert#: 7018 2290 0001 8491 4608 Receipt Ret: 8/20/2019 2) MAIL Status: Returned	8/13/2019 Instrument: 20190813-0002793	TRISSEL JUNE E, 6620 HARTMAN ST, LAS VEGAS, NV 89105-5625
N-NTAA Additional 10-Day Notice to Abate Sent	9/9/2019	9/9/2019 1) CERTMAIL Reg/Cert#: 7019 0140 0001 0202 5554 2) MAIL Status:		SEAN MUNZ c/o BRENDA CEBULAR, 4317 ZINNIA, LAS VEGAS,NV 89108
N-NTA 10-Day Notice to Abate Sent	9/9/2019	9/9/2019 1) CERTMAIL Reg/Cert#: 7019 0140 0001 0202 5493 2) MAIL Status:		TRISSEL JUNE E, 6620 HARTMAN ST, LAS VEGAS, NV 89105-5625

City of Las Vegas
Department of Planning
Code Enforcement Case Report

NOTICES AND DELIVERY TRACKING

Notice/Log	Issued	Mailed	Recorded	Recipient Name
LETTER Letter	12/4/2019	12/4/2019 1) CERTMAIL Reg/Cert#: 7019 1120 0000 2577 9025 Receipt Ret: 12/31/2019 2) MAIL Status: Returned		TRISSEL JUNE E, 6620 HARTMAN ST, LAS VEGAS, NV 89105-5625
LETTER Letter	12/4/2019	12/4/2019 1) CERTMAIL Reg/Cert#: 7019 1120 0000 2577 9032 Receipt Ret: 12/11/2019 2) MAIL Status: Returned		SEAN MUNZ c/o BRENDA CEBULAR, 4317 ZINNIA, LAS VEGAS,NV 89108

Fee Information:

Fee Name	Fee Added	Status	Liened	Fee Amount	Fee Paid	Fee Due
Re-Inspection Fee	8/10/2019	U	Y	$120.00	$0.00	$120.00
Re-Inspection Fee	8/23/2019	U	Y	$180.00	$0.00	$180.00
Civil Penalty Fee	8/23/2019	U	Y	$150.00	$0.00	$150.00
Civil Penalty Fee	9/6/2019	U	Y	$300.00	$0.00	$300.00
Re-Inspection Fee	9/6/2019	U	Y	$180.00	$0.00	$180.00
Civil Penalty Fee	9/11/2019	U	Y	$500.00	$0.00	$500.00
Re-Inspection Fee	9/11/2019	U	Y	$180.00	$0.00	$180.00
Civil Penalty Fee	9/21/2019	U	Y	$500.00	$0.00	$500.00
Re-Inspection Fee	9/21/2019	U	Y	$180.00	$0.00	$180.00
Civil Penalty Fee	10/23/2019	U	Y	$500.00	$0.00	$500.00
Re-Inspection Fee	10/23/2019	U	Y	$180.00	$0.00	$180.00
Administrative Fee	10/31/2019	U	Y	$288.75	$0.00	$288.75
Nuisance Abatement Fee	10/31/2019	U	Y	$1,925.00	$0.00	$1,925.00
Daily Civil Penalty Fee	12/19/2019	U		$17,550.00	$0.00	$17,550.00
			Totals	$22,733.75	$0.00	$22,733.75

6620 Hartman Ave.
Request of Waiver

6620 Hartman Ave.
Request of Waiver

6620 Hartman Ave.
Request of Waiver

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Request of Waiver

6620 Hartman Ave.
Request of Waiver

Submitted at City Council
Date: 12/2/2020 Item: 41
Submitted by: Staff

AGENDA SUMMARY PAGE

City Council
Meeting of: December 2, 2020

Agenda Item No.:
42

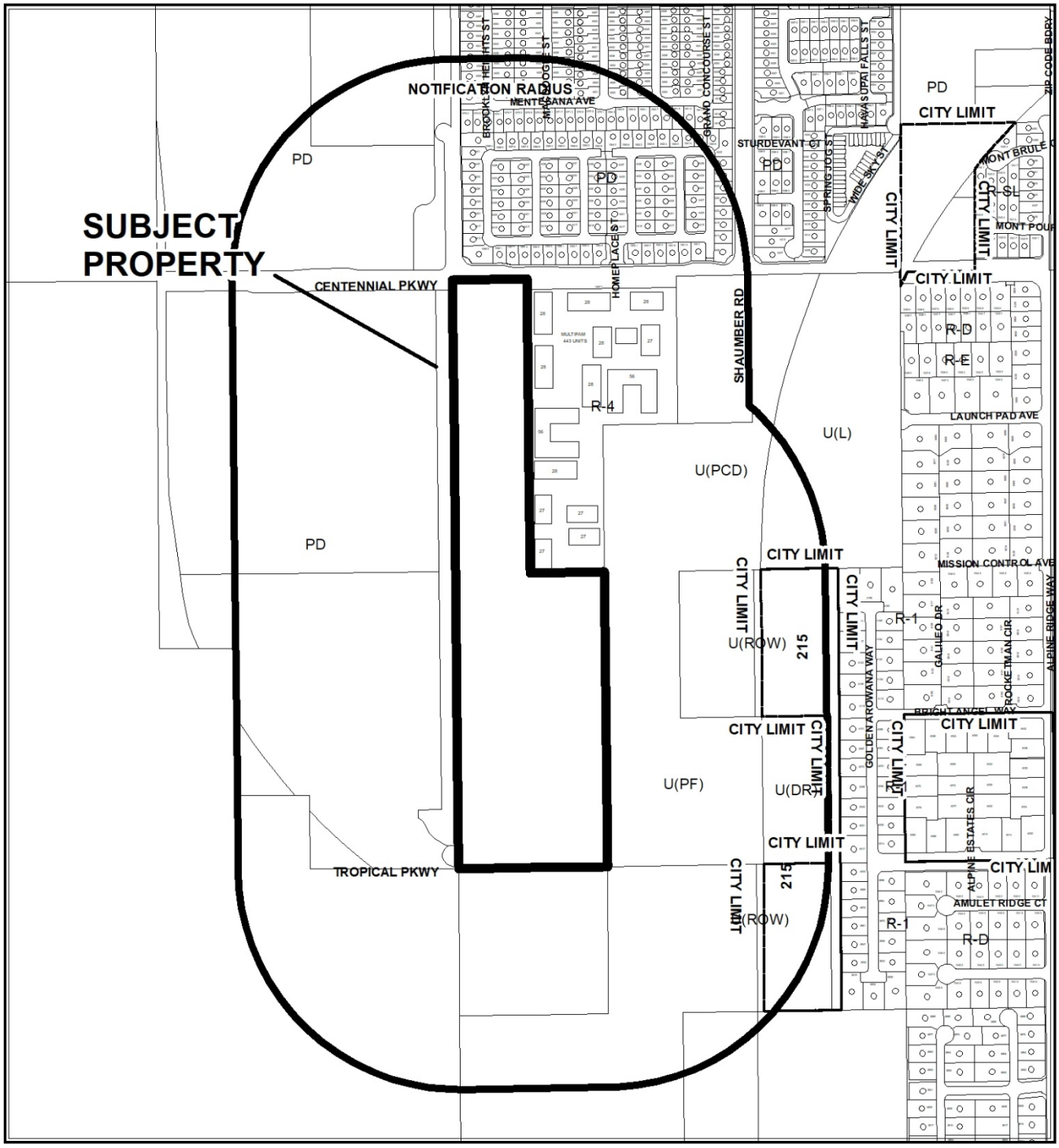
DEPARTMENT: Planning **DISCUSSION**
DIRECTOR: Robert Summerfield

SUBJECT:
20-0222-ROC1 - REVIEW OF CONDITION - PUBLIC HEARING - TENTATIVE MAP - APPLICANT/OWNER: HARMONY HOMES NEVADA, LLC - For possible action on a Land Use Entitlement project request for a Review of Condition TO REVISE CONDITION NUMBER NINE (9) OF TENTATIVE MAP (TMP-77575) WHICH STATES, "DEDICATE 40 FEET OF RIGHT-OF-WAY ADJACENT TO THIS SITE FOR PULI ROAD AND 40 FEET FOR TROPICAL PARKWAY INCLUDING A TAPER ON THE FINAL MAP FOR THIS SITE. ADDITIONALLY, GRANT A 10-FOOT WIDE ROADWAY, SEWER, AND DRAINAGE EASEMENT ALONG THE EAST SIDE OF THE 40-FOOT PULI ROAD DEDICATION." AND TO REVISE CONDITION NUMBER TEN (10) WHICH STATES, "CONSTRUCT HALF-STREET IMPROVEMENTS ON CENTENNIAL PARKWAY AND TROPICAL PARKWAY (MATCHING THE APPROVAL TAPER) TO THE WEST EDGE OF THIS SITE AT A LOCATION ACCEPTABLE TO THE CITY TRAFFIC ENGINEER INCLUDING APPROPRIATE OVERPAVING AND TRANSITION PAVING IN LIEU OF HALF-STREET ON PULI ROAD, A LINEAR PARK SHALL BE CONSTRUCTED IN THE PULI ROAD RIGHT-OF-WAY TO A DESIGN AGREED UPON BY THE DEVELOPER AND THE CITY OF LAS VEGAS OF THE 40-FOOT PULI ROAD DEDICATION." on 30 acres located on the south side of Centennial Parkway, approximately 940 feet west of Shaumber Road (APN 126-25-201-010), R-TH (Single Family Attached) Zone, Ward 6 (Fiore). Staff recommends APPROVAL.

PROTESTS RECEIVED BEFORE:		**APPROVALS RECEIVED BEFORE:**	
Planning Commission Mtg.	0	Planning Commission Mtg.	0
City Council Meeting	0	City Council Meeting	0

RECOMMENDATION:
Staff recommends APPROVAL, subject to conditions:

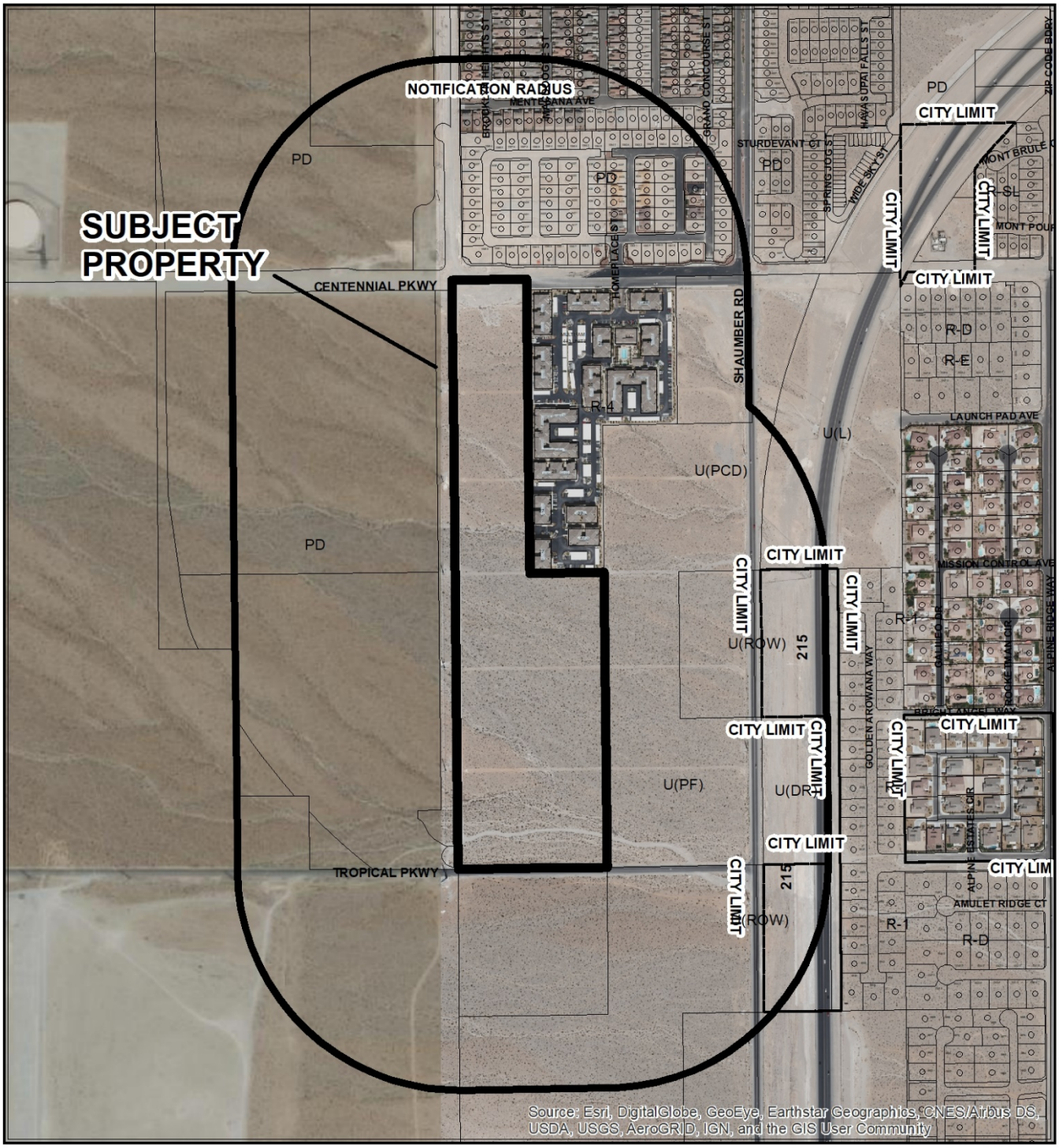
BACKUP DOCUMENTATION:
1. Location and Aerial Maps
2. Conditions and Staff Report
3. Supporting Documentation
4. Photo(s)
5. City Council Approval Letter - TMP-77575 [PRJ-77251]
6. Justification Letter



CASE: **20-0222-ROC1**

RADIUS: 1000

ZONING OF SUBJECT PROPERTY: R-TH (SINGLE FAMILY ATTACHED)



0 500 1,000 Feet

CASE: 20-0222-ROC1

RADIUS: 1000

ZONING OF SUBJECT PROPERTY: R-TH (SINGLE FAMILY ATTACHED)

N

City of Las Vegas

AGENDA MEMO - PLANNING

CITY COUNCIL MEETING DATE: DECEMBER 2, 2020
DEPARTMENT: PLANNING
ITEM DESCRIPTION: APPLICANT/OWNER: HARMONY HOMES NEVADA, LLC

** STAFF RECOMMENDATION(S) **

CASE NUMBER	*RECOMMENDATION*	*REQUIRED FOR APPROVAL*
20-0222-ROC1	Staff recommends APPROVAL, subject to conditions:	

** NOTIFICATION **

NOTICES MAILED 179 (By Planning)

PROTESTS 0

APPROVALS 0

** CONDITIONS **

20-0222-ROC1 CONDITIONS

1. Condition of approval #9 of TMP-77575 shall be revised to read, “Dedicate a minimum of 30 feet of right-of-way for Tropical Parkway including a taper on the Final Map. Dedicate 50 feet of right-of-way on Centennial Parkway including a bus turn out per Standard Drawing 234.1 and granting a Bus Shelter Pad Easement to the Regional Transportation Commission. Grant the appropriate Multi-Use Non-Equestrian Trail Easements to be privately maintained adjacent to Tropical Parkway and over the Puli Road alignment. Additionally, grant any Public Drainage or Public Sewer Easements required by Public Works in the Puli Road Alignment.

NE

2. Condition of approval #10 of TMP-77575 shall be revised to read, “Construct half-street improvements on Centennial Parkway and Tropical Parkway including the required Multi-Use Non-Equestrian Trail on Tropical Parkway (matching the approved taper) to the west edge of this site at a location acceptable to the City Traffic Engineer including appropriate overpaving and transition paving. A linear park shall be constructed in the Puli Road alignment as per the Skye Hills (BLM 270) guidelines and as agreed upon by the developer and the property to the west. Prior to issuance of permits, provide written documentation from the property owner to the west acknowledging agreement with construction drawings submitted to the City.

** STAFF REPORT **

PROJECT DESCRIPTION

The applicant is requesting a review of Conditions of Approval of numbers nine (9) and ten (10) of approved Tentative Map (TMP-77575), for a 336-lot single-family attached residential subdivision on 30.00 acres at the northeast corner of Tropical Parkway and Puli Road.

ISSUES

- Condition of Approval number nine (9) states, "Dedicate 40 feet of right-of-way adjacent to this site for Puli Road and 40 feet for Tropical Parkway including a taper on the Final Map for this site. Additionally, grant a 10-foot wide roadway, sewer, and drainage easement along the east side of the 40-foot Puli Road dedication.
- Condition of Approval number ten (10) states, "Construct half-street improvements on Centennial Parkway and Tropical Parkway (matching the approved taper) to the west edge of this site at a location acceptable to the City Traffic Engineer including appropriate overpaving and transition paving. In lieu of half-street improvements on Puli Road, a linear park shall be constructed in the Puli Road right-of-way to a design agreed upon by the developer and the City of Las Vegas."

ANALYSIS

After the approval of the subject Tentative Map (TMP-77575) in December of 2019, the Master Plan of Streets and Highways was revised to remove Puli Road. A subsequent master subdivision map, Final Map (FMP-78687), for the neighboring parcel to the west [*Skye Hills (BLM 270)*], has recorded and creates a common lot along the Puli Road alignment, for the purpose of their portion of a linear park to be constructed. In addition, the recorded Final Map assumes a minimum dedication of 30-feet of right-of-way for Puli Road.

The applicant, located on the east side of the former Puli Road alignment is requesting to do the same for their portion of the required improvements, including the portions of linear park and right-of-way improvements adjacent to their development as approved by Tentative Map (TMP-77575).

FINDINGS

Staff finds the previously approved Condition of Approval numbers nine (9) and ten (10) are no longer applicable since the removal of Puli Road from the Master Plan of Streets and Highways. Therefore, staff is recommending approval of the request with conditions.

BACKGROUND INFORMATION

Related Relevant City Actions by P&D, Fire, Bldg., etc	
12/18/19	The City Council approved a request for a General Plan Amendment (GPA-77367) from PCD (Planned Community Development) and PF Public Facilities) to M (Medium Density Residential) on 30.00 acres at the northeast corner of Tropical Parkway and Puli Road. The Planning Commission and staff recommended approval.
	The City Council approved a request for a Rezoning (ZON-77572) from U (Undeveloped) [PCD (Planned Community Development) and PF Public Facilities) General Plan Designations] to R-TH (Single-Family Attached) on 30.00 acres at the northeast corner of Tropical Parkway and Puli Road. The Planning Commission and staff recommended approval.
	The City Council approved a request for a Variance (VAR-77701) to allow nonstandard private streets where such is required; stub streets where a cul-de-sac or hammerhead is required; and a connectivity ratio of 1.00 where 1.30 is required on 30.00 acres at the northeast corner of Tropical Parkway and Puli Road. The Planning Commission recommended approval, staff recommended denial.
	The City Council approved a request for a Variance (VAR-77573) to allow a 12-foot tall retaining wall with a six-foot tall perimeter wall where a four-foot tall retaining wall and six to eight-foot tall perimeter wall is the maximum allowed on 30.00 acres at the northeast corner of Tropical Parkway and Puli Road. The Planning Commission recommended approval, staff recommended denial.
	The City Council approved a request for a Petition to Vacate (VAC-77574) U.S. Government Patent Easements generally located at the northeast corner of Tropical Parkway and Puli Road. The Planning Commission and staff recommended approval.
	The City Council approved a request for a Tentative Map (TMP-77575) for a 336-lot single-family attached residential subdivision [townhome] on 30.00 acres at the northeast corner of Tropical Parkway and Puli Road. The Planning Commission recommended approval, staff recommended denial.

Related Relevant City Actions by P&D, Fire, Bldg., etc	
04/15/20	The City Council approved a request for a general Plan Amendment (GPA-78349) to amend Map Numbers 1 and 2 of the Trails Element of the Las Vegas 2020 Master Plan. The Planning Commission and Staff recommended approval.
	The City Council approved a request for a general Plan Amendment (GPA-78348) to amend the Planned Streets and Highways Map and Schedule 13-1A and to amend Map 2C of the Transportation & Streets and Highways Element of the Las Vegas 2020 Master Plan to add, remove or amend various roadway alignments within the northwest portion of the City. The Planning Commission and Staff recommended approval.

Most Recent Change of Ownership	
05/2020	A deed was recorded for a change in ownership.

Related Building Permits/Business Licenses
There are no building permits or business licenses related to the subject site.

Pre-Application Meeting
A pre-application meeting was not required for a Review of Condition application.

Neighborhood Meeting
A neighborhood meeting was not required, nor was one held.

Field Check
A field check was not performed for a Review of Condition.

Details of Application Request	
Site Area	
Gross Acres	30.00

Surrounding Property	***Existing Land Use Per Title 19.12***	***Planned or Special Land Use Designation***	***Existing Zoning District***
Subject Property	Undeveloped	M (Medium Density Residential)	R-TH (Single Family Attached)
North	Single Family, Detached	PCD (Planned Community Development)	PD (Planned Development)
South	Undeveloped	PF (Public Facilities)	U (Undeveloped)
East	Undeveloped	PF (Public Facilities)	U (Undeveloped)
	Multi-Family	H (High Density Residential)	R-4 (High Density Residential)
West	Undeveloped	PCD (Planned Community Development)	PD (Planned Development)

Master and Neighborhood Plan Areas	***Compliance***
No Applicable Master Plan Area	N/A
Special Area and Overlay Districts	***Compliance***
No Applicable Special Area or Overlay Districts	N/A
Other Plans or Special Requirements	***Compliance***
Northwest Open Space Plan	Y
Trails – Puli (Multi-Use Non-Equestrian)	Y
Las Vegas Redevelopment Plan Area	N/A
Interlocal Agreement	N/A
Project of Significant Impact (Development Impact Notification Assessment)	N/A
Project of Regional Significance	N/A

DEPARTMENT OF PLANNING

Application / Petition Form & Statement of Financial Interest

Department Use	
Case #	
Meeting Date	
Total Fee	
Received By/Date	

Case Type (Special Use Permit, Rezoning, Variance, Site Development Plan Review, etc) REVIEW OF CONDITIONS

Project Address (Location) TROPICAL PKWY & PULI

Project Name CENTENNIAL HEIGHTS TOWNHOMES - PHASE 1 **Proposed Use**

Assessor's Parcel #(s) 126-25-201-010 **Ward #** 6

General Plan: Existing Proposed **Zoning:** Existing Proposed

Additional Information LAND USE APPROVED UNDER: ZON 77572, VAR 77573, VAC 77574, TMP 77575

Property Owner HARMONY HOMES NEVADA LLC **Contact** MATT ROSENDBERG

Address 8912 SPANISH RIDGE DRIVE, SUITE 200 City LV State NV Zip 89148

E-mail MROSENBERG@HARMONYHOMES.COM Phone 702.570.7213

Applicant HORROCKS ENGINEERS **Contact** LARRY BITTON

Address 1401 N. GREEN VALLEY PKWY, SUITE 160 City HENDERSON State NV Zip 89074

E-mail LARRYB@HORROCKS.COM Phone 7029664063

Representative HORROCKS ENGINEERS **Contact** LARRY BITTON

Address 1401 N. GREEN VALLEY PKWY, SUITE 160 City HENDERSON State NV Zip 89074

E-mail LARRYB@HORROCKS.COM Phone 7029664063

To the best of your knowledge, does the Mayor or any member of the City Council or Planning Commission have any financial interest in this or any other property with the property owner, applicant, the property owner or applicant's general or limited partners, or an officer of their corporation or limited liability company? ☐ Yes ☒ No

If yes, please indicate the member of the City Council or Planning Commission who is involved and list the name(s) of the person or persons with whom the City Official holds an interest. Also list the Assessor's Parcel Number if the property in which the interest is held is different from the case parcel.

City Official **Partner(s)**

Partner(s)

- I certify that I am the applicant and that the information submitted with this application is true and accurate to the best of my knowledge and belief. I understand that the City is not responsible for inaccuracies in information presented, and that inaccuracies, false information or incomplete application may cause the application to be rejected. I further certify that I am the owner or purchaser (or option holder) of the property involved in the application, or the lessee or agent fully authorized by the owner to make this submission, as indicated by the owner's signature below.
- Application will not be deemed complete until the submitted materials have been reviewed by Department of Planning for consistency with the Zoning Ordinance.

Property Owner Signature

An authorized agent may sign in lieu of the property owner for Final Maps, Tentative Maps and Parcel Maps

Print Name MATTHEW K. ROSENBERG, CEO

Subscribed and sworn before me

This 22nd day of September, 20 20

Notary Public in and for said County and State

MELISSA GUTIERREZ
Notary Public
State of Nevada
Appt. No. 03-65579-1
My Appt. Expires Dec 09/26/2020

20-0222

C:\Users\anthony.deleon\appdata\local\temp\AcPublish_12408\NV-1826_Multi-Fm_TM.dwg - 2 - 11/11/2019 07:21pm anthony.deleon

Call before you dig
811
Call
1-800-227-2600

CALL BEFORE YOU DIG
1-702-227-2929

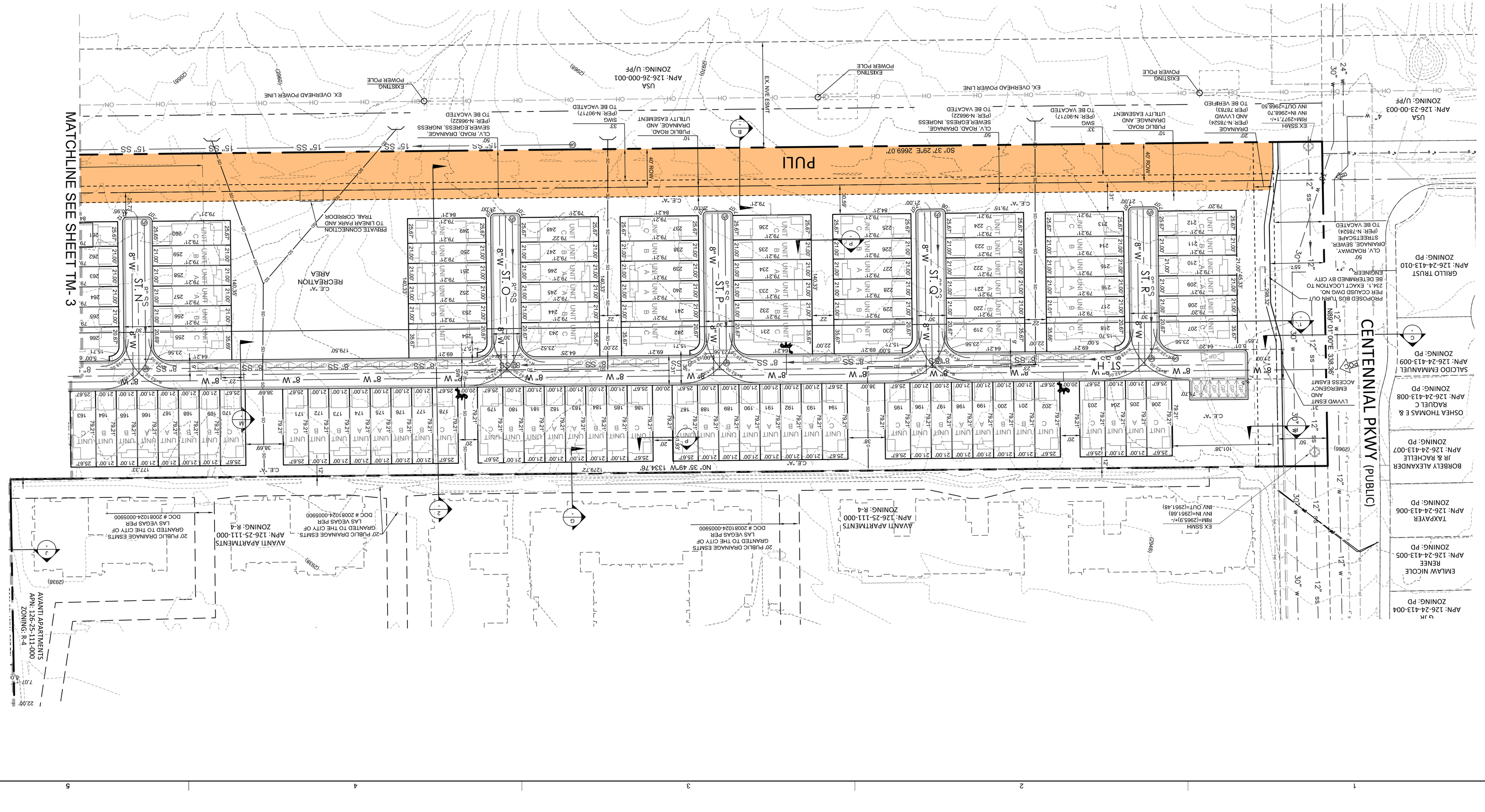
Call before you Underground
1-702-432-5300
EASTERN NEVADA UTILITY LINES, ITS COST'S'.
REQUIRED AND AS BUILT
SYSTEM OF TRANSPORTATION

CONTOUR NOTE:
ALL EXISTING CONTOURS ARE DERIVED FROM GIS DATA AND ARE PRESENTED USING 2' AND 10' INTERVALS.

NOTE:
ALL STREETS WITHIN TOWNHOME COMMUNITY ARE PRIVATE WITH PUBLIC DRAINAGE AND UTILITY EASEMENTS.

NOTE:
ABOVE GROUND UTILITY BOXES SHALL NOT BE PLACED WITHIN TRAIL CORRIDORS.

20-0222
09/28/2020



CENTENNIAL HEIGHTS TOWNHOMES
HARMONY HOMES
CITY OF LAS VEGAS
TENTATIVE MAP

PROJECT	DRAWING INFO
CHECKED: LMB	DATE: 11/11/2019
DRAWN: SS	DESIGNED: LMB

REVISIONS		
REV #	DATE	
1		

*SEE GENERAL NOTES SHEET

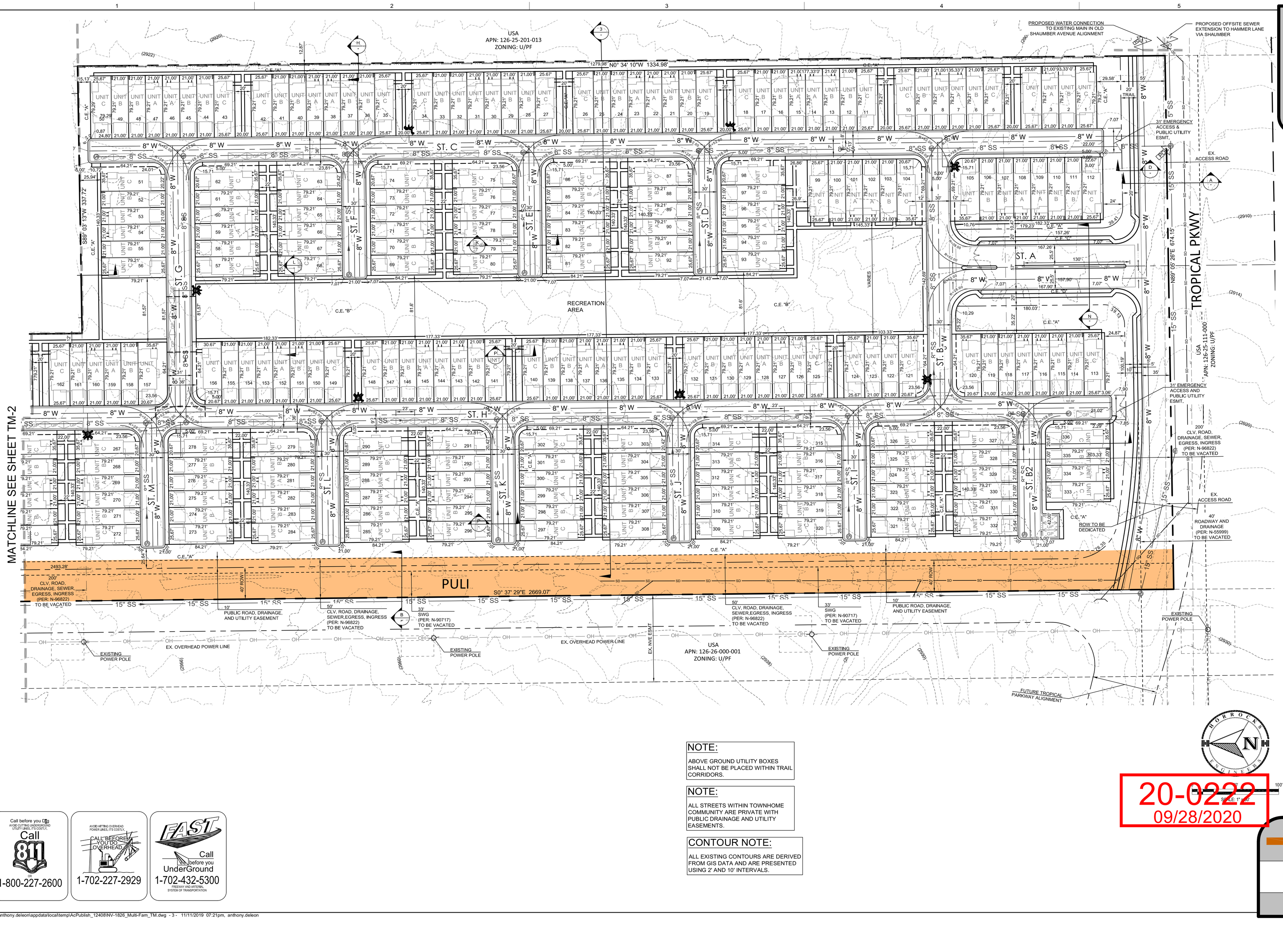
WARNING
IF THIS BAR DOES NOT MEASURE 2" THEN DRAWING IS NOT TO SCALE
0 1 2

HORROCKS ENGINEERS
1401 N. Green Valley Pkwy, Suite 160
Henderson, NV 89074
(702) 966-4063
www.horrocks.com

TM-2
PAGE 2

PROFESSIONAL ENGINEER-STATE OF NEVADA
LARRY M. BITTON
No. 015659
CIVIL
EXP. 12-31-20
11/11/2019

City Council - Page 832



NOTE:

ABOVE GROUND UTILITY BOXES SHALL NOT BE PLACED WITHIN TRAIL CORRIDORS.

NOTE:

ALL STREETS WITHIN TOWNHOME COMMUNITY ARE PRIVATE WITH PUBLIC DRAINAGE AND UTILITY EASEMENTS.

CONTOUR NOTE:

ALL EXISTING CONTOURS ARE DERIVED FROM GIS DATA AND ARE PRESENTED USING 2' AND 10' INTERVALS.

Call before you DIG
AVOID CUTTING UNDERGROUND UTILITY LINES, IT'S COSTLY...
Call 811
OR
1-800-227-2600

AVOID HITTING OVERHEAD POWER LINES, IT'S COSTLY...
CALL BEFORE YOU DO OVERHEAD
1-702-227-2929

FAST
Call before you UnderGround
1-702-432-5300
FREEWAY AND ARTERIAL SYSTEM OF TRANSPORTATION

20-0222
09/28/2020

HORROCKS ENGINEERS
1401 N. Green Valley Pkwy., Suite 160
Henderson, NV 89074
(702) 966-4063
www.horrocks.com

WARNING
0 1 2
IF THIS BAR DOES NOT MEASURE 2" THEN DRAWING IS NOT TO SCALE

REVISIONS
REV # | DATE

DRAWING INFO
DATE 11/11/2019
DESIGNED LMB
DRAWN SS
CHECKED LMB
PROJECT

SEE GENERAL NOTES SHEET

PROFESSIONAL ENGINEER - STATE OF NEVADA
LARRY M. BITTON
EXP. 12-31-20
CIVIL
No. 010169
11/11/2019

CENTENNIAL HEIGHTS TOWNHOMES
HARMONY HOMES
CITY OF LAS VEGAS
TENTATIVE MAP

TM-3
PAGE 3

20-0222-ROC1 - APPLICANT/OWNER: HARMONY HOMES NEVADA, LLC
SOUTH SIDE OF CENTENNIAL PARKWAY, 940 FEET SOUTH OF SHAUMBER ROAD

10/30/20

LAS VEGAS CITY COUNCIL

CAROLYN G. GOODMAN
Mayor

MICHELE FIORE
Mayor Pro Tem

STAVROS S. ANTHONY
CEDRIC CREAR
BRIAN KNUDSEN
VICTORIA SEAMAN
OLIVIA DIAZ

SCOTT D. ADAMS
City Manager

DEPARTMENT OF PLANNING

ROBERT SUMMERFIELD
DIRECTOR

DEVELOPMENT SERVICES CENTER

333 N. RANCHO DRIVE
3RD FLOOR
LAS VEGAS, NV 89106

702.229.6301 | VOICE
702.474.7463 | FAX
711 | TTY

cityoflasvegas
lasvegasnevada.gov

December 19, 2019

Mr. Matt Rosenberg
Harmony Homes Nevada, LLC
8912 Spanish Ridge Avenue, Suite #200
Las Vegas, Nevada 89148

RE: TMP-77575 [PRJ-77251] - TENTATIVE MAP RELATED TO GPA-77367, ZON-77572, VAR-77701, VAR-77573 AND VAC-77574 CITY COUNCIL MEETING OF DECEMBER 18, 2019

Dear Mr. Rosenberg:

The City Council at a regular meeting held on December 18, 2019 voted to ***APPROVE*** your request for a Tentative Map FOR A 336-LOT SINGLE-FAMILY ATTACHED RESIDENTIAL SUBDIVISION [TOWNHOME] on 30.00 acres at the northeast corner of Tropical Parkway and Puli Road (APN 126-25-201-010), U (Undeveloped) Zone [PCD (Planned Community Development and PF (Public Facilities) General Plan Designations] [PROPOSED: R-TH (Single-Family Attached)], Ward 6 (Fiore) [PRJ-77251].

This approval is subject to the following conditions:

Planning

1. Approval of the Tentative Map shall be for no more than four (4) years. If a Final Map is not recorded on all or a portion of the area embraced by the Tentative Map within four (4) years of the approval of the Tentative Map, this action is void.

2. Approval of General Plan Amendment (GPA-77367) and Rezoning (ZON-77572), approval of and conformance to the Conditions of Approval for Variance (VAR-77701), Variance (VAR-77573) and Petition to Vacate (VAC-77574) shall be required, if approved.

3. Street names must be provided in accordance with the City's Street Naming Regulations.

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4. A technical landscape plan, signed and sealed by a Registered Architect, Landscape Architect, Residential Designer or Civil Engineer, must be submitted prior to or at the same time application is made for a building permit. A permanent underground sprinkler system is required, and shall be permanently maintained in a satisfactory manner; the landscape plan shall include irrigation specifications. Installed landscaping shall not impede visibility of any traffic control device. The technical landscape plan shall include the following changes from the conceptual landscape plan:
    - A six-foot wide landscaping buffer shall be installed adjacent to Tropical Parkway and Centennial Parkway.
    - One, 36-inch box shade tree shall be installed every 20 linear feet within the required landscape buffer adjacent to Tropical Parkway and Centennial Parkway.
    - Four, five-gallon shrubs shall be planted for every required tree within the required landscape buffer areas.
    - Palm trees are to be used as an accent tree only and not as a required tree.

5. A fully operational fire protection system, including fire apparatus roads, fire hydrants and water supply, shall be installed and shall be functioning prior to construction of any combustible structures.

6. In conjunction with creation, declaration and recordation of the subject common-interest community, and prior to recordation of the Covenants, Codes and Restrictions ("CC&R"), or conveyance of any unit within the community, the Developer is required to record a Declaration of Private Maintenance Requirements ("DPMR") as a covenant on all associated properties, and on behalf of all current and future property owners. The DPMR is to include a listing of all privately owned and/or maintained infrastructure improvements, along with assignment of maintenance responsibility for each to the common interest community or the respective individual property owners, and is to provide a brief description of the required level of maintenance for privately maintained components. The DPMR must be reviewed and approved by the City of Las Vegas Department of Field Operations prior to recordation, and must include a statement that all properties within the community are subject to assessment for all associated costs should private maintenance obligations not be met, and the City of Las Vegas be required to provide for said maintenance. Also, the CC&R are to include a statement of obligation of compliance with the DPMR. Following recordation, the Developer is to submit copies of the recorded DPMR and CC&R documents to the City of Las Vegas Department of Field Operations.

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7. All development is subject to the conditions of City Departments and State Subdivision Statutes.

Public Works

8. A Petition of Vacation, such as VAC-77574, shall record prior to and concurrently with a Final Map for this site to eliminate U.S. Government Patent Easements.

9. Dedicate 40 feet of right-of-way adjacent to this site for Puli Road and 40 feet for Tropical Parkway including a taper on the Final Map for this site. Additionally, grant a 10-foot wide Roadway, Sewer, and Drainage easement along the east side of the 40-foot Puli Road dedication.

10. Construct half-street improvements on Centennial Parkway and Tropical Parkway (matching the approved taper) to the west edge of this site at a location acceptable to the City Traffic Engineer including appropriate overpaving and transition paving. In lieu of half-street improvements on Puli Road, a linear park shall be constructed in the Puli Road right-of-way to a design agreed upon by the developer and the City of Las Vegas.

11. All landscaping and private improvements installed with this project shall be situated and maintained so as to not create sight visibility obstructions for vehicular traffic at all development access drives and abutting street intersections.

12. Submit a License Agreement for landscaping and private improvements in the public rights of way adjacent to this site prior to this issuance of permits for these improvements. The applicant must carry an insurance policy for the term of the License Agreement and add the City of Las Vegas as an additionally insured entity on this insurance policy. If requested by the City, the applicant shall remove property encroaching in the public right-of-way at the applicant's expense pursuant to the terms of the City's License Agreement. The installation and maintenance of all private improvements in the public right of way shall be the responsibility of the adjacent property owner(s) and shall be transferred with the sale of the property for the entire term of the License Agreement.

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13. If not built by others prior to permits, construct approximately 5,400 feet of oversized public sewer along the CC215 Beltway Trail from Alpine Ridge north to La Mancha, then in La Mancha to Shaumber, then Shaumber north to Tropical, then Tropical to this site. Contact the Sanitary Sewer Planning Section of the Department of Public Works (702-229-6541) to enter into an Oversizing Agreement prior to construction, to be reimbursed for the cost difference of constructing an oversized sewer versus an 8-inch sewer.

14. If not built by others prior to permits, construct an oversized public sewer along the full frontage of this site in Tropical Parkway to the intersection of Puli Road, or other location acceptable to the City Engineer. Contact the Sanitary Sewer Planning Section of the Department of Public Works (702-229-6541) to enter into an Oversizing Agreement prior to construction, to be reimbursed for the cost difference of constructing an oversized sewer versus an 8-inch sewer. The developer shall provide to the City all information and materials necessary to submit an application to Amend Bureau of Land Management (BLM) Right-of-Way Grants N-55999, N-90154, and any others that may be applicable, to insure appropriate rights for construction and maintenance of public sewer are in place.

15. A Traffic Impact Analysis must be submitted to and approved by the Department of Public Works prior to the issuance of any building or grading permits, submittal of any construction drawings or the recordation of a Map subdividing this site, whichever may occur first. Comply with the recommendations of the approved Traffic Impact Analysis prior to occupancy of the site. The Traffic Impact Analysis shall include a pedestrian circulation/access plan to identify nearby pedestrian attractors and recommend measures to accommodate pedestrians, such as but not limited to pedestrian access, crosswalk, pedestrian activated flashers and temporary sidewalks. The Traffic Impact Analysis shall also include a section addressing Standard Drawings #234.1 #234.2 and #234.3 to determine additional right-of-way requirements for bus turnouts adjacent to this site, if any; dedicate all areas recommended by the approved Traffic Impact Analysis. All additional rights of way required by Standard Drawing #201.1 for exclusive right turn lanes and dual left turn lanes shall be dedicated prior to or concurrent with the commencement of on site development activities unless specifically noted as not required in the approved Traffic Impact Analysis. Phased compliance will be allowed if recommended by the approved Traffic Impact Analysis. No recommendation of the approved Traffic Impact Analysis, nor compliance therewith, shall be deemed to modify or eliminate any condition of approval imposed by the Planning Commission or the City Council on the development of this site.

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16. A Technical Drainage Study must be submitted to and approved by the Department of Public Works prior to the issuance of any building or grading permits, submittal of any construction drawings or the submittal of a Map subdividing this site, whichever may occur first. Provide and improve all drainageways recommended in the approved drainage plan/study. The developer of this site shall be responsible to construct such neighborhood or local drainage facility improvements as are recommended by the City of Las Vegas Neighborhood Drainage Studies and approved Drainage Plan/Study concurrent with development of this site.

17. The approval of all Public Works related improvements shown on this Tentative Map is in concept only. Specific design and construction details relating to size, type and/or alignment of improvements, including but not limited to street, sewer and drainage improvements, shall be resolved prior to approval of the construction plans by the City. No deviations from adopted City Standards shall be allowed unless specific written approval for such is received from the City Engineer prior to the recordation of a Final Map or the approval of subdivision related construction plans, whichever may occur first. Approval of this Tentative Map does not constitute approval of any deviations. If such approval cannot be obtained, a revised Tentative Map must be submitted showing elimination of such deviations.

The Notice of Final Action was filed with the Las Vegas City Clerk on December 19, 2019.

Sincerely,

Robert Summerfield

Robert Summerfield, AICP
Director
Department of Planning

RTS:PL:clb

cc: Mr. Larry Bitton
Horrocks Engineers
1401 North Green Valley Parkway, Suite #160
Henderson, Nevada 89074

20-0222
09/28/2020

HORROCKS
ENGINEERS

1401 N. Green Valley Parkway, Ste. 160
Henderson, NV 89074
702-966-4063
www.horrocks.com

September 23, 2019

Eric McCammond
Department of Planning | Case Planning Division
333 N. Rancho Drive, 3rd Floor
Las Vegas, NV 89106

RE: Justification Letter For Review of Condition TMP-77575
PRJ-77251
APN 126-25-201-010

Dear Mr. McCammond:

On behalf of Harmony Homes Nevada, LLC we hereby request a Review of Condition for the above referenced, previously approved, tentative map. In the time since the tentative map was approved, the requirements of the Puli corridor have been refined and a master final map recorded on the neighboring parcel. Therefore, dedication of the corridor as a public street with a parallel roadway easement are no longer applicable. Further explanation is provided below. We respectfully request City Council revision of the condition to accommodate City of Las Vegas Public Works preferred condition.

Justification –

The approved tentative map (TMP 77575) reflects a 40-ft wide linear park along the east side of the Puli Road alignment between Centennial Blvd and Tropical Parkway. The adjacent developer on the west side of Puli is obligated to construct the other half of the linear park. At the time TMP-77575 was approved, the roadway alignments for Tropical Parkway and Puli were defined on the City's Master Streets & Highways Plan (MSHP). Tentative Map conditions #9 and #10 state:

9. Dedicate 40 feet of right-of-way adjacent to this site for Puli Road and 40 feet for Tropical Parkway including a taper on the Final Map for this site. Additionally, grant a 10-foot wide Roadway, Sewer, and Drainage easement along the east side of the 40-foot Puli Road dedication.

10. Construct half-street improvements on Centennial Parkway and Tropical Parkway (matching the approved taper) to the west edge of this site at a location acceptable to the City Traffic Engineer including appropriate overpaving and transition paving. In lieu of half-street improvements on Puli Road, a linear park shall be constructed in the Puli Road right-of-way to a design agreed upon by the developer and the City of Las Vegas.

Since approval of TMP-77575, the MSHP was amended to remove Puli Road. Furthermore, the adjacent developer recorded a master final map (FMP-78687) which creates a common lot along the west side Puli for purposes of their linear park. The map also assumes a minimum dedicated half-street width of 30' for Tropical Parkway. Harmony Homes' final map will create a similar common lot along the east side of the Puli alignment for a linear park, which will be jointly maintained by agreement between the two property owners.

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HORROCKS
ENGINEERS

1401 N. Green Valley Parkway, Ste. 160
Henderson, NV 89074
702-966-4063
www.horrocks.com

To better accommodate the linear park and to avoid future vacations of the required Puli right of way and easement dedications, Harmony Homes proposes the following revised language for condition #9:

9(rev) *Dedicate minimum of 30 feet of right of way for Tropical parkway including a taper on the Final Map for this site.*

We feel this meets the intent and provides a better solution to accommodate the City's needs for a linear park without the complications of dedicating a substandard roadway, which is not shown on the MSHP as well as requiring future right of way vacations. We respectfully request City Council approval of the proposed revision.

Please do not hesitate to contact me with any questions or if additional information is needed to justify this application.

Sincerely,
Horrocks Engineers

Larry M. Bitton, PE
Land Development Manager

Cc: Matt Rosenberg- Harmony Homes Nevada, LLC

Attachments

20-0222
09/28/2020

AGENDA SUMMARY PAGE

City Council
Meeting of: December 2, 2020

Agenda Item No.:
43

DEPARTMENT: City Manager **DISCUSSION**
DIRECTOR: Jorge Cervantes

SUBJECT:
REPORTS AND PRESENTATIONS:

Report from Jorge Cervantes, City Manager, on Emerging Issues - All Wards

FISCAL IMPACT:
None

PURPOSE/BACKGROUND:
The City Manager (CM) Report will be a vehicle for the City Manager to update the Council on emerging issues that may have an impact on the City of Las Vegas. The CM Report will be a recurring item for every Council meeting. If there are no items for the particular meeting, the City Manager will recommend that the item be stricken.

RECOMMENDATION:
Report only; no action required.

BACKUP DOCUMENTATION:
None

AGENDA SUMMARY PAGE

City Council
Meeting of: December 2, 2020

Agenda Item No.:
44

DEPARTMENT: Economic & Urban Development **DISCUSSION**
DIRECTOR: Bill Arent

SUBJECT:
REPORTS AND PRESENTATIONS:

Report from Carolyn Wheeler, Executive Director of the Downtown Vegas Alliance, regarding the organization's activities and achievements throughout 2020 and their goals for 2021 - All Wards

FISCAL IMPACT:
None

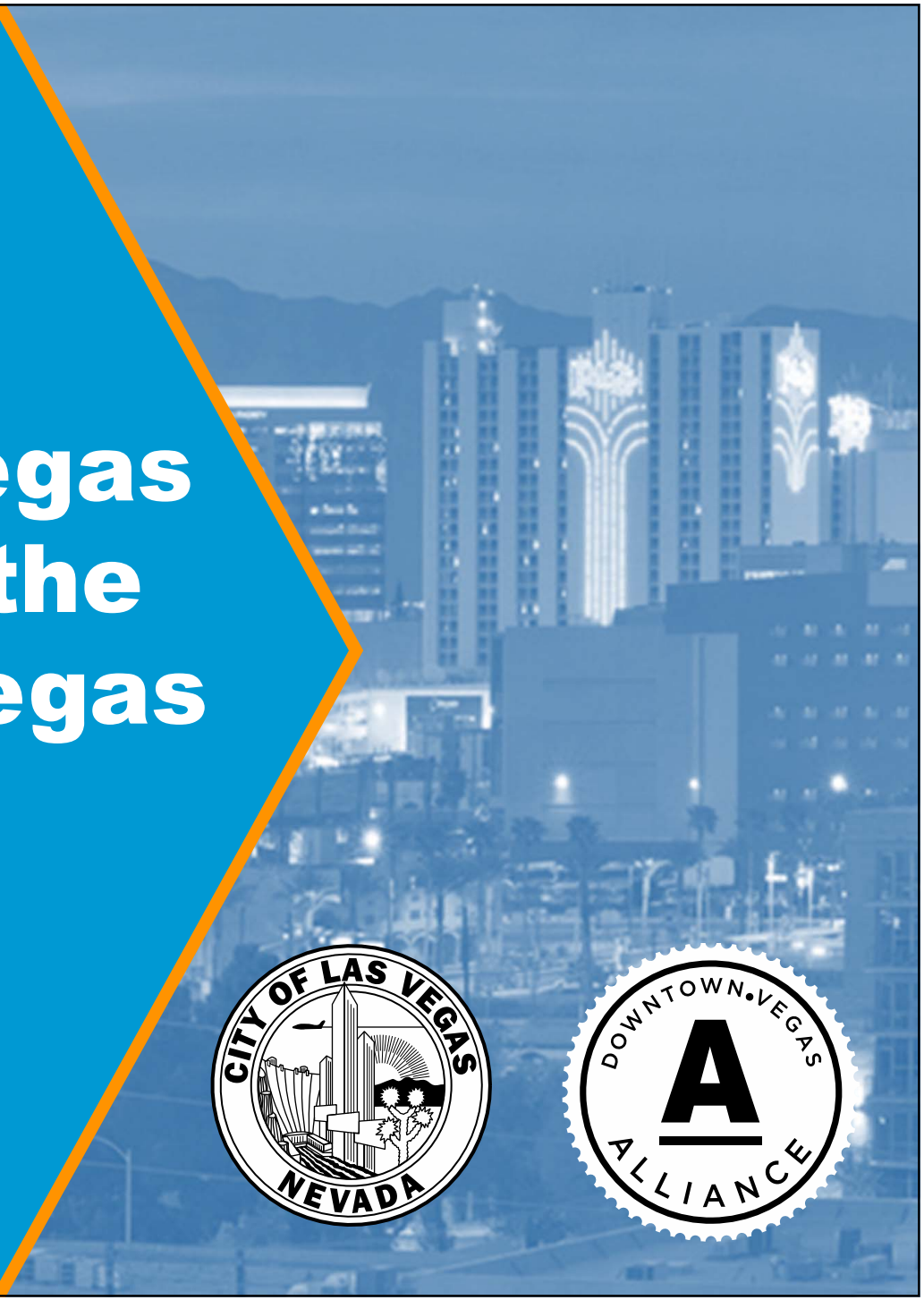
PURPOSE/BACKGROUND:
This report will highlight the downtown community events organized by the Downtown Vegas Alliance along with the organization's interaction and collaboration with the City.

RECOMMENDATION:
Report only; no action required.

BACKUP DOCUMENTATION:
1. Submitted at Meeting - PowerPoint Presentation Submitted by Carolyn Wheeler

Downtown Vegas Alliance and the City of Las Vegas

2020 Recap



Submitted at City Council
Date: 12/2/2020 Item: 44
Submitted by: Carolyn Wheeler

2020 At a Glance

February

Success & Insights

Downtown Vegas 20/20 Vision

- TED style talks with community stakeholders
- Audience prediction wall

March-June

COVID PLAN

- Hosted weekly webinars to share info about stimulus and recovery programs
- Posted up to date COVID-19 content on downtown.vegas
- Provided resources to businesses and negotiated PPE

June

Success & Insights

CPACE

- Highlighted CLV's program promoting energy efficient projects

Aug/Sept

D&I Efforts

- Promoted diverse businesses in downtown using social media during Black Business August
- Created toolkit for businesses to use to celebrate Hispanic Heritage Month
- Featured Hispanic leaders via social media videos

Sept/Dec

PLAYcation Campaign

- Created itineraries with special offers and discounts to draw Las Vegans to enjoy their hometown

November

Success & Insights

Diversity, Equity & Inclusion

- How to support DEI in the workplace

July – March 2021

Boards Up Downtown Vegas

- Curating a pop-up gallery with DTLV art community and stakeholders using murals from Business Protection Program to display and showcase historical significance of businesses & artists coming together during Phase 1 of pandemic

DVA Goals

- Build value in DVA Membership and strategically grow the membership each year
- Promote Downtown Vegas Alliance as a leading organization that drives positive change in the downtown corridor through advocacy, collaboration and networking
- Engage with Stakeholders and create relationships that positively impact the future of Downtown
- Drive Operational Excellence

Playcation

- We've taken all of the guesswork out of planning a fun day in downtown
- Itineraries include special offers from participating businesses from Sept 24th - Dec 15th
  - Lyft
  - RTC Bike Share
  - Restaurants
  - Museums
  - And more….
- Available on the EXPLORE DTLV App and on playcation.vegas and splash page on downtown.vegas

2021 At a Glance

February

Business Capacity Program

Partnership with CSN

March

Mayor Luncheon

- DVA Board & Steering Committee

April

Successes & Insights

Boards Up Downtown

October

Successes & Insights

Timely Topic

November

City Council and Member Mixer

December

DVA City Council Meeting

THANK YOU

Carolyn Wheeler
Executive Director
Downtown Vegas Alliance

dva@downtown.vegas

AGENDA SUMMARY PAGE

City Council
Meeting of: December 2, 2020

Agenda Item No.:
45

DEPARTMENT: City Clerk
DIRECTOR: LuAnn Holmes

SUBJECT:
Set date on any appeals filed or required public hearings from the City Planning Commission Meetings and Dangerous Building or Nuisance/Litter Abatements.

AGENDA SUMMARY PAGE

City Council
Meeting of: December 2, 2020

Agenda Item No.:
46

DEPARTMENT: City Clerk
DIRECTOR: LuAnn Holmes

SUBJECT:
Citizens Participation: Public comment during this portion of the agenda must be limited to matters within the jurisdiction of the City Council. No subject may be acted upon by the City Council unless that subject is on the agenda and is scheduled for action. If you wish to be heard, come to the podium and give your name for the record. The amount of discussion on any single subject, as well as the amount of time any single speaker is allowed, may be limited.

BACKUP DOCUMENTATION:
1. Submitted at Meeting - E-comment

Gaby Portillo

From: John A Perazzo <jplvnv@gmail.com>
Sent: Wednesday, December 2, 2020 5:42 AM
To: Meeting Comments
Subject: [SUSPICIOUS MESSAGE] City Council meeting, December 2, Item #5, Public Comment
Attachments: jp virus report 20b21 senior citizens advisory board - max after 9_9 and before 12_1-page-001.jpg; Cheap At-Home Tests Could End The COVID-19 Pandemic By Christmas, One Researcher Says.htm.txt; Public comment, agenda item #5, city council meeting, Wednesday, December 2, 2020.pdf; jp virus report 20b21 senior citizens' advisory board - max after 9_9 and before 12_1.pdf; City of Las Vegas, NV, ZIP codes, wards, and county population by ZIP codes - city wards and zip codes; community survey.pdf

CAUTION: This email originated from an **External Source**. Please **use caution** before opening attachments, clicking links, or responding to this email. **Do not sign-in with your City of Las Vegas account credentials.**

Public comment, agenda item #5, city council meeting, Wednesday, December 2, 2020

Madam Mayor, City Council, Citizens of Las Vegas, Nevada.

The last time I remember standing before you was on May 6th before the grand reopening of our city in June. Since then, I want to thank you for adjusting the ZIP code definition of our city as reported to the Southern Nevada Health District on November 11th before the State COVID-19 mitigation and management task force meeting the next day.

Mr Harry Williams in Councilman Crear's office has a copy of my report to the Senior Citizens' Advisory Board this month I sent out last night. This morning, I would like to add one highlight regarding Wards 1, 3, and 5 for you and our city.

In July, these downtown, older wards were hard hit with the virus peaking with a maximum number of new cases over a seven-day average from July 16th to August 13th. Now, thanks to the heroes at the Southern Nevada Health District, our City's own mitigation and management steps, and our citizens' response, these same areas have kept themselves from surpassing the relative totals experienced in other parts of our city.

Below you can see at a glance these results. We still have a way to go. How helpful it would be if each of us could answer for ourselves the question of our contagiousness. I still recommend Dr Michael Mina's ambitious plan for public health (enclosed).

Respectfully submitted,

John A Perazzo, B.A.
Mathematics, 1982

Submitted at City Council
Date 12/2/20 Item 4/6
By: E-comment

Public comment, agenda item #5, city council meeting, Wednesday, December 2, 2020

Madam Mayor, City Council, Citizens of Las Vegas, Nevada.

The last time I remember standing before you was on May 6th before the grand reopening of our city in June. Since then, I want to thank you for adjusting the ZIP code definition of our city as reported to the Southern Nevada Health District on November 11th before the State COVID-19 mitigation and management task force meeting the next day.

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Respectfully submitted,

John A Perazzo, B.A.
Mathematics, 1982

City ZIP Code	Max before 9/10 (Log, 7-day new)	Max after 9/9 (Log, 7-day new)	difference	Max before 9/10 (cases, 7-day new)	Max after 9/9 (Log, 7-day new)	difference
89101	2.384	2.283	-0.101	242	192	-50
89102	2.223	2.161	-0.062	167	145	-22
89104	2.294	2.382	0.088	197	241	44
89106	2.097	2.185	0.088	125	153	28
89107	2.322	2.312	-0.01	210	205	-5
89108	2.433	2.616	0.183	271	413	142
89110	2.67	2.646	-0.024	468	443	-25
89117	2.149	2.371	0.222	141	235	94
89124	0.301	0.477	0.176	2	3	1
89128	1.982	2.358	0.376	96	228	132
89129	2.068	2.398	0.33	117	250	133
89131	2.025	2.36	0.335	106	229	123
89134	1.633	2.14	0.507	43	138	95
89138	1.568	1.968	0.4	37	93	56
89143	1.38	1.839	0.459	24	69	45
89144	1.556	1.94	0.384	36	87	51
89145	1.845	2.114	0.269	70	130	60
89146	1.987	2.009	0.022	97	102	5
89149	1.881	2.336	0.455	76	217	141
89166	1.724	2.093	0.369	53	124	71

zip code	percentage	ward	total
89107	39%	1	39%
89102	17%	1	56%
89117	11%	1	67%
89145	10%	1	77%
89128	8%	1	85%
89146	7%	1	92%
89108	2%	1	94%
others	6%	1	100%
zip code	**percentage**	**ward**	
89117	29%	2	29%
89144	21%	2	50%
89145	16%	2	66%
89138	12%	2	78%
89128	10%	2	88%
89134	9%	2	97%
others	3%	2	100%
zip code	**percentage**	**ward**	
89110	39%	3	39%
89101	30%	3	69%
89104	24%	3	93%
89128	2%	3	95%
others	5%	3	100%
zip code	**percentage**	**ward**	
89129	42%	4	42%
89134	19%	4	61%
89130	13%	4	74%
89128	10%	4	84%
89149	7%	4	91%
89108	6%	4	97%
others	3%	4	100%
zip code	**percentage**	**ward**	
89108	59%	5	59%
89106	24%	5	83%
89107	4%	5	87%
89130	4%	5	91%
89101	3%	5	94%
others	6%	5	100%
zip code	**percentage**	**ward**	
89131	45%	6	45%
89149	17%	6	62%
89130	14%	6	76%
89166	11%	6	87%
89143	10%	6	97%
others	3%	6	100%

AGENDA SUMMARY PAGE

City Council
Meeting of: December 2, 2020

Agenda Item No.:
47

DEPARTMENT: City Manager **DISCUSSION**
DIRECTOR: Jorge Cervantes

SUBJECT:
COUNCIL EMERGING ISSUES:

Discussion regarding potential items for future City Council agendas - All Wards

FISCAL IMPACT:
None

PURPOSE/BACKGROUND:
Comments made by Council members during this portion of the agenda must refer solely to proposals for future agenda item topics to be brought before the Council for consideration and action at a later date. Any discussion must be limited to whether or not such proposed items shall be placed on a future agenda and no discussion regarding the substance of any such proposed topic shall occur. No action shall be taken.

RECOMMENDATION:
Direct staff accordingly.

BACKUP DOCUMENTATION:
None

AGENDA SUMMARY PAGE
City Council
Meeting of: December 2, 2020

Agenda Item No.:
48

DEPARTMENT: City Clerk
DIRECTOR: LuAnn Holmes

SUBJECT:
Council Member Recognition: Comments made by individual City Council Members during this portion of the agenda will not be acted upon by the City Council unless that subject is on the agenda and scheduled for action.

BACKUP DOCUMENTATION:
1. Submitted at Meeting - Flyers for Ward 3 Announcements, Remembrance of Tony Hsieh, Stop COVID-19, Ward 3 Food Pop-Up, and Social Media Accounts Submitted by Councilwoman Diaz; Flyers for Helping Seniors During the Holiday Season and Ward 1 Office Contact Information Submitted by Councilman Knudsen; Flyers for Ward 5 Announcement, COVID-19 Testing, Ward 5 Newsletter, and Social Media Accounts Submitted by Councilman Crear; and Flyers for Ward 2 Announcements, Small Business Saturdays, Christmas Holiday Drive-Thru Celebration, Animal Foundation Pet Adoptions, Ward 2 Office Contact Information, and Social Media Accounts Submitted by Councilwoman Seaman

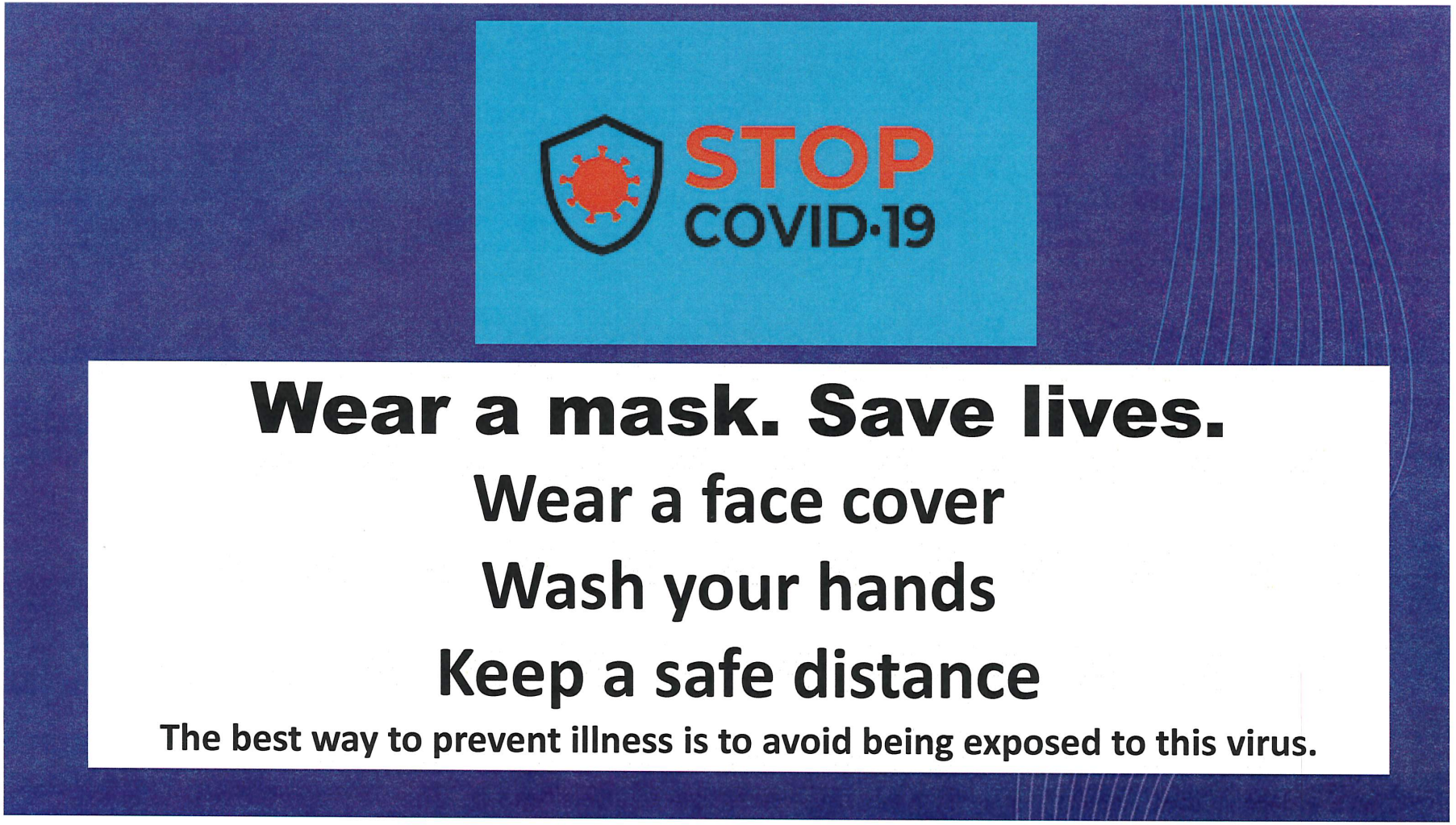
OLIVIA DÍAZ

COUNCILWOMAN - WARD 3

Tony Hsieh was a natural fit for Las Vegas, a city built on the power of imagination and tenacity. His entrepreneurial spirit was a catalyst that helped transform our downtown into a vibrant space that attracts millions of locals and visitors alike. Most importantly, his investments weren't solely about capital— building community was an integral ingredient in all his projects.

Thank you for all you did for Las Vegas, Tony.

My thoughts and prayers are with his family and loved ones.


STOP
COVID-19
Wear a mask. Save lives.
Wear a face cover
Wash your hands
Keep a safe distance
The best way to prevent illness is to avoid being exposed to this virus.

Ward 3
Food Pop-Up

Monday, Dec. 14th

8 a.m. to 11 a.m.

Drive-Thru/No Contact Distribution

Free and open to the public
while supplies last

Desert Pines High School
3800 E Harris Ave

OLIVIA DÍAZ

COUNCILWOMAN - WARD 3

CITY OF LAS VEGAS

ward3@lasvegasnevada.gov

@OliviaDiazLV @oliviadiazlv oliviadiazlv

Las Vegas City Councilman Brian Knudsen - Ward 1 Events

Helping Seniors During The Holiday Season!

This month, Team Knudsen will be delivering meals to our senior citizens in Las Vegas Ward 1 for the holidays in a safe, socially distant way.

We'll be delivering pre-packaged food to our Senior Citizen Apartment Complexes in Ward 1: James Down Towers, Stella Fleming, and Sartini Plaza Apartments!

Ward 1

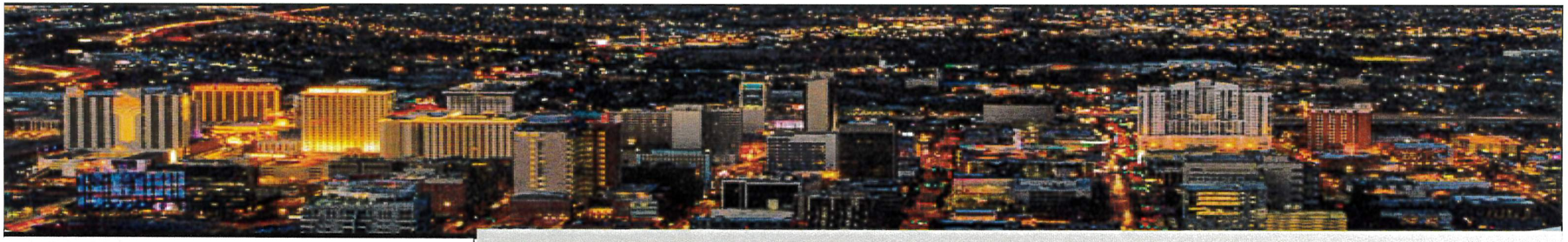
Councilman Brian Knudsen

Stay in touch with us for updates, resources, and more!

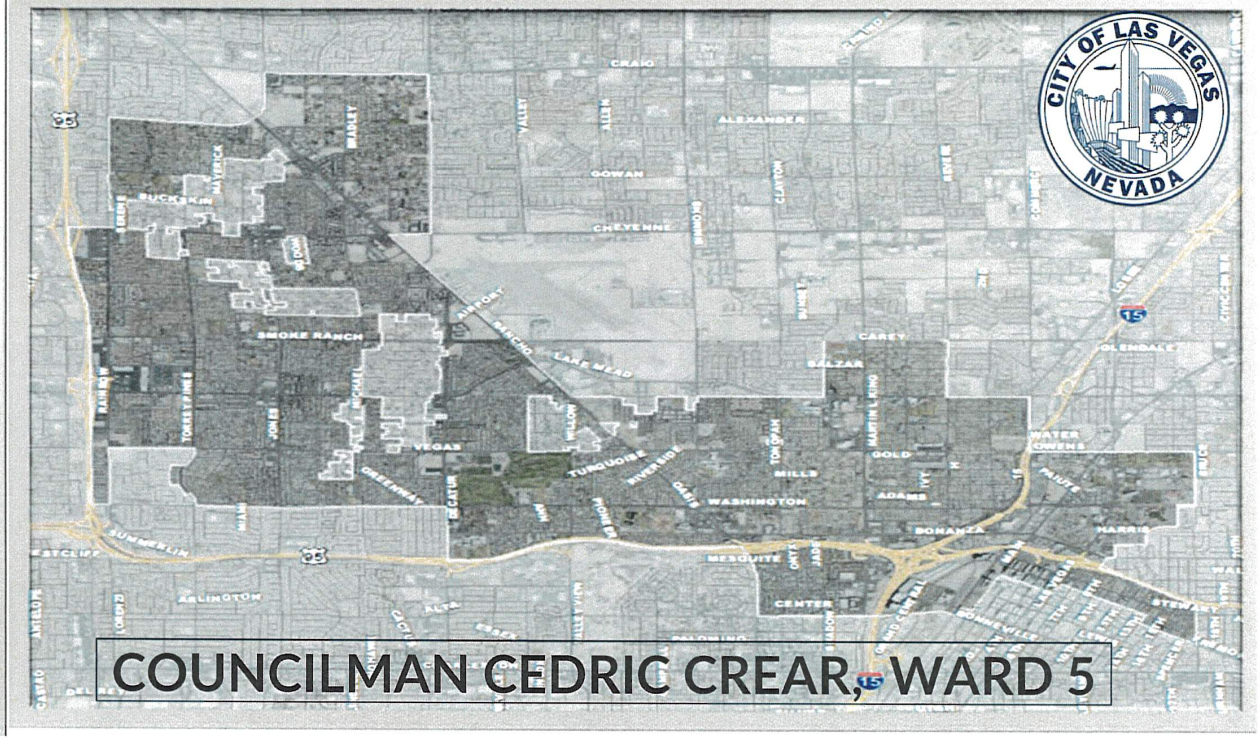
bknudsen@lasvegasnevada.gov

Call: 702-493-1547

Twitter: @BrianforLV | Facebook: facebook.com/BrianforLV



CITY OF LAS VEGAS
NEVADA
Councilman
Crear

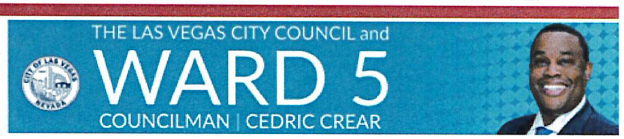

CITY OF LAS VEGAS
NEVADA
COUNCILMAN CEDRIC CREAR, WARD 5

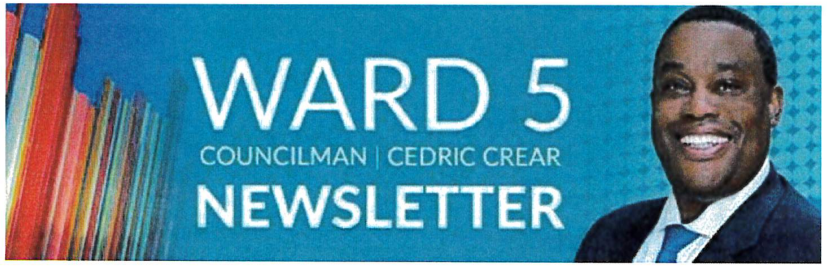
COVID-19 Testing

Doolittle Senior Center

Visit: www.snhd.info/covid

Ward 5 Final Announcements

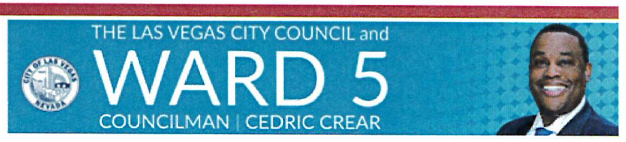




Email Tanya Jackson-Renter
tjackson@lasvegasnevada.gov

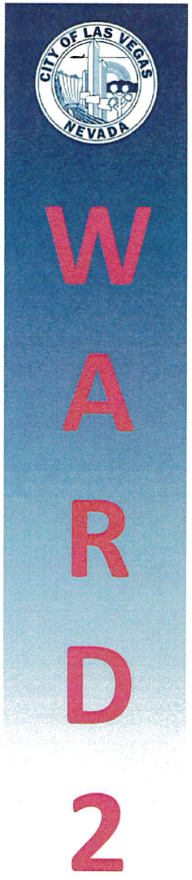
Office: 702.229-5443

Ward 5 Final Announcements



STAY CONNECTED
With Councilman Cedric Crear
Twitter: @cedriccrear
Instagram: Councilman Crear
Facebook: Councilman Cedric Crear
twitter
THE LAS VEGAS CITY COUNCIL and
WARD 5
COUNCILMAN | CEDRIC CREAR

City of Las Vegas
Councilwoman
Victoria Seaman
Ward 2
December 2, 2020
SUMMERLIN


WARD 2

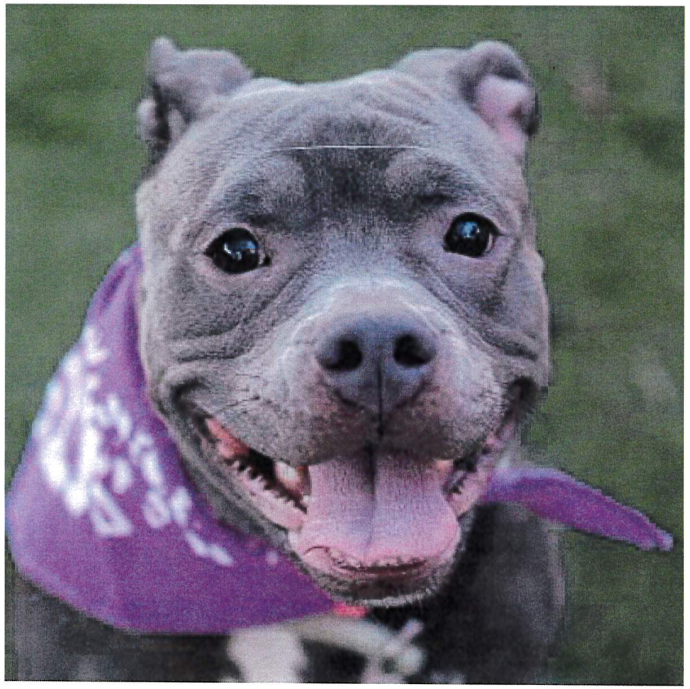
WARD 2 COUNCILWOMAN
VICTORIA SEAMAN
DO YOU WANT TO GET THE WORD OUT ABOUT YOUR WARD 2 BUSINESS?
Be a part of our new Small Business Saturdays and be featured on my social media channels.
CONTACT US AT
702.229.2420
WARD2@LASVEGASNEVADA.GOV

WARD 2

The Las Vegas City Council and
Councilwoman Victoria Seaman
invite you to a
Christmas
Holiday
Drive-Thru
Celebration
Saturday, Dec. 12
10 a.m.
Bruce Trent Park | 8851 Vegas Drive
Receive a 2020 Councilwoman Seaman
handmade Christmas ornament and treats
Supplies are limited.
Pandemic safety precautions will be observed.
For more information, call 702.229.2420
or email Ward2@LasVegasNevada.GOV
Please no solicitations during this time.
TTY
7-1-1

WARD 2

Animal Foundation Pet Adoptions



Bella

ID # A1150114
Arrived: 11/25/2020

Female
Age: 2 Yrs
Weight: 47 lbs

WARD 2

Animal Foundation Pet Adoptions

Miranda

ID # A1147902
Arrived: 11/02/2020

Female Spayed
Age: 5 Yrs
Weight: 10 lbs

WARD 2

Animal Foundation Pet Adoptions

Nutmeg

ID # A1150334
Arrived: 11/24/2020

Male Neutered
Age: 1 Year
Weight: 47 lbs

WARD 2

Animal Foundation Pet Adoptions

DJ
ID # A1147194
Arrived: 10/26/2020

Female Spayed
Age 3 Yrs
Weight: 7 lbs

WARD 2
Animal Foundation Pet Adoptions
Contact the
Adoption Department
Phone: (702) 955-5901
Email: adoptions@animalfoundation.com

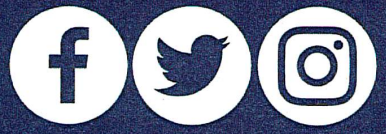
WARD 2

Office Contact Information

Main Line: (702) 229-2420

Email: ward2@lasvegasnevada.gov

PLEASE FOLLOW UP
ON SOCIAL MEDIA AT:



@VictoriaDSeaman

@VictoriaSeaman