

City of Las Vegas

PURCHASING & CONTRACTS DIVISION

CITY HALL, 1ST FLOOR
400 STEWART AVENUE
LAS VEGAS, NEVADA 89101-2986
(702) 229-6231
FAX (702) 384-9964
TTY (702) 386-9108
www.lasvegasnevada.gov/bids



KATHLEEN C. RAINEY
MANAGER

PAMELA HOFFMAN
CONTRACTS SPECIALIST

REQUEST FOR PROPOSALS (RFP) RFP No. 110191-PH ALL AMERICAN PARK TENNIS OPERATOR

SCOPE OF WORK: The City of Las Vegas (City) hereby invites qualified firms or individuals (Offerors) to submit written proposals to operate and maintain four tennis courts inside All American Park, located at the corner of Buffalo Drive and Oakey Boulevard. The selected Offeror (the "Operator") will be responsible for all activities and maintenance at the tennis property.

PRE-PROPOSAL CONFERENCE will be held on **Thursday, May 12, 2011 at 3:00 p.m.** in the Buffalo House at All American Park, located just south of the tennis courts. The purpose of this conference is to discuss the specifications and any Prospective Offeror's questions regarding the RFP documents and RFP process. Attendance is optional.

TRAINING SESSION: If a firm is unfamiliar with the public solicitation process and would like to obtain training on the RFP submittal process for this requirement, please contact Pamela Hoffman at (702) 229-6006, no later than Wednesday, May 11, 2011, and a training session will be held immediately after the Pre-Proposal Conference.

PROPOSAL DEADLINE: All proposals must be received in the Office of the City Clerk, First Floor, City Hall Complex, 400 Stewart Avenue, Las Vegas, NV 89101-2986 by **Thursday, May 26, 2011 no later than 1:30 p.m., Pacific Time.** Proposals received after the established deadline will be returned to the Offeror, and will not receive further consideration in the evaluation process. Proposals are not publicly opened (disclosed), in accordance with NRS 332.061(2).

RFP DOCUMENTS AND ADDENDA MAY BE OBTAINED on-line at the DemandStar website, www.DemandStar.com. DemandStar offers a free single agency subscription which includes free document downloads by registering at www.DemandStar.com/register.rsp or by calling (800) 711-1712.

RFP documents obtained from any source other than DemandStar may not be accurate or complete, and each Offeror assumes all risks by its reliance on such documents. An Offeror who has not obtained RFP documents from DemandStar will not be notified of any addenda issued by the City, which could contain material changes thereto (such as additions or changes to the technical specifications, extensions of time, etc.).

INQUIRIES: Questions regarding this solicitation should be directed to Pamela Hoffman, Contracts Specialist, at (702) 229-6006, fax (702) 464-2525, or email to phoffman@lasvegasnevada.gov. To ensure a timely response, inquiries should be made by close of business Thursday, May 19, 2011. Information in response to inquiries may be published as an RFP Addendum.

Prospective Offerors are hereby notified that this Request for Proposals and all related bidding documents will be made available on a Telecommunication Device for the Deaf (TTY) or in an alternate format (audio or Braille) upon request to the Purchasing & Contracts Division, telephone number (702) 229-6231 or (702) 386-9108 (TTY).

TABLE OF CONTENTS

REQUEST FOR PROPOSALS	1
1.0 PROJECT OVERVIEW, DEFINITIONS, SCOPE OF WORK	1
1.1 Project Overview	1
1.2 Definitions	2
1.3 Scope of Contract	2
2.0 INSTRUCTIONS TO OFFERORS	0
2.1 General	0
2.2 Proposal Format	0
2.3 Proposal Content	0
2.4 Award Criteria	3
2.5 Inquiries	3
2.6 Presentations from Selected Finalists	3
2.7 Evaluation Disclosures	3
2.8 Notice of Award	4
2.9 Post Award Conference	4
2.10 Protests – Requests for Proposals	4
FORM A – OFFER STATEMENT AND BUSINESS INFORMATION	7
FORM B - CERTIFICATE - DISCLOSURE OF OWNERSHIP/PRINCIPALS	8
EXHIBIT 1 - SITE MAPS AND FLOOR PLAN	10
EXHIBIT 2 - HISTORICAL AND ESTIMATED OPERATING EXPENSES	13
EXHIBIT 3 - SAMPLE CONTRACT	14
SECTION A – Purpose of Agreement	14
SECTION B – Basic Terms	14
B-1 Definitions	14
B-2 Revenues and Budgets	15
B-3 Financial Reporting and Fee Payment	15
B-4 Agreement Term	15
SECTION C – Statement of Work	15
SECTION D – Special Clauses	15
D-1 Legal Notice [CAO-7/24/08]	15
D-2 Project Manager/Company Representative [CAO-7/24/08]	16
D-3 Warranty – Services [CAO-7/24/08]	16
D-4 Cumulative Rights and Remedies, Nonrecourse	16
D-5 Contracts and Agreements	16
D-6 Intellectual Property Rights [CAO-7/24/08]	16
D-7 Licenses/Registrations [CAO-7/24/08]	16
D-8 Order of Precedence [CAO-7/24/08]	17
SECTION E – General Clauses	17
E-1 Disputes [CAO-7/25/08]	17
E-2 Notice of Delay [CAO-7/24/08]	17
E-3 Termination for Convenience [R]	17
E-4 Termination for Default [CAO-11/9/09]	17
E-5 Insurance and Bonds:[R]	18
E-6 Indemnification [CAO-7/24/08]	20
E-7 Assignment [CAO-7/24/08]	20
E-8 Waiver [CAO-7/24/08]	20
E-9 Taxes/Compliance with Laws [CAO-7/24/08]	20
E-10 Audit of Records [CAO-8/5/08]	20
E-11 Independent Contractor [R]	21
E-12 Severability [CAO-7/24/08]	21
E-13 Conforming Services [CAO-7/24/08]	21
E-14 Modification/Amendment [CAO-7/24/08]	21
E-15 Entire Contract, Section and Paragraph Headings [CAO-7/24/08]	21
E-16 Conflict of Interest (City Officials) [CAO-7/24/08]	22
E-17 Public Records [CAO-7/24/08]	22
E-18 Confidentiality – City Information [CAO-7/24/08]	22
E-19 Marketing Restrictions [CAO-7/24/08]	22
E-20 Counterpart Signatures [CAO-9/24/08]	23
SECTION F – List of Attachments/Exhibits	23

REQUEST FOR PROPOSALS

1.0 PROJECT OVERVIEW, DEFINITIONS, SCOPE OF WORK

1.1 Project Overview

- (a) The City is seeking proposals from qualified entities to enter into a services contract to operate the All American Tennis Center (the "Center"), a four court tennis complex located at the intersection of Buffalo Drive and Oakey Boulevard in Las Vegas. Services provided would include advance reservations of courts, managing walk-on court use, providing tennis lessons, organizing league play or other special events, organizing and conducting recreational tennis programs, and cleaning and maintaining the courts and equipment at the Center, which may include office and Pro Shop space.
- (b) This will be a revenue generating contract for the City. The City anticipates the contract will provide for a fixed concession fee and a percentage of gross proceeds from the operation.
- (c) Initial Term and Options. The City anticipates the initial performance period will be three calendar years, with up to two three-year option periods for renewal. Offerors may suggest alternative terms if required by their business models.
- (d) This Request for Proposals (RFP) consists of:
- The RFP cover page
 - Section 1.0 – Project Overview, Definitions, Scope of Contract
 - Section 2.0 – Instructions to Offerors
 - Form A – Offer Statement and Business Information
 - Form B – Certificate – Disclosure of Ownership/Principals
 - Exhibit 1 – Site Maps and Floor Plan
 - Exhibit 2 – Historical and estimated utility costs
 - Exhibit 3 – Sample Contract
- (e) The Instructions to Offerors set forth in Section 2.0 must be followed completely in order for a proposal to be given full consideration.
- (f) The City anticipates the following timeline for selection of an Operator. *This schedule is subject to change at the City's discretion and without notice:*
- May 5..... RFP published
May 12..... Pre-proposal conference
May 26..... Proposals due
June..... Offeror selected
July Negotiations complete
August Council approves award
August Space turnover
August - September Operations commence

1.2 Definitions

As used throughout these documents, the following definitions shall apply:

(a) Addendum	A written revision to this solicitation document, issued to all Prospective Offerors.
(b) Center	The tennis courts located at All American Park
(c) City	The City of Las Vegas.
(d) City Council	Governing body of the City of Las Vegas.
(e) Company	Individual, partnership or corporation that is responsible for the performance of services under of a contract awarded by the City.
(f) Contract	Terms and conditions that substantially conform to this RFP's. General and Special Clauses that will be finalized through negotiation and executed by the Successful Offeror and the City.
(g) Contract Area	The physical area to be operated by the Company, as shown in Exhibit 1.
(h) Deliverable	Any report, software, hardware, data, documentation, or other tangible item that the Successful Offeror is required to provide to the City under the terms of a Contract.
(i) Prospective Offeror	Individual or firm who has received a copy of the RFP.
(j) Purchasing & Contracts Representative	Individual designated in this RFP as the person to whom all inquiries should be addressed beginning with the issuance of the RFP and ending with an award of a Contract or the completion of the RFP, if no Contract is awarded.
(k) Offeror	Individual or firm that submits a proposal in response to this RFP.
(l) Successful Offeror	The individual or firm that is offered a Contract by the City of Las Vegas
(m) Turnover	The date agreed upon by the City and the Successful Offeror as the date the Company will take control of the Contract Area.

1.3 Scope of Contract

(a) Background and History

All American Park is a 45 acre park located at the corner of Buffalo Drive and Oakey Boulevard. The park was constructed in 2001 and offers playgrounds, picnic areas, football fields, walking track, water play area, restrooms and a tennis facility.

The tennis facility consists of four lighted, hard-surface, outdoor courts. Offerors will take control of the four tennis courts. Offerors may also wish, as part of their proposal, to take control of all or part of the Buffalo House, located immediately south of the tennis courts, as an office or Pro Shop. The Buffalo House is currently being used as office space by the City. Offerors may wish to propose using either the main house, the small "casita" at the rear of the house, or both. Offerors wishing to take control of all or part of the Buffalo House must assume all costs for the space used.

Landscape maintenance for surrounding areas will remain the responsibility of the City.

Since construction in 2001 the tennis courts have been open for free public play with no reservation system, except for the period from May 2008 to April 2010, when the Lorenzi Racquet Club operated out of the facility.

The City now intends to select one Operator to manage the facility and to offer lessons, league play and court rentals to the general public at All American Park. The Operator will have exclusive use of the Contract Area

as shown in Exhibit 1, and will be responsible for all costs of operations and maintenance associated with the Contract Area. The City's goals in this project, in priority order, are to:

- (1) Continue to grow tennis opportunities in the community
- (2) Have a functional, well maintained facility that is revenue-neutral or revenue-generating for the City

(b) General Requirements

- (1) The Operator must manage, maintain and operate the Center in a professional, efficient and economical manner consistent with good business practices. The Operator must provide all personnel, expertise, equipment, supplies and any other items necessary to operate the Center.
- (2) The Operator must not engage in any other business within the Center except as allowed herein. Advertising is allowable as a revenue generator within the Contract Area, so long as it is viewable only internally to customers of the Center.
- (3) The Operator must not sell any food or beverages in the Center, as this activity is reserved to the Nevada State Bureau of Services to the Blind and Visually Impaired / Business Enterprises of Nevada (the "Bureau of the Blind") in accordance with Nevada Revised Statutes Chapter 426. There currently are no vending services in the Contract Area. The Operator may wish to coordinate with the Bureau of the Blind and the City to have vending services implemented in the Contract Area, if desired.

(c) Operational Standards

- (1) The Operator shall be responsible for the day-to-day operation of the Contract Area in a manner that ensures a safe, attractive, legal and pleasant use of the Contract Area. The Operator shall furnish all services on a fair, equal and non-discriminatory basis to all users.
- (2) The Operator shall ensure the Center is operational for all days and hours as agreed to with the City, unless curtailed by severe weather.
- (3) All Operator employees or volunteers shall be appropriately attired, present a neat and clean appearance, and shall be drug-free. The Operator shall ensure the presence of a manager or supervisor during all hours of operation.
- (4) No hazardous substance or hazardous waste shall be used, produced, transported, released or stored within the Contract Area.
- (5) The Operator shall adhere to all applicable laws, standards and regulations imposed by the Clark County health District, OSHA, EPA and any other regulatory bodies, as those standards and regulations apply to the Contract Area.
- (6) The Operator shall provide bookkeeping and accounting functions in accordance with Generally Accepted Accounting Principles such that revenues and expenses for the Center are accurately computed, reported and reconciled, and that all appropriate reports are submitted to the City in a timely manner.
- (7) The Operator shall ensure that customer complaints are handled expeditiously and courteously, and shall keep record of all complaints received and their resolution. The Operator shall include this record in a quarterly report to the City.

(d) Operator Maintenance Obligations

- (1) The Operator shall maintain the Contract Area and its contents in good and safe condition, and shall make all repairs to the Contract Area and its contents which may be reasonably necessary. To this end, the Operator's responsibilities shall include (but are not limited to):
 - (i) Maintain and replace as necessary all nets, poles and windscreens
 - (ii) Maintain and resurface as necessary all tennis courts
 - (iii) Maintain any Contract Area restrooms, including stocking and refilling consumables
 - (iv) Maintain all signs located within or on the exterior of the Contract Area
 - (v) Maintain and clean program equipment (nets, poles and windscreens)

- (vi) Perform all housekeeping and janitorial duties necessary to maintain the entire Contract Area, in general accordance with the City's technical specification for janitorial services (available on request). Maintain all Material Safety Data Sheets (MSDS) on-site for any chemical used at the Center, to include janitorial cleaners, solvents, degreasers, and any chemicals used to maintain the courts.
 - (vii) Perform all landscaping maintenance duties necessary to maintain the entire Contract Area.
 - (viii) Provide any security system maintenance, fire extinguisher maintenance, and fire alarm maintenance for the Contract Area.
 - (ix) Perform all regular, routine and daily maintenance duties and general repairs.
- (2) Historical and estimated operating expenses for both the tennis courts and the optional contract areas are included as Exhibit 2. The Operator will be expected to assume all expenses for the Contract Area over which it takes control.
- (3) The Operator shall develop, institute and maintain a City-approved Security and Safety Plan that will provide adequate security to ensure the safety of all Center customers and staff, as well as the security of the Contract Area.

(e) Repairs, Alterations and Damage

- (1) The Operator may make alterations or additions to the Contract Area with the prior written consent of the Project Manager. Alterations or additions planned as part of start-up should be included in Offerors' proposals.
- (2) The Operator shall report to the Project Manager any damage or vandalism in excess of \$1,000, or any damage that requires closure of the Contract Area. The Operator shall immediately report to the Project Manager any and all personal injury asserted by visitors to or employees of the Contract Area.
- (3) The Operator will be responsible for repairs due to damage or vandalism.

(f) Programming, Use and Rate Structure

- (1) The Operator must develop, manage and operate programs that serve the local community. The Operator shall continuously analyze community participation and shifting needs, and Center performance, and shall adjust programming accordingly.
- (2) The Operator shall offer at minimum tennis lessons to the general public, advance reservation and walk-on public usage daily of tennis courts, and league play. The Operator may offer any other such other tennis-related programming as it determines would meet the needs of the local community.
- (3) As part of the proposal, the Operator shall submit a Program Schedule for review and approval. The Program Schedule shall be based on perceived need. The City shall have final approval over the Program Schedule. The Operator may revise its Program Schedule from time to time by submitting proposed changes to the City, and the City shall have 15 working days from receipt in which to provide the Operator with comments.
- (4) Fees charged at the Center must be reasonable market rates. The Operator will submit an initial Fee Schedule with its proposal, which will be subject to City approval. For subsequent changes to the Fee Schedule, the Operator, no later than 30 days prior to the effective date of the Fee Schedule, shall submit a proposed Fee Schedule and the City shall have 15 working days to comment on the proposed Fee Schedule. If the City should object to the proposed Fee Schedule, the City shall provide the reasons for disapproval and shall provide the opportunity for the Operator to submit a revised Fee Schedule. The City shall have right of final approval of the Fee schedule. If the City does not provide any comments, the Operator may assume the Fee Schedule is approved on the 16th working day following submission to the City.

(g) Financial Requirements and Reporting

- (1) The Operator will be responsible for all utility costs detailed in Exhibit 2. In addition, the Operator will pay the City a fixed monthly concession fee and a percentage of gross revenue.
- (2) The Operator shall provide the City with a copy of its annual budget at the beginning of each of its fiscal years.
- (3) The Operator shall submit a monthly Operating Statement to the City to include an itemization of gross receipts, fundraising revenues, and expenses incurred by the Operator for the previous calendar month for its operations at the Center. Upon request, the Operator shall provide any additional or back-up documentation requested by the Project Manager.
- (4) The Operator shall submit a quarterly Program Report to the City, listing all programs offered, activity attendance and program cancellation lists for the Center's offerings.
- (5) The Operator shall maintain an Operating Reserve in the amount of \$10,000 for the entire contract term. The Operating Reserve shall guarantee performance of each term and condition of the contract and, in the event of the Operator's breach, the Operating Reserve shall be recoverable by the City for all damages resulting from the failure of the Operator to well and faithfully perform the contract.

(h) Peripheral Activities

- (1) Joint Use: The Operator and the City agree to share use of the Contract Area for City departments and programs at no cost for a reasonable amount of time each year.
- (2) Darling Tennis Center: The Operator agrees to cooperate with Darling Tennis Center to share use of the Contract Area for a reasonable amount of time each year, based on availability and at market rates or lower.
- (3) Promotions: The Operator and the Project Manager shall mutually agree on Center advertisement campaigns, exterior and interior signage, brochures, newsletters, publicity and any other marketing efforts. The Operator may create its own exterior signage provided that it is not permanently affixed to any City signage, it has been approved by the Project Manager and all appropriate permits have been secured. All communication produced or distributed by the Operator shall convey a consistent message including the name All American Park.
- (4) The Operator shall ensure that every full-time, part-time, contracted and volunteer employee at the Center (including all tennis professionals) has successfully passed a background investigation conducted by the Las Vegas Metropolitan Police Department, and the Operator shall conduct drug testing in accordance with the Operator's policies and procedures.
- (5) The Operator shall utilize only licensed and insured caterers or food vendors for any special event requiring food service. The Operator shall coordinate with the City of Las Vegas Business Licensing department to ensure that all requirements are met before utilizing outside food vendors for special events.
- (6) Personnel: The Operator shall secure, train and pay for all personnel necessary for successful operation of the Contract Area. Employees or volunteers of the Operator shall not have any contractual relationship with the City. Any and all claims that may arise under the Worker's Compensation Act of the State of Nevada or similar act on behalf of any Operator's employee or volunteer shall be the sole obligation and responsibility of the Operator. The Operator shall conduct all employment operations in strict compliance with the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1967, the Equal Pay Act of 1963, the Genetic Information Nondiscrimination Act of 2008, and all other applicable laws or regulations providing for fair and equal treatment of all persons.

(i) City's Responsibilities

- (1) The City will provide the windscreens, poles and nets currently installed at the Center on turnover of the Contract Area. After turnover, upkeep and replacement of this equipment will become the Operator's responsibility.

- (2) The City will be responsible for trash removal from the dumpster located near the Contract Area. Excessive use by the Operator shall be considered a breach of contract terms and will be considered reason to renegotiate this clause.
- (3) The City will maintain the parking areas at the Contract Area, and shall maintain the remainder of All American Park outside the boundaries of the Contract Area.
- (4) The City will coordinate any construction warranty repairs, and shall be responsible for any repairs to the Contract Area that are necessary due to latent defects existing at the time of turnover.
- (5) The City will inspect the Contract Area at minimum quarterly, and will submit a written report to the Operator detailing any noted issues with maintenance, cleaning or other facility-related problems no later than the last business day of each calendar quarter.

2.0 INSTRUCTIONS TO OFFERORS

2.1 General

- (a) Proposals must be submitted no later than **1:30 p.m., Pacific Time**, on the date indicated on the RFP Cover Page. Late proposals will be returned to the Offeror.
- (b) Proposals must be submitted in a sealed envelope to the following address:

Office of the City Clerk
ATTN: **PAMELA HOFFMAN** / RFP No. 110191-PH
City Hall, First Floor
400 Stewart Avenue
Las Vegas, Nevada 89101-2986

The envelope must be clearly marked with the **RFP Number** and the **date/time for receipt**. Offerors will be wholly responsible for the timely delivery of submitted proposals. Faxed proposals are not allowed and will not be considered.

- (c) Proposals must be submitted in the exact format specified below in Paragraph 2.2 "Proposal Format". Failure to follow the format instructions may result in a negative evaluation of the Offeror's proposal.
- (d) Offerors assume all costs associated with the submission of a proposal including any potential negotiation or interview costs.
- (e) Offers must be valid for a minimum of 90 days.
- (f) If it becomes necessary to revise any part of this RFP, a written Addendum will be provided to all Prospective Offerors by Purchasing & Contracts thru DemandStar.com. The City is not bound by any revisions to this RFP by City's staff, unless such revision or clarification is provided to Prospective Offerors in writing in the form of an Addendum from the Purchasing & Contracts Representative.

2.2 Proposal Format

Offerors shall:

- (a) Submit the entire proposal on standard 8 ½" x 11" paper size, not to exceed 40 double sided pages, with tabbed dividers labeled by section to correspond with the specific sections listed in 2.3, "Proposal Content". Tabbed dividers are not considered in the page count.
- (b) Submit one original and one electronic copy of the proposal. The original must be unbound, single-sided, have no holes punched in the pages, and be suitable for processing through a copying machine without causing a paper jam. The electronic copy must be submitted as one Microsoft Office compatible file on a compact disk or flash drive.

2.3 Proposal Content

Section 1 – Cover Page. The Cover Page should be no more than 2 pages and should give a brief executive summary of the proposal contents.

Section 2– Offer Statement and Business Information.

- (a) Execute **Form A "Offer Statement and Business Information"** which consists of the following:
 - (i) An individual authorized to bind the Offeror must sign the statement, and the date signed should follow the signature.
 - (ii) Name and phone number of the representative authorized to negotiate on behalf of the Offeror and answer questions regarding the proposal.

- (iii) Copies of all Offeror (and any subcontractor, if applicable) held national, state and local licenses, registrations and certifications applicable to performance of the subject potential Contract. A business license is not required to provide a proposal to the City. However, prior to Contract award, the Operator must have a City of Las Vegas Business License. Information concerning City Business License requirements and fees may be obtained by calling the Business Services Division at (702) 229-6281 or visiting the City website at www.lasvegasnevada.gov/information/23707.htm.
 - (iv) Acknowledgement of any RFP Addenda.
- (b) Execute **Form B "Certificate – Disclosure of Ownership / Principals"**.

Section 3 –Qualifications and Experience. Include the following information:

- (a) Offeror's Experience. Describe the Offeror's experience in operating and/or managing tennis or other athletic centers of similar size, including information and examples which substantiate successful and reliable past performance. Include a description of the Offeror's business history and number of years in operation.
- (b) Financial Statements. Provide current financial statements to include, but not be limited to, income statements and a balance sheet for the offeror. Provide audited financial statements for the past three (3) years under the Offeror's management. If audited financial statements are not available for the past three years, provide unaudited financial statements for the same period with an explanation for the substitution. Do not omit financial statements. In addition to financial statements, provide the Offeror's current Dun & Bradstreet rating.
- (c) If the project is to be accomplished through an affiliation or joint venture of two (2) or more firms, the names and addresses of those firms must be furnished, including the roles and responsibilities for each. Additionally, for each affiliated firm or joint venture participant, all information described in (a) and (b) above must be provided.
- (d) Management Team. Designate one or more key personnel who would make up the management team, and any key project staff. Include current resumes. Identify particular experience and/or skills that would be applicable to this project, which may include experience acquiring grants and alternate funding sources for this type of operation.

Offerors should demonstrate that the management team possesses:

- (i) experience managing a sports complex similar to the Center;
 - (ii) knowledge of the tennis community and industry; and
 - (iii) retail experience sufficient to manage a Pro Shop, if proposed.
- (e) Management Philosophy. Explain your philosophy and ideals for managing the Center. Include any company mission statements if applicable, and your company's guiding principles for this project.
- (f) References. Provide the names of firms, telephone numbers, email addresses and contact person(s) for at least five references who can speak to your ability to manage the Center. Explain your relationship with each reference. Ensure that the references have given permission to be contacted by the City.

Section 4 – Management Plan. In this section, the Offeror is to provide a proposed approach to satisfy the requirements set forth in Section 1.3, Scope of Contract. As part of the Management Plan, the Offeror should address at minimum the following items:

- (a) **Ability to Finance -** Each offeror must demonstrate the financial means and resources to finance, operate, and sustain the tennis operation as proposed. Include all proposed improvements, start-up and pre-opening costs, inventory investment, sufficient working capital, and access to additional capital, if needed. Each Offeror must provide the following:
 - (i) State amount of investment required to begin operations as proposed. This amount should include inventory, equipment, operating supplies, repair or remodeling costs, and any other miscellaneous items.

- (ii) State the source of funding to support your proposal. This should indicate whether the proposed source of funding is cash reserves, financing from a commercial lender, other sources or a combination thereof. Include Letters of Credit or similar documents to substantiate that funds are available in sufficient amounts and in time to execute the proposed contract.
- (b) A detailed plan for conducting private lessons, group lessons, league play and clinics.
- (c) A plan for renovating or redecorating office space or Pro Shop, if proposed.
- (d) A plan for operating a Pro Shop, if proposed, to meet or exceed customer needs and expectations, with merchandising plan and stringing services plan.
- (e) A plan for renting the courts, including a system to be used for reservation management and a proposal for staffing during hours of operation. Specify what your normal hours of operation will be.
- (f) A plan for replacing damaged or worn out equipment (windscreens, poles and nets)
- (g) A court resurfacing plan. Courts may currently be in need of resurfacing. Outline your plan to maintain courts in acceptable condition, and what participation, if any, you expect from the City.
- (h) Describe your recruitment policies and standards for hiring Center staff. Describe your policies and procedures for conducting background checks and drug tests of Center staff.
- (i) Identify any proposed subcontractors or partners with a specific list of all activities or functions for which they would be responsible.
- (j) A Program Schedule for activities at the Center.
- (k) A Fee Schedule showing rates that will be charged for all activities at the Center.
- (l) A monthly operations reporting plan. Describe what data you will submit to the City (see RFP section 1.3 g), and how you will track this data. Please include samples of the proposed format(s) of submissions.

Section 5– Revenue. The City's financial objective is that the Center be operated at a profit to both the Operator and the City, with revenue equaling or exceeding operating costs (including salaries, fees and utilities). The Operator may engage in fund raising activities to supplement operating revenue, or it may supplement the operating budget through its own resources.

- (a) Propose an annual budget with sufficient detail for the City to fully understand each element being proposed. Examples include, but are not limited to, liability and workman's compensation insurance, concession fee, staff salaries and hourly wages, equipment purchase and leases, material for resale, general and administrative costs, operations and maintenance costs, capital fund contributions, and all overhead expenses.
- (b) Provide a two year operating pro forma statement based on services proposed and projected sales and other income. Include rationale for your estimates.
- (c) Describe a Fee Schedule for services offered to the public, including information on any discounts or scholarships offered.

Section 6 – Fees. In this section, Offeror shall propose their concession fee in the format of a flat fee plus a percentage of gross revenues. Reference the pro forma statement provided in Section 5 to estimate annual payments to the City for two years.

Section 7 – Marketing, Promotions, and Fundraising. Describe your plans for marketing the Center and for fundraising. Include specific proposals for proven marketing and promotions methodologies. Specifically address alternative approaches for fundraising, which may include sponsorships of the courts and other proven initiatives that would lead to profitability.

Section 8 – Performance Measurements. The City considers the quality of service, as well as cost control methodologies, critical to the selection of any Offeror to perform the services. In this section, propose areas of your performance that you will measure, and how. Indicate frequency of measurements and of reporting.

Section 9 – Exceptions to the RFP or Sample Contract. In this section, list any exceptions taken to the RFP or to the attached “Sample Contract”, Exhibit 3. It is intended that any resultant contract awarded will contain substantially the same terms and conditions set forth in the “Sample Contract”. Exceptions will be considered during the evaluation and may impact evaluation results. If no exceptions are included in your proposal, the terms and conditions will not be subject to negotiation and shall be deemed accepted by the Successful Offeror.

2.4 Award Criteria

- (a) The City is under no obligation to award a Contract(s) for these services. The basis for any potential award would be a review and evaluation of the submitted proposals, and award would be made to the responsive and responsible Offeror whose proposal is most advantageous to the City, price, quality, and other factors considered. The City may award a contract, with or without further discussions, to one Offeror. Award of any Contract will only be made upon approval of the City Council or its designee. The City reserves the right to reject any and all proposals received.
- (b) The principal criteria for award will be the following:
 - 1. Experience and qualifications of the Company and key personnel assigned to this project;
 - 2. Resources of the Offeror and financial feasibility of the Management Plan;
 - 3. Well conceived Management Plan; and
 - 4. Pricing.
- (c) The City reserves the right to consider any other factors when evaluating proposals, when such consideration serves the goals and interests of the City.

2.5 Inquiries

- (a) Any questions regarding this Request for Proposals should be directed to **PAMELA HOFFMAN**, Contracts Specialist, (702) 229-6006, or FAX (702) 464-2525 or e-mail phoffman@lasvegasnevada.gov. Offerors shall initiate all contact with the City through this designated Purchasing & Contracts Representative during the period beginning with the issuance of the RFP and ending with the award of any Contract or the completion of this RFP, if no Contract is awarded. This will ensure that all issues are appropriately coordinated and that all Prospective Offerors are afforded equal treatment. Communication between the Prospective Offerors and any non-designated City contact regarding the selection of an Offeror is prohibited from the time the RFP is advertised until a resulting contract is recommended for award. Failure of an Offeror or any of its representatives to comply with this paragraph may result in its proposal being rejected.
- (d) Offerors should thoroughly review the RFP and submit written questions by facsimile or e-mail to the designated Purchasing & Contracts Representative no later than close of business on the day designated on the Cover Page. The City will distribute responses to questions by RFP Addendum to all Prospective Offerors via automatic notification from DemandStar.

2.6 Presentations from Selected Finalists

After proposals are received by the City, an evaluation team may select from the pool of Offerors a group of final Offerors to give a presentation in Las Vegas and/or may request further information from Offerors. Failure to provide requested information or a presentation may eliminate an Offeror from further consideration. All costs associated with providing a presentation shall be the responsibility of the Offeror. Presentations may be in person, by video conference or teleconference.

2.7 Evaluation Disclosures

- (a) This Request for Proposals (RFP) is subject to the restrictions set forth in NRS 332, which address the conduct of evaluators and bidders (Offerors), as well as the protection of information associated with the RFP

process. Offerors may review the pertinent statutes (NRS 332.025, NRS 332.061, NRS 332.800, NRS 332.810, NRS 332.820) at: <http://leg.state.nv.us/law1.cfm>.

- (b) The NRS definition of “evaluator” extends beyond individuals actually reviewing proposals. NRS 332.025 provides the following definition: “Evaluator” means an authorized representative, officer, employee, representative, agent, consultant or member of a governing body who has participated in (i) the evaluation of bids [proposals], (ii) negotiations concerning purchasing by a local government, or (iii) the review or approval of the award, modification, or extension of a contract.
- (c) A committee will conduct an evaluation of timely received proposals. Each proposal evaluator must certify that they have read NRS Chapter 332 restrictions on “evaluators” and “bidders” (Offerors), that they will abide by the restrictions during and after the evaluation, and that they have no direct or indirect personal interest in the award of any potential contract. Violation of certain of these restrictions is a misdemeanor.
- (d) NRS 332.810 prohibits bidders (Offerors) from: (i) making certain offers of employment or business opportunities to an “evaluator” or member of the governing body, (ii) offering money, a gratuity, or other thing of value to an “evaluator” or member of the governing body, and (iii) soliciting or obtaining any proprietary information regarding the contract from an officer, employee, or member of the governing body. Violation of these restrictions is a gross misdemeanor.
- (e) Pursuant to 332.820, evidence of agreement or collusion among Prospective Offerors and Offerors acting to illegally restrain freedom of competition by agreement to bid a fixed price, or otherwise, shall render the offers of such Offerors void.
- (f) Advance disclosure of any information to any Prospective Offeror which would give that Prospective Offeror any advantage over any other Prospective Offeror would operate to void all proposals received in response to the RFP.
- (g) Offerors are reminded that the RFP Paragraph 2.5 (Inquiries) has established the designated Purchasing & Contracts Representative as the point of contact during the solicitation, evaluation, and award processes.

2.8 Notice of Award

After the award, the Purchasing and Contracts Division shall issue the Notice of Award notifying the Successful Offeror of the award, attaching the Contract, to be executed by the Successful Offeror(s) and returned to the City. A binding contract will not exist between the parties until (i) certificates of insurance and other required documents have been validated and (ii) the City has executed the Contract. *In preparing the required insurance documentation, Offeror shall refer to the example insurance certificate and associated forms provided as Attachment 2 to this Request for Proposal.* The failure to execute and return any documents required herein, shall cause the City to rescind the award, and enter into negotiations with the next highest ranked Offeror.

2.9 Post Award Conference

- (a) The Successful Offeror will be required to attend a post-award conference. The purpose of the conference is to review the contract with those individuals responsible for contract administration and performance of service in accordance with the terms of the contract.
- (b) Failure to attend this conference and to provide any required documentation may be considered grounds for termination for default.

2.10 Protests – Requests for Proposals

- (a) Any person who submits a proposal in response to this advertised Request for Proposals may, after proposals are received, evaluated, and a Contract is recommended for award, file a notice of protest (hereinafter, “Protest”) with the City regarding the awarding of the resulting contract; provided, the person (hereinafter, “Protester”) complies, as a condition precedent to consideration of such Protest, with the procedures set forth herein.

- (b) Any person who submits a proposal in response to this advertised Request for Proposals, who has received notice of elimination from further consideration for award, may file a Protest prior to the time a Contract is recommended for award, provided resolution of the protest may be accomplished without disclosure of other proposals. Consideration of any such Protest will be limited to a discussion of the Protestor's proposal, including strengths and weaknesses, and the actual terms and conditions of the Request for Proposals.
- (c) The Protest must be submitted in writing to the attention of the City's Purchasing and Contracts Manager at the address set forth in Paragraph D-1 of the attached "Sample Contract" Exhibit B within five business days after the Protester knows or should have known of the recommended award of a Contract resulting from this Request for Proposal, or within five business days after receiving notice of elimination from further consideration for award.
- (d) The Protest must include a written statement setting forth with specificity the reasons the person filing the Protest believes the applicable provisions of law were violated. The Protest shall contain, at a minimum, the following information:
 - (i) Request for Proposals number and title,
 - (ii) The name and address of the Protester and the title or position of the person submitting the Protest,
 - (iii) A statement describing in detail all of the issues being protested, the underlying specific provision(s) of law alleged to be violated, and the reasons the award of the contract should not be made as proposed by the City,
 - (iv) A statement describing in detail how the issues being protested adversely affect the Protester's proposal submitted to the City,
 - (v) A statement describing the relief sought by the Protester, and
 - (vi) Such other information as the Protester deems to be material.
- (e) The Protester shall provide such additional information requested by the City, which the City deems pertinent to the consideration of the Protest. The Protest shall identify all of the issues and arguments which support the Protester's claim that award of the Contract should not be made as proposed by the City, and any and all subsequent appeals of the decision rendered upon the protest shall be limited solely to the issues and arguments set forth therein, and shall not include any new or additional issues or arguments.
- (f) At the time the Protest is filed, the Protester must post with the City a security in the form of a cashier's check, bond, certified check or money order (hereinafter the "Protest Security") made payable to the City. The amount of the Protest Security shall be the lesser of (i) 25 percent of the Protester's proposed price(s), or (ii) Two Hundred Fifty Thousand Dollars (\$250,000). The Purchasing & Contracts Manager will hold the Protest Security until a final determination is made on the Protest.
- (g) Upon receipt of the Protest and the Protest Security, which meet all the requirements set forth herein, the Purchasing & Contracts Manager will review the Protest with City representatives and, if the Protest is not resolved by mutual agreement, will render a written determination within ten calendar days thereof, unless the nature and complexity of the Protest requires additional time. In lieu of deciding the Protest, the Purchasing & Contracts Manager may: (i) forward the Protest directly to the Finance and Business Services Director, or (ii) forward the Protest directly to the City Council for a determination.
- (h) The decision of the Purchasing & Contracts Manager may be appealed; provided, the Protester delivers written notice thereof to the Purchasing & Contracts Manager within three business days of receipt by the Protester of the Purchasing & Contracts Manager's written determination. Upon receipt of the written notice of appeal, the Purchasing & Contracts Manager will forward the appeal to the Finance and Business Services Director or, in the case of time sensitive projects, directly to the City Council, whichever is determined to be in the best interests of the City.
- (i) Upon receipt of the appeal, the Finance and Business Services Director will review the Protest and issue a written determination within ten calendar days thereof, unless the nature and complexity of the Protest requires additional time. If the Protester is not satisfied with the Finance and Business Services Director's decision, an appeal may be made to the City Council; provided, a written request is received by the

Purchasing & Contracts Manager within three business days of receipt by the Protester of the Finance and Business Services Director's written determination.

- (j) If an appeal is made to the City Council, the matter will be placed on the agenda of the City Council as soon as possible taking into account the administrative deadlines in effect within the City. The City Council will not consider any appeal unless it complies with the procedures set forth herein.
- (k) If the Protest is upheld, or the City decides to reject all proposals in connection with the Request for Proposals, the full amount of the Protest Security will be returned to the Protester. If the City renders an unfavorable final decision (at any level) on the Protest, the City will return the Protest Security to the Protester within 30 calendar days of the decision after deducting there from the expenses incurred by the City in processing the appeal.
- (l) If the Protester seeks judicial relief from the decision of the City Council, the City will retain the Protest Security until a determination is made by the court. If the court upholds the decision of the City Council, the City may retain an amount equal to the expenses incurred by the City in processing the appeal including, but not limited to, court costs, costs of attorney's fees (including those in retaining private council to defend the decision of the City Council), costs of staff time expended in processing the appeal, costs to retain any needed consultants or experts or any other costs incurred by the City resulting from the appeal. If the Protestor prevails in court, the full amount of the Protest Security will be returned to the Protester.
- (m) Neither the City nor its officers, employees, or authorized representative is liable for any costs, expenses, attorney's fees, loss of income, or other damages sustained by a person who submits a proposal, whether or not the person files a Protest.
- (n) No award will be made of the Contract while a protest or appeal is pending before the City. A person who submits an unsuccessful proposal may not seek any type of judicial intervention until the City Council has made a determination on the protest and awarded the Contract.
- (o) The City, as administrator of the Request for Proposals and a resulting contract on behalf of the City, is the sole and final forum for submission of Protests.

FORM A – OFFER STATEMENT AND BUSINESS INFORMATION

This proposal is submitted in response to Request for Proposals No. 110191-PH and constitutes an offer by this Offeror to enter into a potential Contract for the scope of services described herein. Execution of this document by the Offeror shall represent that the Offeror is familiar with all local conditions and utilized this knowledge with the requirements of this Request for Proposal.

Legal name of Offeror: _____
☐ Individual/Sole Proprietor ☐ Corporation ☐ Limited Liability Company ☐ Partnership

Incorporated in the State of _____

(DBA), if applicable _____

Address: _____
(Address to which Legal Notice should be delivered or mailed)

City: _____ State: _____ Zip: _____

Telephone No: _____ Fax No: _____

Email Address: _____ CLV Business License Number: _____

LIST – License numbers of all Offeror held local, state and national licenses:

The Offeror is responsible to ascertain the number of Addenda issued and hereby acknowledges receipt of the following addenda:

Addendum No. _____ Initial _____ Addendum No. _____ Initial _____

Addendum No. _____ Initial _____ Addendum No. _____ Initial _____

The undersigned Offeror has received, read and fully understands and agrees to all terms, conditions, specifications set forth in the attached Proposal. The Offeror hereby agrees to contract with the City to perform all work and/or furnish all the materials specified in the manner and time therein prescribed in the Request for Proposal. By signing below, I certify under penalty of perjury that the all information provided to the City truthful and correct.

*Authorized Representative's Signature: _____ Title: _____

Authorized Representative's Name: _____
(Printed) _____ Date: _____

***Authorized Signature: The signer declares under penalty of perjury that she/he is authorized to sign this document and bind the Offeror or organization to the terms of this contract.**

FOR INFORMATIONAL PURPOSES ONLY

Is the Offeror a Minority, Woman or Disabled Veteran Business Enterprise? ☐ No ☐ Yes If yes, specify ☐ MBE ☐ WBE ☐ DVBE

Has this Offeror been certified as a Minority, Women or Disabled Veteran Business Enterprise?

☐ No ☐ Yes If "Yes" Specify Certifying Agency _____ (Attach a copy of your certification)

FORM B - 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	All American Park Tennis Operator
Address	
Telephone	
EIN or DUNS	RFP# 110191-PH

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: _____

Date of Attached Document: _____ Number of Pages: _____

I certify under penalty of perjury, that all the information provided in this Certificate is current, complete and accurate. I further certify that I am an individual authorized to contractually bind the above named Contracting Entity.

Name

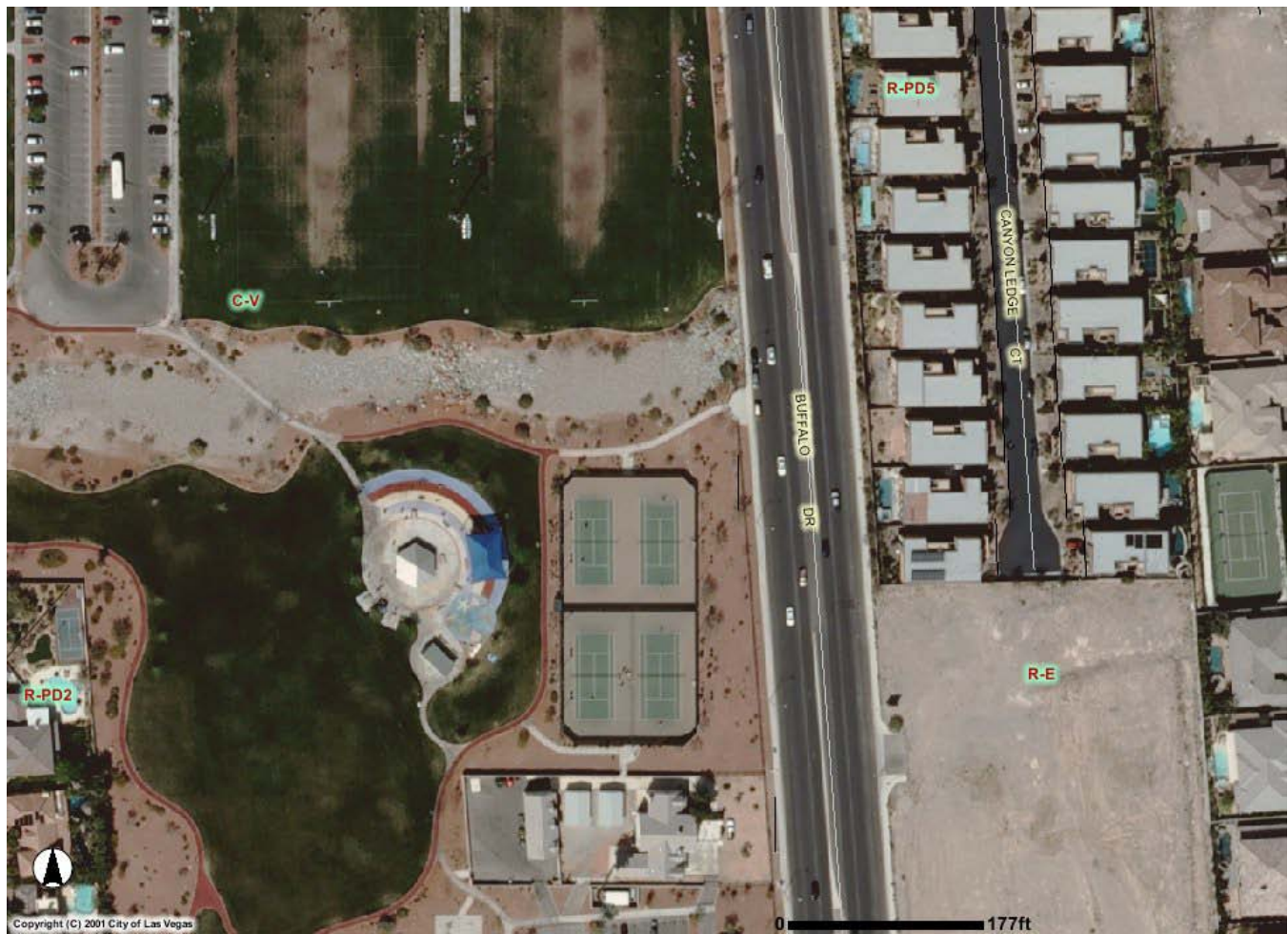
Date

Subscribed and sworn to before me this _____ day of _____, 20__

Notary Public

EXHIBIT 1 - SITE MAPS AND FLOOR PLAN

Aerial view of Center and surrounding area



Site Map of Contract Area

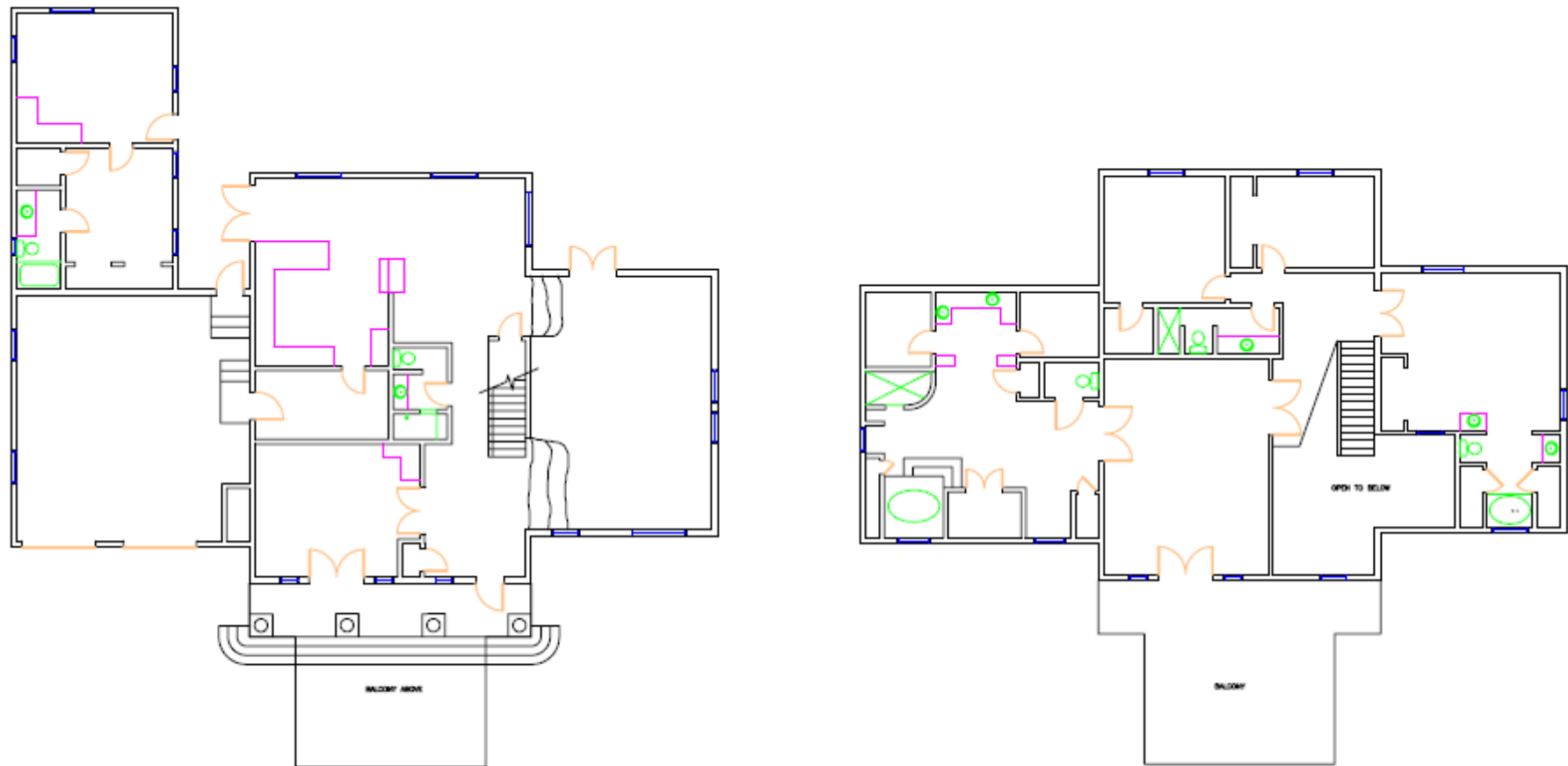


Legend:

- Mandatory Contract Area
- Optional Area 1 (Casita)
- Optional Area 2 (Buffalo House)

Areas are approximate and are subject to negotiation.

Floor plan of Buffalo House and Casita



Buffalo House – Floor Plan

Prepared by Marshall Hutchinson

December 8, 2009

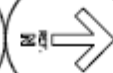
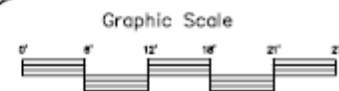


EXHIBIT 2 - HISTORICAL AND ESTIMATED OPERATING EXPENSES

(a) Court lights

The City estimates lighting for the four tennis courts costs \$2.64 per hour. Court lights are not separately metered. The Operator will reimburse the City for the cost of court lighting.

(b) Landscaping

Not applicable, the Operator will not have control over landscaped areas.

(c) Court resurfacing

The City estimates that courts will cost approximately \$8,000 each to resurface. There is no record of the last resurfacing of these courts. A resurfacing plan and schedule must be proposed by the Operator.

(d) Buffalo House

Historical power and water costs for the entire House (including Casita) are as follows:

Period	Monthly average	Annual total
NV Energy meter # P874002143		
July '08 – June '09	\$518.21	\$6,218.50
July '09 – June '10	\$538.23	\$6,458.79
July '10 – April '11	\$570.54	\$5,705.43
LVVWD meter # 0463812		
July '08 – June '09	\$303.99	\$3,647.93
July '09 – June '10	\$207.23	\$2,486.79
July '10 – April '11	\$289.05	\$2,890.48

(e) Sewer is not separately billed and will remain the responsibility of the City. There is no natural gas to the Contract Area. There is a dumpster near the Contract Area that the Operator will be allowed to use for reasonable waste resulting from operations free of charge. Telephone and data lines will be the responsibility of the Operator. There is an alarm system installed at the House. Alarm system maintenance costs approximately \$700 per year.

(f) The Casita at the rear of the House is not separately metered for any utilities. An Operator wishing to take control of the Casita only will reimburse the City for operating costs in a prorated amount based on square footage.

**EXHIBIT 3 - SAMPLE CONTRACT
ALL AMERICAN PARK TENNIS OPERATOR**

THIS CONTRACT is being entered into this _____ day of _____, 2011, by and between the CITY OF LAS VEGAS (hereinafter the "City"), a municipal corporation within the State of Nevada having its principal office at 400 Stewart Avenue, Las Vegas, Nevada 89101, and _____ (hereinafter the "Company") having its principal office located at _____.

SECTION A – Purpose of Agreement

- (a) The purpose of this Agreement is to provide for the operation, management, and maintenance of the Center by the Operator.
- (b) The Operator will operate the Center, which is owned by the City. The Center shall be managed, operated, and made available to the general public without discrimination as to age, race, creed, religion, sex, marital status, national origin, sexual orientation, political affiliation, physical handicap or ancestry.
- (c) The Operator shall act as the general clearing house, organizer, overseer, coordinator, and promoter of recreation, fitness, safety, and competitive programs offered in the Center. This Contract defines the operating terms mutually agreed upon by both parties.

SECTION B – Basic Terms

B-1 Definitions

The following definitions apply to this Contract:

- (a) "*Award Date*" means the date that a Contract becomes effective. It is the date that is entered into the first paragraph of a Contract upon execution by an authorized representative of the City.
- (b) "*Center*" means the Darling Tennis Center, all facilities and land located within the area outlined in Exhibit 1 (Site Map).
- (c) "*City*" means the City of Las Vegas.
- (d) "*City Council*" means the governing body of the City of Las Vegas.
- (e) "*Contract*" means this document, consisting of Sections A through F, which is binding and effective only upon execution by the City and the Operator.
- (f) "*Endowment Fund*" refers to a financial account established by the City using funds donated by the Darling Foundation, pursuant to an agreement between the Darling Foundation and the City dated March 17, 2004. The Endowment Fund remains under the full control of the City.
- (g) "*Deliverable*" means any report, data, documentation, or other tangible item that the Operator is required to provide to the City under the terms of this Contract.
- (h) "*FF&E*" means Furniture, Fixtures and Equipment, or items not permanently attached to a structure or building. For example: sports/electronics equipment, desks, chairs, bookcases, file cabinets, waste receptacles, partitions, refrigerators, tables, credenzas, and furniture systems.
- (i) "*Operator*" means the individual, partnership, or corporation responsible for the performance of services under this Contract.
- (j) "*Operator Furnished Equipment or OFE*" means furniture, fixtures, equipment and other items purchased by the Operator with their own funds.

- (k) “*Operator Representative*” means the individual authorized to act on behalf of the Operator regarding routine matters arising under or relating to this Contract.
- (l) “*Programs*” means organized activities, and classes that are offered to the public that offer recreational, social, and educational or other benefits to participants.
- (m) “*Project Manager*” means the City representative who is responsible for the coordination of Contract performance between the City and the Operator.

B-2 Revenues and Budgets

[To be determined prior to Contract award.]

B-3 Financial Reporting and Fee Payment

[To be determined prior to Contract award.]

B-4 Agreement Term

[To be determined prior to Contract award.]

SECTION C – Statement of Work

[To be determined prior to Contract award.]

SECTION D – Special Clauses

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

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

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

FOR THE COMPANY: [To be determined prior to Contract award.]

- (b) The parties shall provide written notification of any change in the information stated above.
- (c) An original signed copy, via U. S. Mail, shall follow facsimile transmissions.
- (d) For purposes of this Contract, legal notice shall be required for all matters involving potential termination actions, litigation, indemnification, and unresolved disputes. This does not preclude legal notice for any other actions having a material impact on the Contract.

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

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

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

D-3 Warranty – Services [CAO-7/24/08]

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

D-4 Cumulative Rights and Remedies, Nonrecourse

- (a) Except as otherwise expressly stated in this Contract, the rights and remedies of the parties are cumulative, and the exercise by any party of one or more of such rights or remedies shall not preclude the exercise by it, at the same time or different times, of any other rights or remedies for the same default or any other default by the other party.
- (b) Notwithstanding anything to the contrary contained in this Contract, the City's recourse and security for the Operator's obligations shall be to terminate this Contract or to seek damages or specific performance pursuant to Paragraph [TBD – term for convenience, term for default, insurance]
- (c) It is expressly agreed that the foregoing provisions shall not limit the Operator's liability for fraud for intentional misrepresentation made in connection with this Contract, or for failure to pay taxes or assessments or to satisfy its obligations such that a lien is created against any portion of the Center.

D-5 Contracts and Agreements

All equipment leases, financing agreements, subcontractor agreements, or any other contracts or agreements relating to the Contract Area during the Contract term shall be entered by the Operator as the contracting party. The Operator shall not enter into any such contract or agreement which would extend beyond the term of this Contract or which is not terminable on 30 days notice in the event of the termination of this Contract.

D-6 Intellectual Property Rights [CAO-7/24/08]

All deliverables required under this Contract, in the form of data, notes, and reports collected on behalf of the City, are exclusively the property of the City.

D-7 Licenses/Registrations [CAO-7/24/08]

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

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

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

SECTION E – General Clauses

E-1 Disputes [CAO-7/25/08]

- (a) For each claim or dispute arising between the parties under this Contract, the parties shall attempt to resolve the matter through escalating levels of management. In the event the matter cannot be successfully resolved in this manner, the City is granted the right, regardless of which party is asserting the claim or dispute, to determine between arbitration or litigation as the forum in which the party desiring to proceed further shall file to resolve the claim or dispute. For any and all claims or disputes asserted by the 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 and in the same notice as to whether it has selected arbitration or litigation as the forum to resolve the claim or dispute. In the event arbitration is the designated forum, such arbitration shall be binding on the parties.
- (b) If arbitration is selected by the City as the forum for further resolution, the claim or dispute shall be filed with the Nevada Arbitration Association or the American Arbitration Association under its then current Commercial Arbitration Rules, Expedited Procedures, regardless of the amount of the claim or dispute.
- (c) The laws of the State of Nevada shall govern this Contract and the venue for purposes of such litigation or arbitration shall be in the City.

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

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

E-3 Termination for Convenience [R]

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. The Operator shall submit a final report along with any monies due the City within 30 days of termination.

E-4 Termination for Default [CAO-11/9/09]

- (a) The City may, by written notice of default to the Company, terminate this Contract in whole or in part if the Company fails to:
 - (i) Perform the services under Section C (Statement of Work), including, if applicable, delivering any required software, goods, or documentation within the time specified in this Contract or any extension;
 - (ii) Make progress, so as to endanger performance of this Contract; or
 - (iii) Perform any of the other provisions of this Contract.

- (b) The City's right to terminate this Contract under (a)(ii) and (a)(iii) above, may be exercised if the Company does not cure such failure within ten calendar days (or more if authorized by the City) after notice, specifying the failure, is provided pursuant to the Paragraph D-1 (Legal Notice) of this Contract.
- (c) If the City terminates this Contract for default in whole or in part, it may acquire, under reasonable terms and in the manner the City considers appropriate, services or goods similar to those terminated, and the Company shall be liable to the City for any excess costs for those services or goods. However, the Company shall continue the work not terminated.
- (d) The Company shall not be liable for any excess costs if the failure to perform the Contract arises from circumstances beyond the control and without the fault or negligence of the Company. These circumstances are limited to such causes as (1) acts of God or of the public enemy, (2) acts of governmental bodies, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) labor strikes, (8) freight embargoes, or (9) unusually severe weather. The time of performance of the Company's obligations under this Contract shall be extended by such period of enforced delay; provided, however, that such reasonably extended time period shall not exceed 60 days. If the foregoing circumstances result in a delay greater than 60 days, the City may terminate the affected portion of the Contract pursuant to the terms of Paragraph E-3 (Termination for Convenience).
- (e) Either party may terminate this Contract, in whole or in part, if the other party becomes insolvent or bankrupt or makes an assignment for the benefit of creditors, or if a receiver or trustee in bankruptcy is appointed for the other party, or if any proceeding in bankruptcy, receivership, or liquidation is instituted against the other party and is not dismissed within 30 days following commencement thereof.
- (f) The City retains the right to terminate for default immediately should the Company fail to maintain the required levels of insurance, fail to comply with applicable local, state, and Federal statutes governing performance of these services, or fail to comply with statutes involving health or safety.
- (g) In the event that the City fails to perform any of its obligations required under this Contract, and the City does not remedy the failure after notice thereof is provided to the City by the Company pursuant to Paragraph 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 Section E-3 (Disputes) of this Contract. During the period of such resolution, the Company shall continue with its performance under the Contract.

E-5 Insurance and Bonds:[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.
 - (ii) Business Interruption or Rental Loss Insurance (or the functional equivalent) in an amount to cover not less than twelve months of revenue attributed to the Center.
 - (iii) Commercial General Liability Insurance (bodily injury, property damage) with respect to the Company's agents assigned to the activities performed under this Contract in a policy limit of not less than \$1,000,000.00 per occurrence and \$2,000,000.00 in the aggregate, for bodily injury (including death), personal injury and property damages. Such coverage shall be on an "occurrence" basis and not on a "claims made" basis, and be provided on either a Commercial General Liability or a Broad Form Comprehensive General Liability (including a Broad form CGL endorsement) insurance form. The form must be written on an ISO Form CG 00 01 10 01, or an equivalent form.
 - (iv) 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.

- (b) Company must provide required insurance documentation to Insurance Tracking Services (ITS) immediately upon notification of selection. Award is conditional upon verification by ITS that all insurance requirements have been met. All policy certificates and endorsements are required to be issued by an agent authorized by that insurer and licensed by the State of Nevada. All required aggregate limits must be disclosed and amounts entered on the certificate(s) of insurance. The certificates must identify the Contract number and the Contract description. The Company shall maintain coverage for the duration of this Contract, and any renewal periods, if applicable. The Company shall annually provide ITS with a certificate of insurance as evidence that all insurance requirements have been met. The Company and/or insurance carrier shall provide the City with a 30 day advance notice of policy modification, cancellation or erosion of insurance limits, sent by certified mail "return receipt requested".

Submit certificates of insurance to:

City of Las Vegas
C/O Insurance Tracking Services, Inc. (ITS)
P.O. Box 21919
Long Beach, CA 90801

Account Manager: Michael Palacios
Phone: (888) 435-2955 ext. 503 • Fax: 562-435-2999
Email: michael.palacios@instracking.com

A certified, true and exact copy of each of the project specific insurance policies (including renewal policies) required under this Section E-5 shall be provided to the City if so requested.

- (c) The City, its officers and employees shall be named as additional insureds on all policies with the exception of professional Liability Insurance. Such notation shall appear on the certificate of insurance furnished by the Company's insurance carrier. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer and licensed by the State of Nevada. Each insurance carrier's rating as shown in the latest Best's Key Rating Guide shall be fully disclosed and entered on the required certificate of insurance. The City requires insurance carriers to maintain a Best's Key rating of A VII, or higher. The adequacy of the insurance supplied by the Company, including the rating and financial health of each insurance carrier providing coverage, is subject to the approval of the City.
- (d) All deductibles and self-insurance retentions shall be fully disclosed in the certificate of insurance. No deductible or self-insured retention may exceed \$10,000.00 without the prior written approval of the City.
- (e) If the Company fails to carry the required insurance, the City may (i) order the Company to stop further performance hereunder, declare the Company in breach, pursuant to Paragraph E-4, terminate the Contract if the breach is not remedied and, if permitted, assess liquidated damages, or (ii) purchase replacement insurance and withhold the costs or premium payments made from the payments due to the Company or charge the replacement insurance costs back to the Company.
- (f) Any subcontractor or subconsultant approved by the City shall be required to procure, maintain and submit proof of insurance to the City of the same insurance requirements as specified above, and as required in this paragraph.
- (g) The Company is encouraged to purchase any additional insurance as it deems necessary.
- (h) The Company is required to remedy all injuries to persons and damage or loss to any property of the City, caused in whole or in part by the Company, its subcontractors or anyone employed, directed or supervised by the Company.
- (i) The policies required in E-5 (a) i-iii shall have a Waiver of Subrogation provision endorsement in favor of the City of Las Vegas.
- (j) The Operator shall furnish an Employee Dishonesty Bond insuring the City against any dishonest acts of the Operator or any of its employees, officers or directors, individually or in collusion with others. This bond shall be in an amount no less than \$35,000, to include \$25,000 for all key financial officers or employees, and \$10,000 for all other employees.

E-6 Indemnification [CAO-7/24/08]

- (a) In addition to the insurance requirements set forth in Paragraph E-5 (Insurance), the Company shall protect, indemnify and hold harmless the City, its officers, employees, agents, and consultants (collectively herein the "City") harmless from any and all claims, liabilities, damages, losses, suits, actions, decrees, and judgments including, attorney's fees, court costs or other expenses of any and every kind or character (collectively herein the "Liabilities") which may be recovered from or sought against the City, as a result of, by reason of, or as a consequence of, any act or omission, negligent or otherwise, on the part of the Company, its officers, employees, or agents in the performance of the terms, conditions and covenants of the Contract, regardless of whether the Liabilities were caused in part by the City.
- (b) If a third party claim against the City for negligent performance by the Company is within the limits of its liability insurance and the insurance company has accepted the City's tender of defense, then the City will pay the Company what is due and owing to them, within the payment method specified in this Contract. However, if the claim is greater than the coverage amount, the City, for its protection, may retain any money due and owing the Company under this Contract, until the claim has been resolved. In the event no money is due and owing, the surety, if required, of the Company, may be held until all of the Liabilities have been settled and suitable evidence to that effect furnished to the City.
- (c) It is expressly agreed that the Company shall defend the City, against the Liabilities and in the event that the Company fails to do so, the City shall have the right, but not the obligation, to defend the same and to charge all direct and incidental costs, including attorney's fees and court costs, to the Company.

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

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

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

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

E-9 Taxes/Compliance with Laws [CAO-7/24/08]

- (a) The City is exempt from paying Sales and Use Taxes under the provisions of Nevada Revised Statutes 372.325(4), and Federal Excise Tax, under Registry Number 88-87-0003k. The 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 Health and Safety Act, and all state and federal laws prohibiting and/or relating to discrimination by reason of race, sex, age, religion or national origin.

E-10 Audit of Records [CAO-8/5/08]

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

E-11 Independent Contractor [R]

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

Nothing in this Contract shall be construed as creating a tenancy between the City and the Operator. The parties agree that this Contract does not constitute a lease of the location. The City assumes no responsibility for taxes, repairs or upkeep of the Contract Area except for those City Responsibilities expressly identified in Section TBD.

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

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

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

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

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

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

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

- (a) This Contract represents the entire and integrated agreement between the City and the Company. It supersedes all prior and contemporaneous communications, representations, and agreements, whether oral or written, relating to the subject matter of this Contract.

- (b) The section and paragraph headings appearing in this Contract are inserted for the purpose of convenience and ready reference. They do not purport to define, limit or extend the scope or intent of the language of the sections and paragraphs to which they pertain.

E-16 Conflict of Interest (City Officials) [CAO-7/24/08]

- (a) An official of the City, who is authorized in such capacity and 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 in such capacity and on behalf of the City to exercise any legislative, executive, supervisory or other similar functions in connection with this Contract, shall become directly or indirectly interested personally in this Contract or in any part hereof, any material supply contract, subcontract, insurance contract, or any other contract pertaining to this Contract.
- (b) Each party represents that it is unaware of any financial or economic interest of any public officer or employee of the City relating to this Contract. Notwithstanding any other provision of this Contract, if such interest becomes known, the City may immediately terminate this Contract for default or convenience, based on the culpability of the parties.
- (c) The Company represents and warrants that it has, in accordance with the current policy of the City, disclosed the ownership and principals of the Company on Attachment 1 (Certificate – Disclosure of Ownership/Principals), and that it has a continuing obligation to update this disclosure whenever there is a material change in the information contained therein.

E-17 Public Records [CAO-7/24/08]

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, all supporting documents, and proposals submitted under the original Request for Proposal are deemed to be public records.

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

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

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

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

E-20 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.

SECTION F – List of Attachments/Exhibits

The following attachments are hereby incorporated into this contract:

[To be determined prior to Contract award.]

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

CITY OF LAS VEGAS

KATHLEEN C. RAINEY, Manager
Purchasing and Contracts

“City”

ATTEST:

BEVERLY K. BRIDGES, MMC
City Clerk

APPROVED AS TO FORM:

Deputy City Attorney

Date

[To be determined prior to Contract award.]

’
“Company”