

**City of Carson City
Agenda Report**

Date Submitted: July 3, 2014

Agenda Date Requested: July 17, 2014

Time Requested: 5 minutes

To: Mayor and Supervisors
From: Purchasing and Contracts

Subject Title: For Possible Action: To approve Contract No. 1415-027 Pursuant to NRS 332.115(1)(b) and NRS 625.530 with Valentiner Crane Architects to provide Professional Services for Carson City Multi-Purpose Athletic Complex Architectural and Engineering Design through December 30, 2016 for a not to exceed amount of \$251,763.00 to be funded from the Q18 Capital Park Improvements/New Gym as provided in FY 2014/2015 and FY 2015/2016. (Kim Belt)

Staff Summary: The Public Works Department is interested in hiring Valentiner Crane Architects to provide architectural and engineering services to complete the design of the Multi-Purpose Athletic Complex (MAC) project. The firm is a recognized expert specializing in athletic and recreational buildings and is familiar with the project having performed the design of the project to the 60% point.

Type of Action Requested: (check one)

Resolution Ordinance
 Formal Action/Motion Other (Specify)

Does This Action Require A Business Impact Statement: Yes No

Recommended Board Action: I move to approve Contract No. 1415-027 Pursuant to NRS 332.115(1)(b) and NRS 625.530 with Valentiner Crane Architects to provide Professional Services for Carson City Multi-Purpose Athletic Complex Architectural and Engineering Design through December 30, 2016 for a not to exceed amount of \$251,763.00 to be funded from the Q18 Capital Park Improvements/New Gym as provided in FY 2014/2015 and FY 2015/2016. (Kim Belt)

Explanation for Recommended Board Action: Pursuant to **NRS 332.115(1)(b):** (1) Contracts which by their nature are not adapted to award by competitive bidding, including contracts for (b) Professional Services and **NRS 625.530**, contracts for the services of a professional engineer, professional land surveyor or registered architect; that the selection was made on the basis of the competence and qualifications of the engineer, land surveyor or architect for the type of service to be performed and not on the basis of competitive fees; and therefore not suitable for public bidding.

Applicable Statute, Code, Rule or Policy: NRS 332.115(1)(b) and NRS 625.530

Fiscal Impact: \$251,763.00

Explanation of Impact: Amount of contract.

Funding Source: Q18 Capital Projects Design Account – 254-5046-452-70-20, project number 010708 as provided in the FY 2014 budget. We will carry forward the budget amount to FY 2015 and FY 2016, if necessary.

Alternatives: Not award contract and provide other direction.

Supporting Material: Contract No. 1415-027 and Exhibit A.

Prepared By: Kim Belt, Purchasing and Contracts Manager

Reviewed By: Bob McLean Date: 7/8/14
(Parks and Recreation)
Tom. J. Son Date: 7/8/14
(Public Works)
Nicholas Mihman Date: 7/8/14
(City Manager)
Randy Hahn Date: 7/8/14
(District Attorney)
Sue Paulson Date: 7/8/14
(Finance Director)

Board Action Taken:

Motion: _____ 1) _____ Aye/Nay
2) _____

(Vote Recorded By)

**PROFESSIONAL SERVICES AGREEMENT RELATED TO CONSTRUCTION
PROJECTS (Architects, Engineers, and Land Surveyors)**
Contract No. 1415-027

**Carson City Multi-Purpose Athletic Complex for Architectural and
Engineering Services**

THIS CONTRACT, made and entered into this 17th day of July, 2014, by and between Carson City, a consolidated municipality, a political subdivision of the State of Nevada, hereinafter referred to as the "CITY", and Valentiner Crane Architects hereinafter referred to as the "CONSULTANT".

WITNESSETH:

WHEREAS, the Purchasing and Contracts Manager for the City and County of Carson City is authorized, pursuant to Nevada Revised Statutes Chapter 332 and Carson City Purchasing Resolution #1990-R71, to approve and accept this Contract as set forth in and by the following provisions; and

WHEREAS, it is deemed that the services of CONSULTANT for CONTRACT No. 1415-027 Carson City Multi-Purpose Athletic Complex for Architectural and Engineering Services are both necessary and in the best interests of CITY; and

NOW, THEREFORE, in consideration of the aforesaid premises, the parties mutually agree as follows:

1 REQUIRED APPROVAL:

1.1 This Contract shall not become effective until and unless approved by the Carson City Board of Supervisors.

2 CONTRACT TERM:

2.1 This Contract shall be effective from July 17, 2014, subject to Carson City Board of Supervisors' approval (anticipated to be July 17, 2014) to December 30, 2016, unless sooner terminated by either party as specified in **Section 7 Contract Termination**.

| |
|--------------------|
| For P&C Use Only |
| CCBL expires _____ |
| GL expires _____ |
| AL expires _____ |
| PL expires _____ |
| WC expires _____ |

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3 NOTICE:

3.1 Unless otherwise specified, termination shall not be effective until thirty (30) calendar days after a party has served written notice of default, or without cause upon the other party. All notices or other communications required or permitted to be given under this Contract shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by e-mail with simultaneous regular mail, by telephonic facsimile with simultaneous regular mail, or by certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address specified below.

3.2 Notice to **CONSULTANT** shall be addressed to:

Brent R. Tippets
Partner
Valentiner Crane Architects
524 South 600 East
Salt Lake City, Utah 84102
801-575-8800/FAX #: 801-531-9850
btippets@vcbo.com

3.3 Notice to **CITY** shall be addressed to:

Carson City Purchasing and Contracts
Kim Belt, Purchasing and Contracts Manager
201 North Carson Street Suite 3
Carson City, Nevada 89701
775-283-7137 / FAX 775-887-2107
KBelt@carson.org

4 SCOPE OF WORK:

4.1 **CONSULTANT** shall provide and perform the following services set forth in Exhibit A attached hereto and incorporated herein by reference for and on behalf of **CITY** hereinafter referred to as the "SERVICES".

4.2 **CONSULTANT** represents that it is duly licensed by Carson City for the purposes of performing the SERVICES.

4.3 **CONSULTANT** represents that it is duly qualified and licensed in the State of Nevada for the purposes of performing the SERVICES.

4.4 **CONSULTANT** represents that it and/or the persons it may employ possess all skills and training necessary to perform the SERVICES described herein and required hereunder.

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CONSULTANT shall perform the **SERVICES** faithfully, diligently, in a timely and professional manner, to the best of its ability, and in such a manner as is customarily performed by a person who is in the business of providing such services in similar circumstances.

CONSULTANT shall be responsible for the professional quality and technical accuracy of all **SERVICES** furnished by **CONSULTANT** to **CITY**.

4.5 **CONSULTANT** represents that neither the execution of this Contract nor the rendering of services by **CONSULTANT** hereunder will violate the provisions of or constitute a default under any other contract or agreement to which **CONSULTANT** is a party or by which **CONSULTANT** is bound, or which would preclude **CONSULTANT** from performing the **SERVICES** required of **CONSULTANT** hereunder, or which would impose any liability or obligation upon **CITY** for accepting such **SERVICES**.

4.6 Before commencing with the performance of any work under this Contract, **CONSULTANT** shall obtain all necessary permits and licenses as may be necessary. Before and during the progress of work under this Contract, **CONSULTANT** shall give all notice and comply with all the laws, ordinances, rules and regulations of every kind and nature now or hereafter in effect promulgated by any Federal, State, County, or other Governmental Authority, relating to the performance of work under this Contract. If **CONSULTANT** performs any work that is contrary to any such law, ordinance, rule or regulation, he shall bear all the costs arising therefrom.

4.7 Special Terms and Conditions for Engineers, Architects, and Land Surveyors:

4.8 Use of **CONSULTANT'S** Drawings, Specifications and Other Documents:

4.8.1.1 The drawing, specifications and other documents prepared by **CONSULTANT** for this Contract are instruments of **CONSULTANT'S** service for use solely with respect to this Contract and, unless otherwise provided, **CONSULTANT** shall be deemed the author of these documents and shall retain all common law statutory and other reserved rights, including the copyright.

4.9 Cost Accounting and Audits:

4.9.1.1 If required by **CITY**, **CONSULTANT** agrees to make available to **CITY** within two (2) years after the completion of the **SERVICES** under this Contract, such books, records, receipts, vouchers, or other data as may be deemed necessary by **CITY** to enable it to arrive at appropriate cost figures for the purpose of establishing depreciation rates for the various materials and other elements which may have been incorporated into the **SERVICES** performed under this Contract.

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4.10 CITY Responsibilities:

4.11 CITY shall make available to **CONSULTANT** all technical data that is in **CITY'S** possession, reasonably required by **CONSULTANT** relating to the **SERVICES**.

4.12 CITY shall provide access to and make all provisions for **CONSULTANT** to enter upon public and private lands, to the fullest extent permitted by law, as reasonably required for **CONSULTANT** to perform the **SERVICES**.

4.13 CITY shall examine all reports, correspondence, and other documents presented by **CONSULTANT** upon request of **CITY**, and render, in writing, decisions pertaining thereto within a reasonable time so as not to delay the work of **CONSULTANT**.

4.14 It is expressly understood and agreed that all work done by **CONSULTANT** shall be subject to inspection and acceptance by **CITY** and approval of **SERVICES** shall not forfeit the right of **CITY** to require correction, and nothing contained herein shall relieve **CONSULTANT** of the responsibility of the **SERVICES** required under the terms of this Contract until all **SERVICES** have been completed and accepted by **CITY**.

5 CONSIDERATION:

5.1 The parties agree that **CONSULTANT** will provide the **SERVICES** specified in **Section 4 Scope of Work** and **CITY** agrees to pay **CONSULTANT** the **CONTRACT SUM** based upon Time and Materials and the attached fee schedule for a not to exceed maximum amount of Two Hundred Fifty One Thousand Seven Hundred Sixty Three Dollars and No Cents (\$251,763.00).

5.2 **CONTRACT SUM** represents full and adequate compensation for the completed **SERVICES**, and includes the furnishing of all materials; all labor, equipment, tools, and appliances; and all expenses, direct or indirect, connected with the proper execution of the **SERVICES**.

5.3 **CITY** has provided a sample invoice and **CONSULTANT** shall submit its request for payment using said sample invoice.

5.4 Payment by **CITY** for the **SERVICES** rendered by **CONSULTANT** shall be due within thirty (30) calendar days from the date **CITY** acknowledges that the performance meets the requirements of this Contract or from the date the correct, complete, and descriptive invoice is received by **CITY** employee designated on the sample invoice, whichever is the latter date.

5.5 **CITY** does not agree to reimburse **CONSULTANT** for expenses unless otherwise

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specified.

6 TIMELINESS OF BILLING SUBMISSION:

6.1 The parties agree that timeliness of billing is of the essence to this Contract and recognize that **CITY** is on a fiscal year which is defined as the period beginning July 1 and ending June 30 of the following year. All billings for dates of service prior to July 1 must be submitted to **CITY** no later than the first Friday in August of the same year. A billing submitted after the first Friday in August will subject **CONSULTANT** to an administrative fee not to exceed \$100.00. The parties hereby agree this is a reasonable estimate of the additional costs to **CITY** of processing the billing as a stale claim and that this amount will be deducted from the stale claim payment due to **CONSULTANT**.

7 CONTRACT TERMINATION:

7.1 Termination Without Cause:

7.2 Any discretionary or vested right of renewal notwithstanding, this Contract may be terminated upon written notice by mutual consent of both parties or unilaterally by either party without cause.

7.3 Termination for Nonappropriation:

7.4 All payments and services provided under this contract are contingent upon the availability of the necessary public funding. In the event that Carson City does not appropriate the funding necessary to perform in accordance with the terms of the Contract, the Contract shall automatically terminate.

7.5 Cause Termination for Default or Breach:

7.6 A default or breach may be declared with or without termination.

7.7 This Contract may be terminated by either party upon written notice of default or breach to the other party as follows:

7.7.1.1 If **CONSULTANT** fails to provide or satisfactorily perform any of the conditions, work, deliverables, goods, or services called for by this Contract within the time requirements specified in this Contract or within any granted extension of those time requirements; or

7.7.1.2 If any state, county, city or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by **CONSULTANT**

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to provide the goods or services required by this Contract is for any reason denied, revoked, debarred, excluded, terminated, suspended, lapsed, or not renewed; or

7.7.1.3 If **CONSULTANT** becomes insolvent, subject to receivership, or becomes voluntarily or involuntarily subject to the jurisdiction of the bankruptcy court; or

7.7.1.4 If **CITY** materially breaches any material duty under this Contract and any such breach impairs **CONSULTANT'S** ability to perform; or

7.7.1.5 If it is found by **CITY** that any quid pro quo or gratuities in the form of money, services, entertainment, gifts, or otherwise were offered or given by **CONSULTANT**, or any agent or representative of **CONSULTANT**, to any officer or employee of **CITY** with a view toward securing a contract or securing favorable treatment with respect to awarding, extending, amending, or making any determination with respect to the performing of such contract; or

7.7.1.6 If it is found by **CITY** that **CONSULTANT** has failed to disclose any material conflict of interest relative to the performance of this Contract.

7.8 Time to Correct:

7.9 Termination upon a declared default or breach may be exercised only after service of formal written notice as specified in **Section 3 Notice**, and the subsequent failure of the defaulting party within fifteen (15) calendar days of that notice to provide evidence, satisfactory to the aggrieved party, showing that the declared default or breach has been corrected.

7.10 Winding Up Affairs Upon Termination:

7.11 In the event of termination of this Contract for any reason, the parties agree that the provisions of this paragraph survive termination:

7.11.1.1 The parties shall account for and properly present to each other all claims for fees and expenses and pay those which are undisputed and otherwise not subject to set off under this Contract. Neither party may withhold performance of winding up provisions solely based on nonpayment of fees or expenses accrued up to the time of termination;

7.11.1.2 **CONSULTANT** shall satisfactorily complete work in progress at the agreed rate (or a pro rata basis if necessary) if so requested by **CITY**;

7.11.1.3 **CONSULTANT** shall execute any documents and take any actions necessary to effectuate an assignment of this Contract if so requested by **CITY**;

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7.11.1.4 **CONSULTANT** shall preserve, protect, and promptly deliver into **CITY** possession all proprietary information in accordance with **Section 23 City Ownership of Proprietary Information**.

8 REMEDIES:

8.1 Except as otherwise provided for by law or this Contract, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including, without limitation, actual damages, and to a prevailing party reasonable attorneys' fees and costs. The parties agree that, in the event a lawsuit is filed and a party is awarded attorney's fees by the court, for any reason, the amount of recoverable attorney's fees shall not exceed the rate of \$125 per hour. **CITY** may set off consideration against any unpaid obligation of **CONSULTANT** to **CITY**.

9 LIMITED LIABILITY:

9.1 **CITY** will not waive and intends to assert available Nevada Revised Statutes Chapter 41 liability limitations in all cases. Contract liability of both parties shall not be subject to punitive damages. Liquidated damages shall not apply unless otherwise specified in the incorporated attachments. Damages for any **CITY** breach shall never exceed the amount of funds appropriated for payment under this Contract, but not yet paid to **CONSULTANT**, for the fiscal year budget in existence at the time of the breach. **CONSULTANT'S** tort liability shall not be limited.

10 FORCE MAJEURE:

10.1 Neither party shall be deemed to be in violation of this Contract if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including, without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of this Contract after the intervening cause ceases.

11 INDEMNIFICATION:

11.1 As required by AB 483, and NRS 338.155, **CONSULTANT** shall defend, indemnify and hold harmless the **CITY**, and the employees, officers and agents of the public body from any liabilities, damages, losses, claims, actions or proceedings, including without limitation,

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reasonable attorneys' fees, to the extent that such liabilities, damages, losses, claims, actions or proceedings are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the **CONSULTANT** or the employees or agents of the **CONSULTANT** in the performance of the contract. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of the indemnity which would otherwise exist as to any party or person described in this paragraph. The **CONSULTANT** shall not be responsible for warranties, guarantees, fitness for a particular purpose, loss of anticipated profits or termination. Additionally, **CONSULTANT** shall not be responsible for acts and decisions of third parties, including governmental agencies, other than **CONSULTANT'S** subconsultants, that impact project completion and/or success.

11.2 Except as otherwise provided in Subsection 11.4 below, the indemnifying party shall not be obligated to provide a legal defense to the indemnified party, nor reimburse the indemnified party for the same, for any period occurring before the indemnified party provides written notice of the pending claim(s) or cause(s) of action to the indemnifying party, along with:

11.3 a written request for a legal defense for such pending claim(s) or cause(s) of action; and

11.4 a detailed explanation of the basis upon which the indemnified party believes that the claim or cause of action asserted against the indemnified party implicates the culpable conduct of the indemnifying party, its officers, employees, and/or agents.

11.5 After the indemnifying party has begun to provide a legal defense for the indemnified party, the indemnifying party shall not be obligated to fund or reimburse any fees or costs provided by any additional counsel for the indemnified party, including counsel through which the indemnified party might voluntarily choose to participate in its defense of the same matter.

11.6 After the indemnifying party has begun to provide a legal defense for the indemnified party, the indemnifying party shall be obligated to reimburse the reasonable attorney's fees and costs incurred by the indemnified party during the initial thirty (30) day period of the claim or cause of action, if any, incurred by separate counsel.

12 INDEPENDENT CONTRACTOR:

12.1 An independent contractor is a natural person, firm or corporation who agrees to perform services for a fixed price according to his or its own methods and without subjection to the supervision or control of the other contracting party, except as to the results of the work, and not as to the means by which the services are accomplished.

12.2 It is mutually agreed that **CONSULTANT** is associated with **CITY** only for the purposes and to the extent specified in this Contract, and in respect to performance of the contracted

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services pursuant to this Contract. **CONSULTANT** is and shall be an independent contractor and, subject only to the terms of this Contract, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract.

12.3 Nothing contained in this Contract shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for **CITY** whatsoever with respect to the indebtedness, liabilities, and obligations of **CONSULTANT** or any other party.

12.4 **CONSULTANT** shall indemnify and hold **CITY** harmless from, and defend **CITY** against, any and all losses, damages, claims, costs, penalties, liabilities, expenses arising out of or incurred in any way because of, but not limited to, **CONSULTANT'S** obligations or legal duties regarding any taxes, fees, assessments, benefits, entitlements, notice of benefits, employee's eligibility to work, to any third party, subcontractor, employee, state, local or federal governmental entity.

12.5 Neither **CONSULTANT** nor its employees, agents, or representatives shall be considered employees, agents, or representatives of **CITY**.

13 INSURANCE REQUIREMENTS:

13.1 **CONSULTANT**, as an independent contractor and not an employee of **CITY**, must carry policies of insurance in amounts specified and pay all taxes and fees incident hereunto. **CITY** shall have no liability except as specifically provided in this Contract.

13.2 **CONSULTANT** shall not commence work before: (1) **CONSULTANT** has provided the required evidence of insurance to Carson City Purchasing and Contracts, and (2) **CITY** has approved the insurance policies provided by **CONSULTANT**.

13.3 Prior approval of the insurance policies by **CITY** shall be a condition precedent to any payment of consideration under this Contract and **CITY'S** approval of any changes to insurance coverage during the course of performance shall constitute an ongoing condition subsequent this Contract. Any failure of **CITY** to timely approve shall not constitute a waiver of the condition.

13.4 Insurance Coverage:

13.5 **CONSULTANT** shall, at **CONSULTANT'S** sole expense, procure, maintain and keep in force for the duration of this Contract the following insurance conforming to the minimum requirements specified below. Unless specifically specified herein or otherwise agreed to by **CITY**, the required insurance shall be in effect prior to the commencement of work by

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CONSULTANT and shall continue in force as appropriate until the latter of:

- 13.5.1.1 Final acceptance by **CITY** of the completion of this Contract; or
- 13.5.1.2 Such time as the insurance is no longer required by **CITY** under the terms of this Contract.

13.6 Any insurance or self-insurance available to **CITY** shall be in excess of and non-contributing with any insurance required from **CONSULTANT**. **CONSULTANT'S** insurance policies shall apply on a primary basis. Until such time as the insurance is no longer required by **CITY**, **CONSULTANT** shall provide **CITY** with renewal or replacement evidence of insurance no less than thirty (30) calendar days before the expiration or replacement of the required insurance. If at any time during the period when insurance is required by this Contract, an insurer or surety shall fail to comply with the requirements of this Contract, as soon as **CONSULTANT** has knowledge of any such failure, **CONSULTANT** shall immediately notify **CITY** and immediately replace such insurance or bond with an insurer meeting the requirements.

13.7 General Requirements:

13.8 **Certificate Holder:** Each liability insurance policy shall list Carson City c/o Carson City Purchasing and Contracts, 201 N. Carson Street Suite 3, Carson City, NV 89701 as a certificate holder.

13.9 **Additional Insured:** By endorsement to the general liability insurance policy evidenced by **CONSULTANT**, The City and County of Carson City, Nevada, its officers, employees and immune contractors shall be named as additional insureds for all liability arising from this Contract.

13.10 **Waiver of Subrogation:** Each liability insurance policy shall provide for a waiver of subrogation as to additional insureds.

13.11 **Cross-Liability:** All required liability policies shall provide cross-liability coverage as would be achieved under the standard ISO separation of insureds clause.

13.12 **Deductibles and Self-Insured Retentions:** Insurance maintained by **CONSULTANT** shall apply on a first dollar basis without application of a deductible or self-insured retention unless otherwise specifically agreed to by **CITY**. Such approval shall not relieve **CONSULTANT** from the obligation to pay any deductible or self-insured retention. Any deductible or self-insured retention shall not exceed \$5,000 per occurrence, unless otherwise approved by **CITY**.

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13.13 Policy Cancellation: Except for ten (10) calendar days notice for non-payment of premium, each insurance policy shall be endorsed to state that; without thirty (30) calendar days prior written notice to Carson City Purchasing and Contracts, the policy shall not be canceled, non-renewed or coverage and /or limits reduced or materially altered, and shall provide that notices required by this paragraph shall be sent by mail to Carson City Purchasing and Contracts, 201 N. Carson Street Suite 3, Carson City, NV 89701.

13.13.1 Approved Insurer: Each insurance policy shall be issued by insurance companies authorized to do business in the State of Nevada or eligible surplus lines insurers acceptable to the State and having agents in Nevada upon whom service of process may be made, and currently rated by A.M. Best as "A-VII" or better.

13.13.2 Evidence of Insurance: Prior to commencement of work, **CONSULTANT** must provide the following documents to Carson City Purchasing and Contracts, 201 North Carson Street Suite 3, Carson City, NV 89701:

13.13.2.1 Certificate of Insurance: The Acord 25 Certificate of Insurance form or a form substantially similar must be submitted to Carson City Purchasing and Contracts to evidence the insurance policies and coverages required of **CONSULTANT**.

13.13.2.2 Additional Insured Endorsement: An Additional Insured Endorsement (CG20 10 or C20 26), signed by an authorized insurance company representative, must be submitted to Carson City Purchasing and Contracts to evidence the endorsement of **CITY** as an additional insured per Subsection 13.9.

13.13.2.3 Schedule of Underlying Insurance Policies: If Umbrella or Excess policy is evidenced to comply with minimum limits, a copy of the Underlyer Schedule from the Umbrella or Excess insurance policy may be required.

13.14 Review and Approval: Documents specified above must be submitted for review and approval by Carson City Purchasing and Contracts prior to the commencement of work by **CONSULTANT**. Neither approval by **CITY** nor failure to disapprove the insurance furnished by **CONSULTANT** shall relieve **CONSULTANT** of **CONSULTANT**'S full responsibility to provide the insurance required by this Contract. Compliance with the insurance requirements of this Contract shall not limit the liability of **CONSULTANT** or its sub-contractors, employees or agents to **CITY** or others, and shall be in addition to and not in lieu of any other remedy available to **CITY** under this Contract or otherwise. **CITY** reserves the right to request and review a copy of any required insurance policy or endorsement to assure compliance with these requirements.

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14 COMMERCIAL GENERAL LIABILITY INSURANCE:

- 14.1 Minimum Limits required:
- 14.2 Two Million Dollars (\$2,000,000.00) - General Aggregate
- 14.3 Two Million Dollars (\$2,000,000.00) - Products & Completed Operations Aggregate
- 14.4 One Million Dollars (\$1,000,000.00) - Each Occurrence
- 14.5 Coverage shall be on an occurrence basis and shall be at least as broad as ISO 1996 form CG 00 01 (or a substitute form providing equivalent coverage); and shall cover liability arising from premises, operations, independent contractors, completed operations, personal injury, products, civil lawsuits, Title VII actions and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

15 BUSINESS AUTOMOBILE LIABILITY INSURANCE:

- 15.1 Minimum Limit required:
- 15.2 One Million Dollars (\$1,000,000) per occurrence for bodily injury and property damage
- 15.3 Coverage shall be for "any auto", including owned, non-owned and hired vehicles. The policy shall be written on ISO form CA 00 01 or a substitute providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

16 PROFESSIONAL LIABILITY INSURANCE:

- 16.1 Minimum Limit required: One Million Dollars (\$1,000,000.00)
- 16.2 Retroactive date: Prior to commencement of the performance of this Contract
- 16.3 Discovery period: Three (3) years after termination date of this Contract.
- 16.4 A certified copy of this policy may be required.

17 WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY INSURANCE:

- 17.1 **CONSULTANT** shall provide workers' compensation insurance as required by Nevada Revised Statutes Chapters 616A through 616D inclusive and Employer's Liability insurance with a minimum limit of \$500,000 each employee per accident for bodily injury by accident or

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disease.

17.2 **CONSULTANT** may, in lieu of furnishing a certificate of an insurer, provide an affidavit indicating that **CONSULTANT** is a sole proprietor; that **CONSULTANT** will not use the services of any employees in the performance of this Contract; that **CONSULTANT** has elected to not be included in the terms, conditions, and provisions of Nevada Revised Statutes Chapters 616A-616D, inclusive; and that **CONSULTANT** is otherwise in compliance with the terms, conditions, and provisions of Nevada Revised Statutes Chapters 616A-616D, inclusive.

18 BUSINESS LICENSE:

18.1 **CONSULTANT** shall not commence work before **CONSULTANT** has provided a copy of his Carson City business license to Carson City Purchasing and Contracts.

18.2 The Carson City business license shall continue in force until the latter of: (1) final acceptance by **CITY** of the completion of this Contract; or (2) such time as the Carson City business license is no longer required by **CITY** under the terms of this Contract.

19 COMPLIANCE WITH LEGAL OBLIGATIONS:

19.1 **CONSULTANT** shall procure and maintain for the duration of this Contract any state, county, city, or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by **CONSULTANT** to provide the goods or services of this Contract. **CONSULTANT** will be responsible to pay all government obligations, including, but not limited to, all taxes, assessments, fees, fines, judgments, premiums, permits, and licenses required or imposed by law or a court. Real property and personal property taxes are the responsibility of **CONSULTANT** in accordance with Nevada Revised Statutes 361.157 and 361.159. **CONSULTANT** agrees to be responsible for payment of any such government obligations not paid by its subcontractors during performance of this Contract. **CITY** may set-off against consideration due any delinquent government obligation.

20 WAIVER OF BREACH:

20.1 Failure to declare a breach or the actual waiver of any particular breach of this Contract or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.

21 SEVERABILITY:

21.1 If any provision contained in this Contract is held to be unenforceable by a court of law

**PROFESSIONAL SERVICES AGREEMENT RELATED TO CONSTRUCTION
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or equity, this Contract shall be construed as if such provision did not exist and the nonenforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.

22 ASSIGNMENT/DELEGATION:

22.1 To the extent that any assignment of any right under this Contract changes the duty of either party, increases the burden or risk involved, impairs the chances of obtaining the performance of this Contract, attempts to operate as a novation, or includes a waiver or abrogation of any defense to payment by CITY, such offending portion of the assignment shall be void, and shall be a breach of this Contract. CONSULTANT shall neither assign, transfer nor delegate any rights, obligations or duties under this Contract without the prior written approval of CITY.

23 CITY OWNERSHIP OF PROPRIETARY INFORMATION:

23.1 Any files, reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer programs, computer codes, and computer records (which are intended to be consideration under this Contract), or any other documents or drawings, prepared or in the course of preparation by CONSULTANT (or its subcontractors) in performance of its obligations under this Contract shall be the exclusive property of CITY and all such materials shall be delivered into CITY possession by CONSULTANT upon completion, termination, or cancellation of this Contract. CONSULTANT shall not use, willingly allow, or cause to have such materials used for any purpose other than performance of CONSULTANT'S obligations under this Contract without the prior written consent of CITY. Notwithstanding the foregoing, CITY shall have no proprietary interest in any materials licensed for use by CITY that are subject to patent, trademark or copyright protection.

23.2 CITY shall be permitted to retain copies, including reproducible copies, of CONSULTANT'S drawings, specifications, and other documents for information and reference in connection with this Contract.

23.3 CONSULTANT'S drawings, specifications and other documents shall not be used by CITY or others without expressed permission of CONSULTANT.

24 PUBLIC RECORDS:

24.1 Pursuant to Nevada Revised Statute 239.010, information or documents received from CONSULTANT may be open to public inspection and copying. CITY will have the duty to

**PROFESSIONAL SERVICES AGREEMENT RELATED TO CONSTRUCTION
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disclose unless a particular record is made confidential by law or a common law balancing of interests. **CONSULTANT** may clearly label specific parts of an individual document as a "trade secret" or "confidential" in accordance with Nevada Revised Statute 332.061, provided that **CONSULTANT** thereby agrees to indemnify and defend **CITY** for honoring such a designation. The failure to so label any document that is released by **CITY** shall constitute a complete waiver of any and all claims for damages caused by any release of the records.

25 CONFIDENTIALITY:

25.1 **CONSULTANT** shall keep confidential all information, in whatever form, produced, prepared, observed or received by **CONSULTANT** to the extent that such information is confidential by law or otherwise required by this Contract.

26 FEDERAL FUNDING:

26.1 In the event federal funds are used for payment of all or part of this Contract:

26.2 **CONSULTANT** certifies, by signing this Contract, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. This certification is made pursuant to the regulations implementing Executive Order 12549, Debarment and Suspension, 28 C.F.R. pt. 67, § 67.510, as published as pt. VII of the May 26, 1988, Federal Register (pp. 19160-19211), and any relevant program-specific regulations. This provision shall be required of every subcontractor receiving any payment in whole or in part from federal funds.

26.3 **CONSULTANT** and its subcontractors shall comply with all terms, conditions, and requirements of the Americans with Disabilities Act of 1990 (P.L. 101-136), 42 U.S.C. 12101, as amended, and regulations adopted thereunder contained in 28 C.F.R. 26.101-36.999, inclusive, and any relevant program-specific regulations.

26.4 **CONSULTANT** and its subcontractors shall comply with the requirements of the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, P.L. 93-112, as amended, and any relevant program-specific regulations, and shall not discriminate against any employee or offeror for employment because of race, national origin, creed, color, sex, religion, age, disability or handicap condition (including AIDS and AIDS-related conditions).

27 LOBBYING:

27.1 The parties agree, whether expressly prohibited by federal law, or otherwise, that no

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funding associated with this Contract will be used for any purpose associated with or related to lobbying or influencing or attempting to lobby or influence for any purpose the following:

- 27.2 Any federal, state, county or local agency, legislature, commission, counsel or board;
- 27.3 Any federal, state, county or local legislator, commission member, counsel member, board member, or other elected official; or
- 27.4 Any officer or employee of any federal, state, county or local agency; legislature, commission, counsel or board.

28 GENERAL WARRANTY:

- 28.1 **CONSULTANT** warrants that it will perform all services required hereunder in accordance with the prevailing standard of care by exercising the skill and care normally required of individuals performing the same or similar services, under the same or similar circumstances, in the State of Nevada.

29 PROPER AUTHORITY:

- 29.1 The parties hereto represent and warrant that the person executing this Contract on behalf of each party has full power and authority to enter into this Contract. **CONSULTANT** acknowledges that this Contract is effective only after approval by the Carson City Board of Supervisors and only for the period of time specified in this Contract. Any services performed by **CONSULTANT** before this Contract is effective or after it ceases to be effective are performed at the sole risk of **CONSULTANT**.

30 ALTERNATIVE DISPUTE RESOLUTION:

- 30.1 Pursuant to NRS 338.150, public body charged with the drafting of specifications for a public work shall include in the specifications a clause requiring the use of a method of alternative dispute resolution before initiation of a judicial action if a dispute arising between the public body and the contractor engaged on the public work cannot otherwise be settled. Therefore, in the event that a dispute arising between **CITY** and **CONSULTANT** cannot otherwise be settled, **CITY** and **CONSULTANT** agree that, before judicial action may be initiated, **CITY** and **CONSULTANT** will submit the dispute to non-binding mediation. **CITY** shall present **CONSULTANT** with a list of three potential mediators. **CONSULTANT** shall select one person to serve as the mediator from the list of potential mediators presented by **CITY**. The person selected as mediator shall determine the rules governing the mediation.

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31 GOVERNING LAW; JURISDICTION:

31.1 This Contract and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada, without giving effect to any principle of conflict-of-law that would require the application of the law of any other jurisdiction. **CONSULTANT** consents and agrees to the jurisdiction of the courts of the State of Nevada located in Carson City, Nevada for enforcement of this Contract.

32 ENTIRE CONTRACT AND MODIFICATION:

32.1 This Contract and its integrated attachment(s) constitute the entire Contract of the parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other Contracts that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Contract specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language between any such attachment and this Contract shall be construed consistent with the terms of this Contract. Unless otherwise expressly authorized by the terms of this Contract, no modification or amendment to this Contract shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto and approved by the Carson City Board of Supervisors. The parties agree that each has had their respective counsel review this Contract which shall be construed as if it was jointly drafted.

**PROFESSIONAL SERVICES AGREEMENT RELATED TO CONSTRUCTION
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**Carson City Multi-Purpose Athletic Complex for Architectural and
Engineering Services**

33 ACKNOWLEDGMENT AND EXECUTION:

33.1 In witness whereof, the parties hereto have caused this Contract to be signed and intend to be legally bound thereby.

CARSON CITY
Finance Director
Attn: Kim Belt, Purchasing and
Contracts Manager
201 North Carson Street Suite 3
Carson City, Nevada 89701
Telephone: 775-283-7137
Fax: 775-887-2107
KBelt@carson.org

CITY'S LEGAL COUNSEL
Neil A. Rombardo, District Attorney

I have reviewed this Contract and approve
as to its legal form.

By: _____
Kim Belt

By: _____
Deputy District Attorney

DATED _____.

DATED _____.

CITY'S ORIGINATING DEPARTMENT
BY: Darren Schulz, Director
Carson City Public Works Department
3505 Butti Way
Carson City, NV 89701
Telephone: 775-887-2355
Fax: 775-887-2112
DSchulz@carson.org

By: _____
Darren Schulz

DATED _____

**PROFESSIONAL SERVICES AGREEMENT RELATED TO CONSTRUCTION
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Carson City Multi-Purpose Athletic Complex for Architectural and Engineering Services

Undersigned deposes and says: That he/she is the **CONSULTANT** or authorized agent of the **CONSULTANT**; that he/she has read the foregoing Contract; and that he/she understands the terms, conditions, and requirements thereof.

CONSULTANT

BY: Brent R. Tippets

TITLE: Partner

FIRM: Valentiner Crane Architects

CC BUSINESS LICENSE #: 14-21489

Address: 524 South 600 East

City: Salt Lake City **State:** UT **Zip:** 84102

Telephone: 801-575-8800/FAX #: 801-531-9850

E-mail Address: btippets@vcbo.com

(Signature of CONSULTANT)

DATED

STATE OF _____)

County of

Signed and sworn (or affirmed) before me on this _____ day of _____

2014 by

(Signature of Notary)

(Notary Stamp)

**PROFESSIONAL SERVICES AGREEMENT RELATED TO CONSTRUCTION
PROJECTS (Architects, Engineers, and Land Surveyors)**
Contract No. 1415-027

Carson City Multi-Purpose Athletic Complex for Architectural and Engineering Services

SAMPLE INVOICE

Invoice Number:

Invoice Date: _____

Vendor Number:

Invoice shall be submitted to:

Carson City Public Works
Attn: Karen White
3505 Butti Way
Carson City NV 89701

| Line Item # | Description | Unit Cost | Units Completed | Total \$\$ |
|-------------------------------|-------------|-----------|-----------------|------------|
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| Total for this invoice | | | | |

Original Contract Sum \$

Less amount previously billed \$ _____

= contract sum prior to this invoice \$

Less this invoice \$ _____

=Dollars remaining on Contract \$ _____

ENCLOSE COPIES OF RECEIPTS & INVOICES FOR EXPENSES & OUTSIDE SERVICES

**PROFESSIONAL SERVICES AGREEMENT RELATED TO CONSTRUCTION
PROJECTS (Architects, Engineers, and Land Surveyors)**

Contract No. 1415-027

**Carson City Multi-Purpose Athletic Complex for Architectural and
Engineering Services**

CONTRACT ACCEPTANCE AND EXECUTION:

The Board of Supervisors for Carson City, Nevada at their publicly noticed meeting of July 17, 2014, approved the acceptance of **CONTRACT No. 1415-027**. Further, the Board of Supervisors authorizes the Mayor of Carson City, Nevada to set his hand to this document and record his signature for the execution of this contract in accordance with the action taken.

CARSON CITY, NEVADA

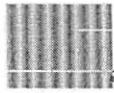
ROBERT L. CROWELL, MAYOR

DATED this 17th day of July, 2014.

ATTEST:

ALAN GLOVER, CLERK-RECORDER

DATED this 17th day of July, 2014.



June 25, 2014

Tom Grundy
Carson City Public Works
3505 Butti Way
Carson City NV 89701

Re: Carson City MAC

Dear Tom:

Niels E. Valentiner, AIA

Steve H. Crane, FAIA

Sean Onyon, AIA

Valentiner Crane Architects has been requested to move forward with the above-referenced project. This letter is being sent to reflect the remaining work to be completed under the October 2011 contract along with the new changes requested, start-up and 2014 rates to complete all of the initial design and requested changes. Set forth below are the architectural and engineering fees associated with accomplishing this request.

Scope of Service and Fee

Valentiner Crane Architects initially completed the Pre-Design, Schematic Design and 50% of the Design Development Phases prior to the 2011 contract being placed on hold. To complete the initial work under the 2011 contract we will continue through the remaining Design Development Phase, Construction Document Phase, Bidding and Construction Administration and an additional fee identified in that contract as other approvals.

| | |
|------------------------------------|--------------|
| Fee Remaining (original contract): | \$228,760.00 |
|------------------------------------|--------------|

The following is what will be required by Architectural, structural mechanical and electrical to revise and update the changes below:

- Update to 2012 IBC
- Eliminate enclosure around exterior stair
- Add additional water closet at Men's toilet
- Change exterior stem walls to CMU
- Change Gymnasium seating to retractable bleachers
- Design to accommodate future expansion

| | |
|--------------|------------|
| Fee Increase | \$8,800.00 |
|--------------|------------|

Civil and Landscape Design (Lumos) will make city requested adjustments and to bring up to 2014 Rate Schedule:

| | |
|--------------|------------|
| Fee Increase | \$8,703.00 |
|--------------|------------|

Civil and Architectural updates to rotate the orientation of the building to align with the Boys and Girls club (Optional).

| | |
|--------------|------------|
| Fee Increase | \$5,500.00 |
|--------------|------------|

Salt Lake Office

524 South 800 East

Salt Lake City

Utah 84102

1 of 2

Phone 801.375.8890

EXHIBIT A

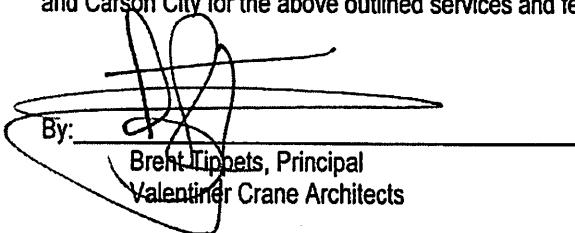
Carson City
June 25, 2014
Page 2

| | |
|---------------------------------------------|---------------------|
| Total Fee Remaining and Required Changes: | \$246,263.00 |
| Optional Changes if Requested: | \$5,500.00 |
| <i>Total Fee including optional change:</i> | <i>\$251,763.00</i> |

The total fee on this project included 20 trips by VCBO. Any additional trips requested will be invoiced at a flat fee trip rate of \$1,500.00 per trip.

Approval:

Once you have had a chance to review this proposal, please do not hesitate to contact me with any questions or concerns. Thank you again for the opportunity to submit this scope change fee request. If this proposal meets with your approval, please sign and return it to our office. When accepted, this proposal will serve as a mutual commitment between Valentiner Crane Architects and Carson City for the above outlined services and fees.



By: _____
Brent Tippets, Principal
Valentiner Crane Architects

APPROVED:

By: _____ Date _____
Tom Grundy
Carson City

VALENTINER CRANE BRUNJES ONYON



VCBO Hourly Billing Rates

| Title | Hourly Rate |
|-----------------------------|-------------|
| Principal/Partner-in-Charge | \$245.00 |
| Project Manager | \$175.00 |
| Project Architect | \$132.00 |
| Project Coordinator | \$120.00 |
| Drafter | \$100.00 |
| Graphic Designer | \$150.00 |
| Project Assistant | \$50.00 |

PARTNERS

Niels E. Valentiner, AIA
Steve H. Crane, FAIA
Peter R. Brunjes, AIA
Sean Onyon, AIA
Brent R. Tippets, AIA
Boyd McAllister, AIA
Jeanne Jackson, AIA
Derek T. Payne, AIA

SENIOR ASSOCIATES

Vern Latham, AIA
Sean Thompson, AIA
Jeffery L. Pinegar, AIA
Pablo R. Gotay, AIA
David S. Cox, AIA
Jennifer B. Knight

ASSOCIATES

Celestia R. Carson, AIA
Gloria H. Kummer
Karen M. Ferguson
Nathan H. Leavitt
Dan A. Nelson

524 South 600 East

Salt Lake City, Utah 84102

T 801.575.8800

F 801.531.9850

www.vcbo.com

**PROFESSIONAL SERVICES AGREEMENT RELATED TO CONSTRUCTION
PROJECTS (Architects, Engineers, and Land Surveyors)**

Contract No. 1112-120

**Title: Carson City Multi-Purpose Athletic Complex for Planning,
Architectural and Engineering Services**

THIS CONTRACT, made and entered into this 20th day of October, 2011, by and between the City and County of Carson City, a political subdivision of the State of Nevada, hereinafter referred to as the "CITY", and Valentiner Crane Architects hereinafter referred to as the "CONSULTANT".

W I T N E S S E T H :

WHEREAS, the Purchasing and Contracts Manager for the City and County of Carson City is authorized, pursuant to Nevada Revised Statutes Chapter 332 and Carson City Purchasing Resolution #1990-R71, to approve and accept this Contract as set forth in and by the following provisions; and

WHEREAS, it is deemed that the services of CONSULTANT for CONTRACT No. 1112-120 Carson City Multi-Purpose Athletic Complex for Planning, Architectural and Engineering Services are both necessary and in the best interests of CITY; and

NOW, THEREFORE, in consideration of the aforesaid premises, the parties mutually agree as follows:

1 REQUIRED APPROVAL:

1.1 This Contract shall not become effective until and unless approved by the Carson City Board of Supervisors.

2 CONTRACT TERM:

2.1 This Contract shall be effective from October 20, 2011, subject to Carson City Board of Supervisors' approval (anticipated to be October 20, 2011) to December 31, 2013, unless sooner terminated by either party as specified in Section 7 Contract Termination.

3 NOTICE:

3.1 Unless otherwise specified, termination shall not be effective until thirty (30) calendar days after a party has served written notice of default, or without cause upon the other party. All notices or other communications required or permitted to be given under this Contract shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by e-mail with simultaneous regular mail, by telephonic facsimile with simultaneous regular mail, or by certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address specified below.

**PROFESSIONAL SERVICES AGREEMENT RELATED TO CONSTRUCTION
PROJECTS (Architects, Engineers, and Land Surveyors)**

Contract No. 1112-120

**Title: Carson City Multi-Purpose Athletic Complex for Planning,
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| |
|------------------------------|
| For P&C Use Only |
| CCBL expires <u>12/31/11</u> |
| GL expires <u>5/31/12</u> |
| AL expires <u>5/31/12</u> |
| PL expires <u>8/31/12</u> |
| WC expires <u>9/30/12</u> |

3.1.1 Notice to CONSULTANT shall be addressed to:

Brent R. Tippets, Partner
Valentiner Crane Architects
524 South 600 East
Salt Lake City, Utah 89402
801-575-8800/801-531-9850
btippets@vcbo.com

3.1.2 Notice to CITY shall be addressed to:

Carson City Purchasing and Contracts
Kim Belt, Purchasing and Contracts Manager
201 North Carson Street, Suite 3
Carson City, NV 89701
775-283-7137/ FAX 775-887-2107
KBelt@carson.org

4 SCOPE OF WORK:

4.1 CONSULTANT shall provide and perform the following services set forth in **Exhibit A** attached hereto and incorporated herein by reference for and on behalf of **CITY** hereinafter referred to as the "**SERVICES**".

4.2 CONSULTANT represents that it is duly licensed by Carson City for the purposes of performing the **SERVICES**.

4.3 CONSULTANT represents that it is duly qualified and licensed in the State of Nevada for the purposes of performing the **SERVICES**.

4.4 CONSULTANT represents that it and/or the persons it may employ possess all skills and training necessary to perform the **SERVICES** described herein and required hereunder. **CONSULTANT** shall perform the **SERVICES** faithfully, diligently, in a timely and professional manner, to the best of its ability, and in such a manner as is customarily performed by a person who is in the business of providing such services in similar circumstances.

**PROFESSIONAL SERVICES AGREEMENT RELATED TO CONSTRUCTION
PROJECTS (Architects, Engineers, and Land Surveyors)**

Contract No. 1112-120

**Title: Carson City Multi-Purpose Athletic Complex for Planning,
Architectural and Engineering Services**

CONSULTANT shall be responsible for the professional quality and technical accuracy of all SERVICES furnished by **CONSULTANT** to **CITY**.

4.5 **CONSULTANT** represents that neither the execution of this Contract nor the rendering of services by **CONSULTANT** hereunder will violate the provisions of or constitute a default under any other contract or agreement to which **CONSULTANT** is a party or by which **CONSULTANT** is bound, or which would preclude **CONSULTANT** from performing the SERVICES required of **CONSULTANT** hereunder, or which would impose any liability or obligation upon **CITY** for accepting such SERVICES.

4.6 Before commencing with the performance of any work under this Contract, **CONSULTANT** shall obtain all necessary permits and licenses as may be necessary. Before and during the progress of work under this Contract, **CONSULTANT** shall give all notice and comply with all the laws, ordinances, rules and regulations of every kind and nature now or hereafter in effect promulgated by any Federal, State, County, or other Governmental Authority, relating to the performance of work under this Contract. If **CONSULTANT** performs any work that is contrary to any such law, ordinance, rule or regulation, he shall bear all the costs arising therefrom.

4.7 Special Terms and Conditions for Engineers, Architects, and Land Surveyors:

4.7.1 Use of CONSULTANT'S Drawings, Specifications and other Documents:

4.7.1.1 The drawing, specifications and other documents prepared by **CONSULTANT** for this Contract are instruments of **CONSULTANT'S** service for use solely with respect to this Contract and, unless otherwise provided, **CONSULTANT** shall be deemed the author of these documents and shall retain all common law statutory and other reserved rights, including the copyright.

4.7.1.2 **CITY** shall be permitted to retain copies, including reproducible copies, of **CONSULTANT'S** drawings, specifications, and other documents for information and reference in connection with this Contract.

4.7.1.3 **CONSULTANT'S** drawings, specifications and other documents shall not be used by **CITY** or others without expressed permission of **CONSULTANT**.

4.7.2 Cost Accounting and Audits:

4.7.2.1 If required by **CITY**, **CONSULTANT** agrees to make available to **CITY** within two (2) years after the completion of the SERVICES under this Contract, such books, records, receipts, vouchers, or other data as may be deemed necessary by **CITY** to enable it to arrive at appropriate cost figures for the purpose of establishing depreciation rates for the various

**PROFESSIONAL SERVICES AGREEMENT RELATED TO CONSTRUCTION
PROJECTS (Architects, Engineers, and Land Surveyors)**

Contract No. 1112-120

**Title: Carson City Multi-Purpose Athletic Complex for Planning,
Architectural and Engineering Services**

materials and other elements which may have been incorporated into the SERVICES
performed under this Contract.

4.8 CITY Responsibilities:

4.8.1 CITY shall make available to CONSULTANT all technical data that is in CITY'S possession, reasonably required by CONSULTANT relating to the SERVICES.

4.8.2 CITY shall provide access to and make all provisions for CONSULTANT to enter upon public and private lands, to the fullest extent permitted by law, as reasonably required for CONSULTANT to perform the SERVICES.

4.8.3 CITY shall examine all reports, correspondence, and other documents presented by CONSULTANT upon request of CITY, and render, in writing, decisions pertaining thereto within a reasonable time so as not to delay the work of CONSULTANT.

4.8.4 It is expressly understood and agreed that all work done by CONSULTANT shall be subject to inspection and acceptance by CITY and approval of SERVICES shall not forfeit the right of CITY to require correction, and nothing contained herein shall relieve CONSULTANT of the responsibility of the SERVICES required under the terms of this Contract until all SERVICES have been completed and accepted by CITY.

5 CONSIDERATION:

5.1 The parties agree that CONSULTANT will provide the SERVICES specified in Section 4 Scope of Work and CITY agrees to pay CONSULTANT the CONTRACT SUM based upon time and materials and the attached fee schedule for a not to exceed maximum amount of Three Hundred Twenty Six Thousand Eight Hundred Dollars and No Cents (\$326,800.00).

5.2 CONTRACT SUM represents full and adequate compensation for the completed WORK, and includes the furnishing of all materials; all labor, equipment, tools, and appliances; and all expenses, direct or indirect, connected with the proper execution of the WORK.

5.3 CITY has provided a sample invoice and CONSULTANT shall submit its request for payment using said sample invoice.

5.4 Payment by CITY for the SERVICES rendered by CONSULTANT shall be due within thirty (30) calendar days from the date CITY acknowledges that the performance meets the requirements of this Contract or from the date the correct, complete, and descriptive invoice is received by CITY employee designated on the sample invoice, whichever is the latter date.

**PROFESSIONAL SERVICES AGREEMENT RELATED TO CONSTRUCTION
PROJECTS (Architects, Engineers, and Land Surveyors)**

Contract No. 1112-120

**Title: Carson City Multi-Purpose Athletic Complex for Planning,
Architectural and Engineering Services**

5.5 CITY does not agree to reimburse CONSULTANT for expenses unless otherwise specified.

6 TIMELINESS OF BILLING SUBMISSION:

6.1 The parties agree that timeliness of billing is of the essence to this Contract and recognize that CITY is on a fiscal year which is defined as the period beginning July 1 and ending June 30 of the following year. All billings for dates of service prior to July 1 must be submitted to CITY no later than the first Friday in August of the same year. A billing submitted after the first Friday in August will subject CONSULTANT to an administrative fee not to exceed \$100.00. The parties hereby agree this is a reasonable estimate of the additional costs to CITY of processing the billing as a stale claim and that this amount will be deducted from the stale claim payment due to CONSULTANT.

7 CONTRACT TERMINATION:

7.1 Termination Without Cause:

7.1.1 Any discretionary or vested right of renewal notwithstanding, this Contract may be terminated upon written notice by mutual consent of both parties or unilaterally by either party without cause.

7.2 Termination for Nonappropriation:

7.2.1 The continuation of this Contract beyond June 30, 2011 is subject to and contingent upon sufficient funds being appropriated, budgeted, and otherwise made available by the Carson City Board of Supervisors. CITY may terminate this Contract, and CONSULTANT waives any and all claim(s) for damages, effective immediately upon receipt of written notice (or any date specified therein) if for any reason the funding is not appropriated or is withdrawn, limited, or impaired.

7.3 Cause Termination for Default or Breach:

7.3.1 A default or breach may be declared with or without termination.

7.3.2 This Contract may be terminated by either party upon written notice of default or breach to the other party as follows:

7.3.2.1 If CONSULTANT fails to provide or satisfactorily perform any of the conditions, work, deliverables, goods, or services called for by this Contract within the time requirements specified in this Contract or within any granted extension of those time requirements; or

**PROFESSIONAL SERVICES AGREEMENT RELATED TO CONSTRUCTION
PROJECTS (Architects, Engineers, and Land Surveyors)**

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**Title: Carson City Multi-Purpose Athletic Complex for Planning,
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7.3.2.2 If any state, county, city or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by **CONSULTANT** to provide the goods or services required by this Contract is for any reason denied, revoked, debarred, excluded, terminated, suspended, lapsed, or not renewed; or

7.3.2.3 If **CONSULTANT** becomes insolvent, subject to receivership, or becomes voluntarily or involuntarily subject to the jurisdiction of the bankruptcy court; or

7.3.2.4 If **CITY** materially breaches any material duty under this Contract and any such breach impairs **CONSULTANT'S** ability to perform; or

7.3.2.5 If it is found by **CITY** that any quid pro quo or gratuities in the form of money, services, entertainment, gifts, or otherwise were offered or given by **CONSULTANT**, or any agent or representative of **CONSULTANT**, to any officer or employee of **CITY** with a view toward securing a contract or securing favorable treatment with respect to awarding, extending, amending, or making any determination with respect to the performing of such contract; or

7.3.2.6 If it is found by **CITY** that **CONSULTANT** has failed to disclose any material conflict of interest relative to the performance of this Contract.

7.4 Time to Correct:

7.4.1 Termination upon a declared default or breach may be exercised only after service of formal written notice as specified in **Section 3 Notice**, and the subsequent failure of the defaulting party within fifteen (15) calendar days of that notice to provide evidence, satisfactory to the aggrieved party, showing that the declared default or breach has been corrected.

7.5 Winding Up Affairs Upon Termination:

7.5.1 In the event of termination of this Contract for any reason, the parties agree that the provisions of this paragraph survive termination:

7.5.1.1 The parties shall account for and properly present to each other all claims for fees and expenses and pay those which are undisputed and otherwise not subject to set off under this Contract. Neither party may withhold performance of winding up provisions solely based on nonpayment of fees or expenses accrued up to the time of termination;

7.5.1.2 **CONSULTANT** shall satisfactorily complete work in progress at the agreed rate (or a pro rata basis if necessary) if so requested by **CITY**;

7.5.1.3 **CONSULTANT** shall execute any documents and take any actions necessary to effectuate an assignment of this Contract if so requested by **CITY**;

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**Title: Carson City Multi-Purpose Athletic Complex for Planning,
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7.5.1.4 CONSULTANT shall preserve, protect, and promptly deliver into **CITY** possession all proprietary information in accordance with **Section 23 City Ownership of Proprietary Information.**

8 REMEDIES:

8.1 Except as otherwise provided for by law or this Contract, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including, without limitation, actual damages, and to a prevailing party reasonable attorneys' fees and costs. The parties agree that, in the event a lawsuit is filed and a party is awarded attorney's fees by the court, for any reason, the amount of recoverable attorney's fees shall not exceed the rate of \$125 per hour. **CITY** may set off consideration against any unpaid obligation of **CONSULTANT** to **CITY**.

9 LIMITED LIABILITY:

9.1 **CITY** will not waive and intends to assert available Nevada Revised Statutes Chapter 41 liability limitations in all cases. Contract liability of both parties shall not be subject to punitive damages. Liquidated damages shall not apply unless otherwise specified in the incorporated attachments. Damages for any **CITY** breach shall never exceed the amount of funds appropriated for payment under this Contract, but not yet paid to **CONSULTANT**, for the fiscal year budget in existence at the time of the breach. **CONSULTANT'S** tort liability shall not be limited.

10 FORCE MAJEURE:

10.1 Neither party shall be deemed to be in violation of this Contract if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including, without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of this Contract after the intervening cause ceases.

11 INDEMNIFICATION:

11.1 As required by AB 483, and NRS 338.155, **CONSULTANT** shall defend, indemnify and hold harmless the **CITY**, and the employees, officers and agents of the public body from any liabilities, damages, losses, claims, actions or proceedings, including without limitation, reasonable attorneys' fees, to the extent that such liabilities, damages, losses, claims, actions or proceedings are caused by the negligence, errors, omissions, recklessness or intentional

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misconduct of the **CONSULTANT** or the employees or agents of the **CONSULTANT** in the performance of the contract. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of the indemnity which would otherwise exist as to any party or person described in this paragraph.

11.2 Except as otherwise provided in Subsection 11.4 below, the indemnifying party shall not be obligated to provide a legal defense to the indemnified party, nor reimburse the indemnified party for the same, for any period occurring before the indemnified party provides written notice of the pending claim(s) or cause(s) of action to the indemnifying party, along with:

11.2.1 a written request for a legal defense for such pending claim(s) or cause(s) of action; and

11.2.2 a detailed explanation of the basis upon which the indemnified party believes that the claim or cause of action asserted against the indemnified party implicates the culpable conduct of the indemnifying party, its officers, employees, and/or agents.

11.3 After the indemnifying party has begun to provide a legal defense for the indemnified party, the indemnifying party shall not be obligated to fund or reimburse any fees or costs provided by any additional counsel for the indemnified party, including counsel through which the indemnified party might voluntarily choose to participate in its defense of the same matter.

11.4 After the indemnifying party has begun to provide a legal defense for the indemnified party, the indemnifying party shall be obligated to reimburse the reasonable attorney's fees and costs incurred by the indemnified party during the initial thirty (30) day period of the claim or cause of action, if any, incurred by separate counsel.

12 INDEPENDENT CONTRACTOR:

12.1 An independent contractor is a natural person, firm or corporation who agrees to perform services for a fixed price according to his or its own methods and without subjection to the supervision or control of the other contracting party, except as to the results of the work, and not as to the means by which the services are accomplished.

12.2 It is mutually agreed that **CONSULTANT** is associated with **CITY** only for the purposes and to the extent specified in this Contract, and in respect to performance of the contracted services pursuant to this Contract. **CONSULTANT** is and shall be an independent contractor and, subject only to the terms of this Contract, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract.

12.3 Nothing contained in this Contract shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to

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otherwise create any liability for CITY whatsoever with respect to the indebtedness, liabilities, and obligations of CONSULTANT or any other party.

12.4 CONSULTANT shall indemnify and hold CITY harmless from, and defend CITY against, any and all losses, damages, claims, costs, penalties, liabilities, expenses arising out of or incurred in any way because of, but not limited to, **CONSULTANT'S** obligations or legal duties regarding any taxes, fees, assessments, benefits, entitlements, notice of benefits, employee's eligibility to work, to any third party, subcontractor, employee, state, local or federal governmental entity.

12.5 Neither CONSULTANT nor its employees, agents, or representatives shall be considered employees, agents, or representatives of CITY.

13 INSURANCE REQUIREMENTS:

13.1 CONSULTANT, as an independent contractor and not an employee of CITY, must carry policies of insurance in amounts specified and pay all taxes and fees incident hereunto. CITY shall have no liability except as specifically provided in this Contract.

13.2 CONSULTANT shall not commence work before: (1) CONSULTANT has provided the required evidence of insurance to Carson City Purchasing and Contracts, and (2) CITY has approved the insurance policies provided by CONSULTANT.

13.3 Prior approval of the insurance policies by CITY shall be a condition precedent to any payment of consideration under this Contract and CITY'S approval of any changes to insurance coverage during the course of performance shall constitute an ongoing condition subsequent this Contract. Any failure of CITY to timely approve shall not constitute a waiver of the condition.

13.4 Insurance Coverage:

13.4.1 CONSULTANT shall, at CONSULTANT'S sole expense, procure, maintain and keep in force for the duration of this Contract the following insurance conforming to the minimum requirements specified below. Unless specifically specified herein or otherwise agreed to by CITY, the required insurance shall be in effect prior to the commencement of work by CONSULTANT and shall continue in force as appropriate until the latter of:

13.4.1.1 Final acceptance by CITY of the completion of this Contract; or

13.4.1.2 Such time as the insurance is no longer required by CITY under the terms of this Contract.

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13.4.2 Any insurance or self-insurance available to CITY shall be in excess of and non-contributing with any insurance required from CONSULTANT. CONSULTANT'S insurance policies shall apply on a primary basis. Until such time as the insurance is no longer required by CITY, CONSULTANT shall provide CITY with renewal or replacement evidence of insurance no less than thirty (30) calendar days before the expiration or replacement of the required insurance. If at any time during the period when insurance is required by this Contract, an insurer or surety shall fail to comply with the requirements of this Contract, as soon as CONSULTANT has knowledge of any such failure, CONSULTANT shall immediately notify CITY and immediately replace such insurance or bond with an insurer meeting the requirements.

13.5 General Requirements:

13.5.1 **Certificate Holder:** Each liability insurance policy shall list Carson City c/o Carson City Purchasing and Contracts, 201 N. Carson Street, Suite 3, Carson City, NV 89701 as a certificate holder.

13.5.2 **Additional Insured:** By endorsement to the general liability insurance policy evidenced by CONSULTANT, The City and County of Carson City, Nevada, its officers, employees and immune contractors shall be named as additional insureds for all liability arising from this Contract.

13.5.3 **Waiver of Subrogation:** Each liability insurance policy shall provide for a waiver of subrogation as to additional insureds.

13.5.4 **Cross-Liability:** All required liability policies shall provide cross-liability coverage as would be achieved under the standard ISO separation of insureds clause.

13.5.5 **Deductibles and Self-Insured Retentions:** Insurance maintained by CONSULTANT shall apply on a first dollar basis without application of a deductible or self-insured retention unless otherwise specifically agreed to by CITY. Such approval shall not relieve CONSULTANT from the obligation to pay any deductible or self-insured retention. Any deductible or self-insured retention shall not exceed \$5,000 per occurrence, unless otherwise approved by CITY.

13.5.6 **Policy Cancellation:** Except for ten (10) calendar days notice for non-payment of premium, each insurance policy shall be endorsed to state that; without thirty (30) calendar days prior written notice to Carson City Purchasing and Contracts, the policy shall not be canceled, non-renewed or coverage and /or limits reduced or materially altered, and shall provide that notices required by this paragraph shall be sent by certified mail to Carson City Purchasing and Contracts, 201 N. Carson Street, Suite 3, Carson City, NV 89701.

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13.5.7 Approved Insurer: Each insurance policy shall be issued by insurance companies authorized to do business in the State of Nevada or eligible surplus lines insurers acceptable to the State and having agents in Nevada upon whom service of process may be made, and currently rated by A.M. Best as "A-VII" or better.

13.5.8 Evidence of Insurance: Prior to commencement of work, **CONSULTANT** must provide the following documents to Carson City Purchasing and Contracts, 201 North Carson Street, Suite 3, Carson City, NV 89701:

13.5.8.1 Certificate of Insurance: The Acord 25 Certificate of Insurance form or a form substantially similar must be submitted to Carson City Purchasing and Contracts to evidence the insurance policies and coverages required of **CONSULTANT**.

13.5.8.2 Additional Insured Endorsement: An Additional Insured Endorsement (CG20 10 or C20 26), signed by an authorized insurance company representative, must be submitted to Carson City Purchasing and Contracts to evidence the endorsement of **CITY** as an additional insured per Subsection 13.5.2.

13.5.8.3 Schedule of Underlying Insurance Policies: If Umbrella or Excess policy is evidenced to comply with minimum limits, a copy of the Underlyer Schedule from the Umbrella or Excess insurance policy may be required.

13.5.9 Review and Approval: Documents specified above must be submitted for review and approval by Carson City Purchasing and Contracts prior to the commencement of work by **CONSULTANT**. Neither approval by **CITY** nor failure to disapprove the insurance furnished by **CONSULTANT** shall relieve **CONSULTANT** of **CONSULTANT**'s full responsibility to provide the insurance required by this Contract. Compliance with the insurance requirements of this Contract shall not limit the liability of **CONSULTANT** or its sub-contractors, employees or agents to **CITY** or others, and shall be in addition to and not in lieu of any other remedy available to **CITY** under this Contract or otherwise. **CITY** reserves the right to request and review a copy of any required insurance policy or endorsement to assure compliance with these requirements.

14 COMMERCIAL GENERAL LIABILITY INSURANCE:

14.1 Minimum Limits required:

14.1.1 Two Million Dollars (\$2,000,000.00) - General Aggregate

14.1.2 Two Million Dollars (\$2,000,000.00) - Products and Completed Operations Aggregate

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14.1.3 One Million Dollars (\$1,000,000.00) - Each Occurrence

14.2 Coverage shall be on an occurrence basis and shall be at least as broad as ISO 1996 form CG 00 01 (or a substitute form providing equivalent coverage); and shall cover liability arising from premises, operations, independent contractors, completed operations, personal injury, products, civil lawsuits, Title VII actions and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

15 BUSINESS AUTOMOBILE LIABILITY INSURANCE:

15.1 Minimum Limit required:

15.1.1 One Million Dollars (\$1,000,000) per occurrence for bodily injury and property damage

15.2 Coverage shall be for "any auto", including owned, non-owned and hired vehicles. The policy shall be written on ISO form CA 00 01 or a substitute providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

16 PROFESSIONAL LIABILITY INSURANCE:

16.1 Minimum Limit required: One Million Dollars (\$1,000,000.00)

16.2 Retroactive date: Prior to commencement of the performance of this Contract

16.3 Discovery period: Three (3) years after termination date of this Contract.

16.4 A certified copy of this policy may be required.

17 WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY INSURANCE:

17.1 **CONSULTANT** shall provide workers' compensation insurance as required by Nevada Revised Statutes Chapters 616A through 616D inclusive and Employer's Liability insurance with a minimum limit of \$500,000 each employee per accident for bodily injury by accident or disease.

17.2 **CONSULTANT** may, in lieu of furnishing a certificate of an insurer, provide an affidavit indicating that **CONSULTANT** is a sole proprietor; that **CONSULTANT** will not use the services of any employees in the performance of this Contract; that **CONSULTANT** has elected to not be included in the terms, conditions, and provisions of Nevada Revised Statutes Chapters 616A-616D, inclusive; and that **CONSULTANT** is otherwise in compliance with the terms, conditions, and provisions of Nevada Revised Statutes Chapters 616A-616D, inclusive.

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18 BUSINESS LICENSE:

18.1 **CONSULTANT** shall not commence work before **CONSULTANT** has provided a copy of his Carson City business license to Carson City Purchasing and Contracts.

18.2 The Carson City business license shall continue in force until the latter of: (1) final acceptance by **CITY** of the completion of this Contract; or (2) such time as the Carson City business license is no longer required by **CITY** under the terms of this Contract.

19 COMPLIANCE WITH LEGAL OBLIGATIONS:

19.1 **CONSULTANT** shall procure and maintain for the duration of this Contract any state, county, city, or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by **CONSULTANT** to provide the goods or services of this Contract. **CONSULTANT** will be responsible to pay all government obligations, including, but not limited to, all taxes, assessments, fees, fines, judgments, premiums, permits, and licenses required or imposed by law or a court. Real property and personal property taxes are the responsibility of **CONSULTANT** in accordance with Nevada Revised Statutes 361.157 and 361.159. **CONSULTANT** agrees to be responsible for payment of any such government obligations not paid by its subcontractors during performance of this Contract. **CITY** may set-off against consideration due any delinquent government obligation.

20 WAIVER OF BREACH:

20.1 Failure to declare a breach or the actual waiver of any particular breach of this Contract or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.

21 SEVERABILITY:

21.1 If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract shall be construed as if such provision did not exist and the nonenforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.

22 ASSIGNMENT/DELEGATION:

22.1 To the extent that any assignment of any right under this Contract changes the duty of either party, increases the burden or risk involved, impairs the chances of obtaining the performance of this Contract, attempts to operate as a novation, or includes a waiver or abrogation of any defense to payment by **CITY**, such offending portion of the assignment shall

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be void, and shall be a breach of this Contract. **CONSULTANT** shall neither assign, transfer nor delegate any rights, obligations or duties under this Contract without the prior written approval of **CITY**.

23 CITY OWNERSHIP OF PROPRIETARY INFORMATION:

23.1 Any files, reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer programs, computer codes, and computer records (which are intended to be consideration under this Contract), or any other documents or drawings, prepared or in the course of preparation by **CONSULTANT** (or its subcontractors) in performance of its obligations under this Contract shall be the exclusive property of **CITY** and all such materials shall be delivered into **CITY** possession by **CONSULTANT** upon completion, termination, or cancellation of this Contract. **CONSULTANT** shall not use, willingly allow, or cause to have such materials used for any purpose other than performance of **CONSULTANT'S** obligations under this Contract without the prior written consent of **CITY**. Notwithstanding the foregoing, **CITY** shall have no proprietary interest in any materials licensed for use by **CITY** that are subject to patent, trademark or copyright protection.

23.2 **CITY** shall be permitted to retain copies, including reproducible copies, of **CONSULTANT'S** drawings, specifications, and other documents for information and reference in connection with this Contract.

23.3 **CONSULTANT'S** drawings, specifications and other documents shall not be used by **CITY** or others without expressed permission of **CONSULTANT**.

24 PUBLIC RECORDS:

24.1 Pursuant to Nevada Revised Statute 239.010, information or documents received from **CONSULTANT** may be open to public inspection and copying. **CITY** will have the duty to disclose unless a particular record is made confidential by law or a common law balancing of interests. **CONSULTANT** may clearly label specific parts of an individual document as a "trade secret" or "confidential" in accordance with Nevada Revised Statute 332.061, provided that **CONSULTANT** thereby agrees to indemnify and defend **CITY** for honoring such a designation. The failure to so label any document that is released by **CITY** shall constitute a complete waiver of any and all claims for damages caused by any release of the records.

25 CONFIDENTIALITY:

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25.1 **CONSULTANT** shall keep confidential all information, in whatever form, produced, prepared, observed or received by **CONSULTANT** to the extent that such information is confidential by law or otherwise required by this Contract.

26 FEDERAL FUNDING:

26.1 In the event federal funds are used for payment of all or part of this Contract:

26.1.1 **CONSULTANT** certifies, by signing this Contract, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. This certification is made pursuant to the regulations implementing Executive Order 12549, Debarment and Suspension, 28 C.F.R. pt. 67, § 67.510, as published as pt. VII of the May 26, 1988, Federal Register (pp. 19160-19211), and any relevant program-specific regulations. This provision shall be required of every subcontractor receiving any payment in whole or in part from federal funds.

26.1.2 **CONSULTANT** and its subcontractors shall comply with all terms, conditions, and requirements of the Americans with Disabilities Act of 1990 (P.L. 101-136), 42 U.S.C. 12101, as amended, and regulations adopted thereunder contained in 28 C.F.R. 26.101-36.999, inclusive, and any relevant program-specific regulations.

26.1.3 **CONSULTANT** and its subcontractors shall comply with the requirements of the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, P.L. 93-112, as amended, and any relevant program-specific regulations, and shall not discriminate against any employee or offeror for employment because of race, national origin, creed, color, sex, religion, age, disability or handicap condition (including AIDS and AIDS-related conditions).

27 LOBBYING:

27.1 The parties agree, whether expressly prohibited by federal law, or otherwise, that no funding associated with this Contract will be used for any purpose associated with or related to lobbying or influencing or attempting to lobby or influence for any purpose the following:

27.1.1 Any federal, state, county or local agency, legislature, commission, counsel or board;

27.1.2 Any federal, state, county or local legislator, commission member, counsel member, board member, or other elected official; or

27.1.3 Any officer or employee of any federal, state, county or local agency; legislature, commission, counsel or board.

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28 GENERAL WARRANTY:

28.1 **CONSULTANT** warrants that all services, deliverables, and/or work product under this Contract shall be completed in a workmanlike manner consistent with standards in the trade, profession, or industry; shall conform to or exceed the specifications as set forth in the incorporated attachments; and shall be fit for ordinary use, of good quality, with no material defects.

29 PROPER AUTHORITY:

29.1 The parties hereto represent and warrant that the person executing this Contract on behalf of each party has full power and authority to enter into this Contract. **CONSULTANT** acknowledges that this Contract is effective only after approval by the Carson City Board of Supervisors and only for the period of time specified in this Contract. Any services performed by **CONSULTANT** before this Contract is effective or after it ceases to be effective are performed at the sole risk of **CONSULTANT**.

30 ALTERNATIVE DISPUTE RESOLUTION:

30.1 Pursuant to NRS 338.150, public body charged with the drafting of specifications for a public work shall include in the specifications a clause requiring the use of a method of alternative dispute resolution before initiation of a judicial action if a dispute arising between the public body and the contractor engaged on the public work cannot otherwise be settled. Therefore, in the event that a dispute arising between **CITY** and **CONSULTANT** cannot otherwise be settled, **CITY** and **CONSULTANT** agree that, before judicial action may be initiated, **CITY** and **CONSULTANT** will submit the dispute to non-binding mediation. **CITY** shall present **CONSULTANT** with a list of three potential mediators. **CONSULTANT** shall select one person to serve as the mediator from the list of potential mediators presented by **CITY**. The person selected as mediator shall determine the rules governing the mediation.

31 GOVERNING LAW; JURISDICTION:

31.1 This Contract and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada, without giving effect to any principle of conflict-of-law that would require the application of the law of any other jurisdiction. **CONSULTANT** consents and agrees to the jurisdiction of the courts of the State of Nevada located in Carson City, Nevada for enforcement of this Contract.

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32 ENTIRE CONTRACT AND MODIFICATION:

32.1 This Contract and its integrated attachment(s) constitute the entire Contract of the parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other Contracts that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Contract specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language between any such attachment and this Contract shall be construed consistent with the terms of this Contract. Unless otherwise expressly authorized by the terms of this Contract, no modification or amendment to this Contract shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto and approved by the Carson City Board of Supervisors.

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33 ACKNOWLEDGMENT AND EXECUTION:

33.1 In witness whereof, the parties hereto have caused this Contract to be signed and intend to be legally bound thereby.

CARSON CITY
Finance Director
Attn: Kim Belt, Purchasing and Contracts
Manager
201 North Carson Street, Suite 3
Carson City, Nevada 89701
Telephone: 775-283-7137
Fax: 775-887-2107
KBelt@carson.org

By: Kim Belt
Kim Belt

DATED 10/11/11

CITY'S LEGAL COUNSEL
Neil A. Rombardo, District Attorney

I have reviewed this Contract and approve as to its legal form.

By: Andy Burnham
Deputy District Attorney

DATED 10/11/11

CITY'S ORIGINATING DEPARTMENT

BY: Andy Burnham, Public Works Director
Carson City Public Works Department
3505 Butti Way
Carson City, NV 89701
Telephone: 775-887- Ext. 7367
Fax: 775-887-2164
ABurnham@carson.org

By: ABurnham

DATED 10-11-11

PROFESSIONAL SERVICES AGREEMENT RELATED TO CONSTRUCTION PROJECTS (Architects, Engineers, and Land Surveyors)

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Brent R. Tippets deposes and says: That he is the **CONSULTANT** or authorized agent of the **CONSULTANT**; that he has read the foregoing Contract; and that he understands the terms, conditions, and requirements thereof.

CONSULTANT

BY: Brent R. Tippets

TITLE: Partner

FIRM: Valentiner Crane Architects

CARSON CITY BUSINESS LICENSE #: 11-21489

Address: 524 South 600 East

City: Salt Lake City **State:** Utah **Zip Code:** 84102

Telephone: 801-575-8800/ Fax #: 801-531-9850

E-mail Address: btippett@vcbo.com

(Signature of CONSULTANT)

DATED 10-13-11

STATE OF Utah }
County of Salt Lake } ss

Signed and sworn (or affirmed) before me on this 13 day of October, 2011, by
Brent Tippins.

(Notary Stamp)



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SAMPLE INVOICE

Invoice Number: _____

Invoice Date: _____

Invoice Period: _____

Carson City Contract Number: 1112-120

Carson City Contract Name: Carson City Multi-Purpose Athletic Complex for Planning,

Carson City Contract Tower - BMTA Architectural and Engineering Services

Vendor Number: _____

Invoice shall be submitted to:

Carson City Public Works

Attn: Karen White

3505 Butti Way

6666 Data Way
Carson City NV 89701

| Line Item # | Description | Unit Cost | Units Completed | Total \$\$ |
|-------------------------------|-------------|-----------|-----------------|------------|
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| Total for this invoice | | | | |

Original Contract Sum \$ _____

Original amount due \$ _____
Less amount previously billed \$ _____

~~Less amount previously billed~~ \$ _____
~~= contract sum prior to this invoice~~ \$ _____

Less this invoice \$ _____

Dollars remaining on Contract \$ _____

ENCLOSE COPIES OF RECEIPTS & INVOICES FOR EXPENSES & OUTSIDE SERVICES

**PROFESSIONAL SERVICES AGREEMENT RELATED TO CONSTRUCTION
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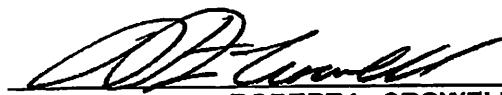
Contract No. 1112-120

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Architectural and Engineering Services**

CONTRACT ACCEPTANCE AND EXECUTION:

The Board of Supervisors for Carson City, Nevada at their publicly noticed meeting of October 20, 2011, approved the acceptance of **CONTRACT No. 1112-120 Carson City Multi-Purpose Athletic Complex for Planning, Architectural and Engineering Services**. Further, the Board of Supervisors authorizes the Mayor of Carson City, Nevada to set his hand to this document and record his signature for the execution of this contract in accordance with the action taken.

CARSON CITY, NEVADA



ROBERT L. CROWELL, MAYOR

DATED this 20th day of October, 2011.

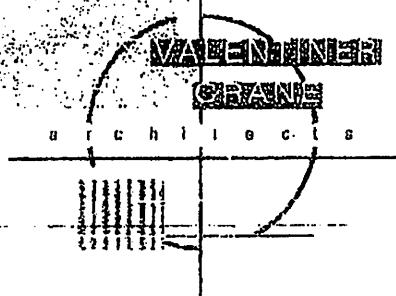
ATTEST:



ALAN GLOVER, CLERK-RECORDER

DATED this 20th day of October, 2011.

EXHIBIT A



June 22, 2011
(Revised June 27, 2011)

Jeff Sharp
Carson City Public Works Department
3505 Butti Way
Carson City, Nevada 89701

Mark P. Valente, AIA
Steve H. Clark, SWE
Sean O'neal, AIA

Re: Carson City Multi-Purpose Athletic Complex
Proposal for Planning, Architectural & Engineering Services

Dear Jeff:

I am pleased to submit our fee proposal on behalf of Valentiner Crane Architects for planning, architectural, and engineering services for the new Carson City Multi-Purpose Athletic Complex.

Project Understanding:

Carson City is planning to develop a new multi-purpose athletic complex with site improvements on a 14.32 acre site at 1870 Russell Way in Carson City, Nevada. Earlier work on a previously designed Recreation Center for this site, designed by Valentiner Crane Architects, including parking design, geotechnical work, planning approvals and landscaping will be reused in the development of the new proposed facilities. It is anticipated that a Boys and Girls Club located on the property immediately North of the site will jointly use the proposed facilities. The new structure is anticipated to be approximately 33,000 square feet and will include a gymnasium with multiple basketball courts, suspended running track, locker rooms, and a public entry / lobby area. The estimated construction budget is \$4,200,000.00 with the total estimated project costs to be 5,200,000.00. Valentiner Crane Architects will utilize local consultants where feasible to assist with the development of design. The Design Team will work in conjunction with the City's construction manager throughout the design and construction of the new facility.

Owner Responsibilities:

- Access to any existing drawings, surveys, programs or pertinent project or site information.

Computer Applications:

- Revit 2011
- Microsoft Word 2007
- Microsoft Excel 2007
- Microsoft PowerPoint 2007
- Sketch-Up 8
- 3d Studio Viz

Scope of Services:

Task 1 - Pre Design Phase:

- Attend Kick-off meeting
- Define Scope
- Establish Schedule
- Execute contract

Great Lakes Office
504 South 400 East
St. Louis City
Utah 84102
Fax: (801) 531-0050
Phone: (801) 576-0000

EXHIBIT A

Task 2 - Schematic Design:

- Develop conceptual site plan
- Develop conceptual floor plans
- Develop conceptual landscape plan
- Develop conceptual building elevations
- Prepare initial building code analysis
- Prepare a preliminary specification index
- Compare and summarize schematic design square footage against programmed square footage
- Provide project narrative of primary building systems including structural, mechanical, plumbing and electrical
- Assist the construction manager in the development of an estimate of probable construction costs

Task 3 - Design Development Phase:

- Develop overall site plan
 - a. Show extent and type of paved areas
 - b. Identify extent of all landscaped areas
 - c. Develop grading plan
 - d. Develop utility plan
- Develop building floor plans
 - a. Show wall thicknesses
 - b. Show door swings
 - c. Establish building grid
 - d. Show "in contract" furniture, fixtures and equipment
- Develop building elevations
- Develop building cross sections
- Develop wall sections
- Develop landscape & irrigation plans
- Develop footing & foundation plans
- Develop structural framing plans
- Develop structural schedules
- Develop mechanical plans w/ mechanical room layouts, ductwork and piping runs shown
- Develop mechanical schedules
- Develop plumbing plans showing fixtures and piping runs
- Develop electrical plans showing system wiring devices w/ layouts of electrical and communication rooms
- Update specification index
- Update project narrative
- Prepare color and materials board

Task 4 - Construction Documents Phase:

- Develop a comprehensive set of technical documents that will be used for bidding and construction purposes including the following:

Architectural:

- a. Architectural Site Plan
- b. Floor Plans (Dimensions & Finishes)
- c. Building Elevations
- d. Building Sections
- e. Wall Sections
- f. Stair Plans and Sections
- g. Interior Finishes and schedules
- h. Door & Window Types and Schedules
- i. Reflected Ceiling Plans

EXHIBIT A

- j. Construction Details
- k. Summary of Building Code Analysis
- l. Project Specifications in CSI format sections 2 – 14

Structural:

- a. Structural Notes
- b. Footing & Foundation Plans
- c. Floor & Roof Framing Plans
- d. Structural Details
- e. Structural Schedules
- f. Structural Calculations
- g. Project Specifications in CSI format sections 3, 4, 5, & 6

Mechanical:

- a. Mechanical Plans
- b. Mechanical Room equipment layouts
- c. Mechanical Schedules
- d. Mechanical Piping Schematics
- e. Mechanical Sections
- f. Mechanical Details
- g. Plumbing Schedules
- h. Underground Plumbing Plan
- i. Plumbing Plans
- j. Enlarged Equipment Room Plans
- k. Project Specifications in CSI format section 15
- l. Develop performance specification for Automatic Fire Sprinkler system
- m. Energy Calculations
- n. Analysis of potential use and benefit in incorporating solar panels

Electrical:

- a. Electrical Site Plan
- b. Power Plans
- c. Lighting Plans
- d. Lighting fixture schedules
- e. One Line Diagram
- f. Panel board Schedules
- g. Relay Schedules
- h. Electrical Details
- i. Fire Alarm plans
- j. Project Specifications in CSI format section 16

Civil:

- a. Site Plan
- b. Grading & Drainage Plan
- c. Utility Plan
- d. Horizontal Control Plan
- e. Site Details
- f. Project Specifications in CSI format section 2

Landscape:

- a. Planting Plans
- b. Planting Details
- c. Irrigation Plans
- d. Irrigation Details
- e. Project Specifications in CSI format

EXHIBIT A

Task 5 - Approvals:

- Identify all appropriate building codes and standards
- Meet w/ governing building official @ the beginning of the Design Development Phase to review the project for compliance and to identify any problematic issues
- Submit plans for approval @ the completion of the Construction Documents Phase
- Respond as appropriate to the above approval reviews

Task 6 - Bidding/Negotiation Phase:

- Coordinate with the owner & construction manager the following:
 - a. Issue Construction Documents
 - b. Prepare and Issue Addenda as required
 - c. Respond to Bidder Questions
 - d. Review and respond to prior approvals
 - e. Assist w/ Bid Opening
 - f. Assist with pre bid conference
 - g. Coordinate with the Owner and Construction Manager

Task 7 - Construction Administration Phase:

- Respond to contractor RFI's
- Issue clarification
- Review submittals and shop drawings
- Participate in regular construction meetings
- Perform regular construction observations
- Review and make recommendations for contractor change orders
- Review contractors monthly progress payments
- Coordinate with the Owner and Construction Manager

Task 8 - Project Closeout:

- Assist owner, construction manager in the development of a Punch List
- Prepare and distribute Certificate of Substantial Completion
- Review O&M Manuals for completeness and content
- Review contractors "As-Built" drawings for completeness & content
- Recommend final payment to contractor
- Coordinate with the Owner and Construction Manager

Task 9 - Project Meetings:

(The following is a summary of 1 day meetings in Carson City planned by the design team)

| | |
|-----------------------------|--------------------------|
| Schematic Design | 1 meetings |
| Design Development | 2 meetings |
| Construction Documents | 2 meetings |
| Construction Administration | 13 meetings |
| Project Close-out | 2 meetings |
| Total | 20 meetings/trips |

Task 10 - Reimbursables:

- Travel expenses, printing costs, permit fees paid by Valentiner Crane Architects or other unforeseen reimbursable expenses will be billed under this task as cost plus 15%. The fee indicated below is an estimate.
- Travel to Carson City beyond that included in basic services identified below will be billed at a fixed rate of \$1,500 per trip.

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II. Owner Responsibility:

- Environmental Analysis
- Asbestos abatement
- Make available to the Architect and/or their consultants full access of facilities and resources associated with the project.
- Geotechnical investigation

III. Schedule: (By Phase)

| PHASE | DURATION |
|------------------------|-----------|
| Pre Design | 1 week |
| Schematic Design | 5 weeks |
| Design Development | 6 weeks |
| Construction Documents | 9 weeks |
| Approvals | 4 weeks |
| Bidding | 4 weeks |
| Construction | 12 months |

IV. Exclusions:

- See attached proposal from Lumos & Associates dated May 27, 2011

V. Fee:

| | |
|--------------------------------------------------------------|-----------------------|
| • Basic Services: (6% x \$4,200,000.00) | \$252,000.00 |
| 1. Architectural | |
| 2. Structural Engineering | |
| 3. Mechanical & Plumbing Engineering | |
| 4. Electrical Engineering | |
| 5. Up to (20) one day trips to Carson City | |
| • Additional Services | |
| 1. Civil Engineering & Landscape Design (Lumos & Associates) | \$61,800.00 |
| 2. Reimbursable Expenses | |
| a. Printing | \$10,000.00 |
| b. Misc. | \$3,000.00 |
| Total Additional Services: | \$74,800.00 |
| Total Design Fee: | \$326,800.00 * |

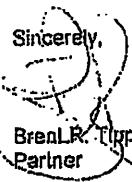
* This fee does not include previously completed and billed fees from our May 1, 2011 proposal.

- Compensation will be based on a percentage of construction cost. Progress payments for each phase of the work shall total the following percentages of the total fee:

| PHASE | PERCENTAGE |
|---------------------------|-------------|
| Pre Design | 5% |
| Schematic Design | 15% |
| Design Development | 20% |
| Construction Documents | 35% |
| Approvals | 2% |
| Bidding | 3% |
| Construction | 20% |
| Total Compensation | 100% |

EXHIBIT A

Thank you for this opportunity to work with the City on this exciting project. Please let me know if you have any questions.

Sincerely,

Brent R. Tippins, A.I.A.
Partner