

## SERVICE PROVIDER AGREEMENT

This Service Provider Agreement (the “Agreement”) is made and entered into as of \_\_\_\_\_ (the “Effective Date”) by and between the City of North Las Vegas, a Nevada municipal corporation (the “City”) and Logistical Solutions, LLC, a Nevada limited liability company (the “Services Provider”).

### WITNESSETH:

WHEREAS, the City requires the replacement of public restrooms at Cheyenne Sports Complex, as more particularly described in Exhibit A (the “Services”); and

WHEREAS, Services Provider represents that it has the experience, knowledge, labor, skill, and license(s) as required to provide the Services in accordance with generally accepted industry standards, and is willing and able to provide the Services.

NOW THEREFORE, in consideration of the above recitals, mutual covenants, and terms and conditions contained herein, the parties hereby covenant and agree to the following:

1. **Scope of Services**

Services Provider shall perform the Services in accordance with Exhibit A and the terms, conditions and covenants set forth in this Agreement. Any modification to the Services must be specified in a written amendment to this Agreement that sets forth the nature, scope, and payment for the Services as modified by the amendment.

2. **Term**

This Agreement shall commence on the Effective Date and will continue to be in effect until satisfactory completion of the project, within 180 calendar days following the issuance of the Notice to Proceed (the “Term”), unless earlier terminated in accordance with the terms herein. All Services shall be completed by the end of the Term.

3. **Compensation**

For the performance of the Services, the City agrees to pay the Services Provider the amount of \$211,921.20, which includes all fees for time and labor, overhead, materials, equipment, insurance, licenses, and any other costs. Periodic progress billings will be due and payable within 30 days of presentation of invoice, provided that each invoice is complete, correct, and undisputed by the City. If the Services Provider performs any additional task without obtaining the City’s prior written approval, the Services Provider does so at its own risk and expense. The total not to exceed amount of this Agreement is Two Hundred Eleven Thousand, Nine Hundred Twenty-One Dollars and Twenty Cents. (\$211,921.20).

4. **Termination or Suspension of Services**

4.1 This Agreement may be terminated, in whole or in part, with or without cause, by the City upon thirty (30) days' written notice to the Services Provider. In the event of termination, Services Provider shall be paid compensation for Services properly performed pursuant to the terms of the Agreement up to and including the termination date. The City shall not be liable for anticipated profits based upon Services not yet performed.

4.2 This Agreement may be terminated by the Services Provider in the event the City defaults in the due observance and performance of any material term or condition contained herein, and such default is not cured within thirty (30) days after the Services Provider delivers written notice of such default to the City.

4.3 The City may suspend performance by Services Provider under this Agreement for such period of time as the City, in its sole discretion, may prescribe by providing written notice to the Services Provider at least ten (10) days prior to the date on which the City will suspend performance. The Services Provider shall not perform further work under this Agreement after the effective date of the suspension until receipt of written notice from the City to resume performance, and the time period for Services Provider's performance of the Services shall be extended by the amount of time such performance was suspended.

5. **Services Provider Representations and Warranties**

5.1 The Services Provider hereby represents and warrants for the benefit of the City, the following:

5.1.1 Services Provider is a duly formed validly existing entity and is in good standing pursuant to the laws of the State of Nevada. The Services Provider is financially solvent, able to pay its debts when due, and possesses sufficient working capital to provide the Services pursuant to this Agreement.

5.1.2 The person executing this Agreement on Services Provider's behalf has the right, power, and authority to enter into this Agreement and such execution is binding on the Services Provider.

5.1.3 All Services performed, including deliverables supplied, shall conform to the specifications, drawings, and other descriptions set forth in this Agreement, and shall be performed in a manner consistent with the level of care and skill ordinarily exercised by members of Services Provider's profession and in accordance with generally accepted industry standards prevailing at the time the Services are performed, and do not infringe the intellectual property of a third party. The foregoing representations and warranties are not intended as a limitation, but are in addition to all other terms set forth in this Agreement and such other warranties as are implied by law, custom, and usage of the trade.

5.1.4 Services Provider shall, at its own expense, comply at all times with all municipal, county, state and federal laws, regulations, rules, codes, ordinances and other

applicable legal requirements, as such may be amended or modified from time to time in performing the Agreement. Services Provider must be properly licensed to perform the work required by this Agreement. Services Provider shall, at its own expense, apply for, obtain, and comply with all terms, conditions and requirements attached to all licenses, permits, and agreements required by federal, state, or local agencies to perform work, construct, erect, test and start up any equipment or facility for this Agreement. Where operating permits are required, the Services Provider shall apply for and obtain such operating permits in the name of the City and provide the permit in an appropriate file holder when the City accepts substantial completion of the Services. The Services Provider shall give all notices necessary or incidental to the due and lawful prosecution of the work.

5.1.5. Services Provider shall apply for and obtain in its name all necessary permits and shall be responsible for satisfying all code requirements, calling for inspection, and obtaining final approvals. The Services Provider shall comply with all conditions stipulated in the permits. The Services Provider's fees shall include any fees for permits required and inspections. Services Provider shall deliver copies of all permits and licenses prior to commencing with performance of the Agreement.

6. **Prevailing Wage Rates**

6.1 The Services Provider and subcontractors shall be bound by and strictly comply with all federal, state and local laws with regard to minimum wages, overtime work, hiring and discrimination, including Chapter 338 of the NRS, which is entitled, "Public Works Projects." The Services Provider shall ensure that all employees on the work site are paid in accordance with the CURRENT PREVAILING WAGE RATES AS APPROVED BY THE STATE LABOR COMMISSIONER, whenever the actual value of the Agreement totals One Hundred Thousand Dollars (\$100,000) or more. A copy of the rates are attached hereto as Exhibit B. If a Change Order causes an Agreement to exceed One Hundred Thousand Dollars (\$100,000), the City may audit the entire Agreement period. All work necessary to be performed after regular working hours, on Sundays or Legal Holidays, shall be performed without additional expense to the City.

6.2 Posting of Minimum Wage Rates. In accordance with NRS, Chapter 338, Section 338.020, the Services Provider shall post the hourly and daily rate of wages to be paid to each of the classes of mechanics and workers on the site where the Services are provided in a place generally visible to the workers.

6.3 The Services Provider and each subcontractor shall keep or cause to be kept an accurate record showing the name, the occupation and the actual per diem, wages and benefits paid to each worker employed by the Services Provider or subcontractor in connection with the Services.

6.4 The record maintained pursuant to subsection 4 and 5 of NRS 338.070 must be open at all reasonable hours to the inspection of the public body awarding the Agreement, and its officers and agents. The Services Provider or subcontractor shall ensure that a copy of the record for each calendar month is received by the City no later than 15 days after the end of the month. The copy must be open to public inspection as provided in NRS 239.010. The record in possession of the City may be discarded by the City two years after final payment is made by the City for the

Services. Failure to submit the certified payrolls by the time stipulated herein and in NRS 338 shall result in assessment of fines in accordance with NRS 338.060.

6.5 It is unlawful for any Services Provider in connection with the performance of work under a contract with the state, or any of its political subdivisions, when payment of the Contract Price, or any part of such payment, is to be made from public funds, to refuse to employ or to discharge from employment any person because of his race, color, creed, national origin, sex, sexual orientation or age, or to discriminate against a person with respect to hire, tenure, advancement, compensation or other terms, conditions or privileges of employment because of his race, creed, color, national origin, sex, sexual orientation or age.

6.6 The Services Provider shall use the appended SUBCONTRACTOR LIST FOR PUBLIC WORKS PROJECTS FORM to report to the Labor Commissioner the name and address of each subcontractor whom it engages for work in providing the Services, within ten (10) days after the subcontractor commences work.

#### 6.7 Penalties.

6.7.1 Forfeiture penalties for not adhering to the State of Nevada, Public Works Project Prevailing Wage Rates and Division of Labor Standards are as follows:

6.7.1.1 Forfeitures when workmen are paid less than designated rates or are not reported to public body; forfeiture clause in contracts; regulation establishing sliding scale for penalties; recovery of investigative costs and attorney's fees by labor commissioner. (NRS 338.060, 338.070, 338.080).

6.7.1.1.1 A Services Provider engaged on public works shall forfeit, as penalty to the public body in behalf of which the Agreement has been made and awarded to the Services Provider, not less than \$20 nor more than \$50 for each calendar day or portion thereof that each workman employed on the public work:

6.7.1.1.1.1 Is paid less than the designated rate for any work done under the Agreement, by the Services Provider or any subcontractor under him, and/or does not receive the benefits or contributions certified on their behalf.

6.7.1.1.1.2 Is not registered as an apprentice with the Nevada State Apprenticeship Council or a Federally approved apprenticeship program.

6.7.1.1.2 A Services Provider engaged on a public work shall forfeit, as a penalty to the public body on behalf of which the Agreement has been made and awarded to the Services Provider, not less than \$20 nor more than \$50 for each calendar day or portion thereof for each workman employed on the public work for which the Services Provider or

subcontractor willfully included inaccurate or incomplete information in the monthly record required to be submitted to the public body pursuant to subsection 5 of NRS 338.070.

6.7.1.1.3 A Services Provider engaged on a public work shall forfeit, as a penalty to the public body on behalf of which the Agreement has been made and awarded to the Services Provider, not less than \$20 nor more than \$50 for each calendar day or portion thereof that each workman employed on the public work is not reported to the public body awarding the Agreement by the Services Provider or any of his subcontractors as required pursuant to subsection 5 of NRS 338.070 up to a maximum of:

6.7.1.1.3.1 For the first failure to comply during the term of the Contract for the public work, \$1,000; and

6.7.1.1.3.2 For each subsequent failure to comply during the term of the Contract for the public work, \$5,000.

6.7.1.1.4 If a violation of more than one provision of subsections 6.7.1.1.1, 6.7.1.1.2, and 6.7.1.1.3 involves the same workman, the Services Provider shall forfeit the penalty set forth in each subsection that was violated.

6.7.1.1.5 The Labor Commissioner shall, by regulation, establish a sliding scale based on the size of the Services Provider's business to determine the amount of the penalty to be imposed pursuant to subsection 6.7.1.1.1 above.

6.7.1.1.6 If a penalty is imposed pursuant to this section, the costs of the proceeding, including investigative costs and attorney's fees, may be recovered by the Labor Commissioner.

6.7.1.1.7 If the Labor Commissioner finds that a person has failed to pay the Prevailing Wage required pursuant to NRS 338.020 to 338.090, inclusive, the public body may, in addition to any other penalty or administrative fine provided in this chapter, require the person to pay the actual costs incurred by the public body to investigate the matter.

## 6.7.2 Sliding scale of penalties. (NAC 338.120, NRS 338.012, 338.060).

6.7.2.1 If the State Contractor's Board has established a monetary limit on the license of a Contractor pursuant to NRS 624.220, the amount of any penalty imposed against the Contractor pursuant to NRS 338.060 must be:

(a) If the monetary limit is less than \$250,000, \$20 for each calendar day or portion thereof.

(b) If the monetary limit is \$250,000 or more but less than \$500,000, \$30 for each calendar day or portion thereof.

(c) If the monetary limit is \$500,000 or more but less than \$750,000, \$40 for each calendar day or portion thereof.

(d) If the monetary limit is \$750,000 or more, \$50 for each calendar day or portion thereof.

6.7.2.2 If the State Contractor's Board has not established a monetary limit on the license of a Services Provider or has removed a monetary limit established on his license, the amount of the penalty imposed against the Contractor pursuant to NRS 338.060 must be \$50 for each calendar day or portion thereof.

7. **Indemnification**

Services Provider shall defend, indemnify and hold harmless the City and its officers, agents, and employees from any liabilities, claims, damages, losses, expenses, proceedings, actions, judgments, reasonable attorneys' fees, and court costs which the City suffers or its officers, agents or employees suffer, as a result of, or arising out of, the negligent or intentional acts or omissions of Services Provider, its subcontractors, agents, and employees, in performance of this Agreement until such time as the applicable statutes of limitation expire. This section survives default, expiration, or termination of this Agreement or excuse of performance.

8. **Independent Contractor**

Services Provider, its employees, subcontractors, and agents are independent contractors and not employees of the City. No approval by City shall be construed as making the City responsible for the manner in which Services Provider performs the Services or for any negligence, errors, or omissions of Services Provider, its employees, subcontractors, or agents. All City approvals are intended only to provide the City the right to satisfy itself with the quality of the Services performed by Services Provider. The City acknowledges and agrees that Services Provider retains the right to contract with other persons in the course and operation of Services Provider's business and this Agreement does not restrict Services Provider's ability to so contract.

9. **Safety**

9.1 Services Provider shall ensure that it is familiar with all applicable safety and health standards promulgated by state and federal governmental authorities including, but not limited to, all applicable requirements of the Occupational Safety and Health Act of 1970 ("OSHA"), including all applicable standards published in 29 C.F.R. parts 1910, and 1926 and applicable occupational safety and health standards promulgated under the state of Nevada. Services Provider further recognizes that, while Services Provider is performing any work on behalf the City of North Las Vegas, under the terms of this Agreement, Services Provider agrees that it has the sole and exclusive responsibility to assure that its employees and the employees of its subcontractors comply at all times with all applicable safety and health standards as above-described and all applicable City of North Las Vegas safety and health rules.

9.2 Services Provider will supply all of its employees and subcontractors with the appropriate Safety equipment required for performing functions at the City of North Las Vegas facilities.

## 10. **Confidentiality**

10.1 Services Provider shall treat all information relating to the Services and all information supplied to Services Provider by the City as confidential and proprietary information of the City and shall not permit its release by Services Provider's employees, agents, or subcontractors to other parties or make any public announcement or release thereof without the City's prior written consent.

10.2 The Services Provider, its employees, agents, or subcontractors shall have no access whatsoever to the facilities nor files (digital or otherwise) of the City's Cheyenne Sports Complex, a Parks and Recreation Department without the physical presence of an escort pre-approved in writing by management of the Parks and Recreation or Public Works Building Maintenance Department.

## 11. **Insurance**

11.1 Services Provider shall procure and maintain at all times during the performance of the Services, at its own expense, the following insurances:

11.1.1 Workers' Compensation Insurance as required by the applicable legal requirements, covering all persons employed in connection with the matters contemplated hereunder and with respect to whom death or injury claims could be asserted against the City or Services Provider.

11.1.2 Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$1,000,000.00 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 05 09 or 25 04 05 09) or the general aggregate limit shall be twice the required occurrence limit.

11.1.3 Automobile Liability: ISO Form Number CA 00 01 covering any auto (Code 1), or if Services Provider has no owned autos, covering hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000.00 per accident for bodily injury and property damage.

11.1.4 Requested Liability limits can be provided on a single policy or combination of primary and umbrella, so long as the single occurrence limit is met.

11.1.5 The insurance policies are to contain, or be endorsed to contain, the following provisions:

11.1.5.1 Additional Insured Status: The City, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Services Provider including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Services Provider's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 forms if later revisions used.

11.1.5.2 Primary Coverage: For any claims related to this contract, the Services Provider's insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Services Provider's insurance and shall not contribute with it.

11.1.5.3 Notice of Cancellation: Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the City.

11.1.5.4 Waiver of Subrogation: Services Provider hereby grants to the City a waiver of any right to subrogation which any insurer of said Services Provider may acquire against the City by virtue of the payment of any loss under such insurance. Services Provider agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

11.1.5.5 The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Services Provider, its employees, agents, and subcontractors.

11.1.5.6 Self-Insured Retentions: Self-insured retentions must be declared to and approved by the City. The City may require the Services Provider to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

11.1.5.7 Acceptability of Insurers: Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City.

11.1.5.8 Claims Made Policies: If any of the required policies provide claims-made coverage:

11.1.5.8.1 The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work.



11.1.5.8.2 Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.

11.1.5.8.3 If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Services Provider must purchase “extended reporting” coverage for a minimum of five (5) years after completion of work.

11.1.6 Verification of Coverage: Services Provider shall furnish the City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Services Provider’s obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

11.1.7 Professional Liability (errors and omissions) insurance to include coverage for the Services contemplated in this Agreement and any errors or omissions of Services Provider and its professional staff in connection with this Agreement. The following amounts are minimum limits for the requisite Professional Liability insurance and could be increased to be commensurate with the Services:

Each Claim:	\$1,000,000.00
Annual Aggregate:	\$2,000,000.00

11.2 Special Risks or Circumstances: The City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances

12. **Bonds**

12.1. The Services Provider shall furnish bonds covering the faithful performance of the Agreement, payment of all obligations arising thereunder and a Guarantee Bond to take effect upon substantial completion of the project, utilizing the bond forms. Bonds may be secured through the Services Provider’s usual sources, provided that the surety is authorized and licensed to do business in the State of Nevada. All bonds specified shall indicate the State of Nevada insurance division license number, the surety company name, address, telephone number, and include the appointed agent of record who issued the bond. Surety bonds issued by an individual are not acceptable to the City.

12.2. Prior to the Agreement being presented to Council, the Services Provider shall furnish bonds to the City as follows:

12.2.1. Labor and Material Payment Bond in the amount of 100% of the Agreement price.

12.2.2. Performance Bond in the amount of 100% of the Agreement price.

12.2.3. Guarantee Bond in the amount of 100% of the Agreement price. The Guarantee Bond will go into effect from the date the Services Provider notifies the City of substantial completion of the Services and shall remain in effect for a period of one (1) year thereafter.

### 12.3. Form of Bonds

12.3.1. The bonds referred to herein shall be written on the Performance Bond, Labor and Material Payment Bond, and Guarantee Bond forms provided by the City.

12.3.2. The Services Provider shall require the attorney-in-fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of his power of attorney.

12.3.3. Any Performance Bond, Labor and Material Payment Bond, or Guarantee Bond prepared by an appointed agent must provide their license number and the issuing state.

12.3.4. The bonds specified in this section must be issued by a certified surety that is listed in the Department of the Treasury, Fiscal Service, (Department Circular 570; Current Revision), companies holding certificates of authority as acceptable sureties on Federal Bonds and as acceptable reinsuring companies.

## 13. **Alternative Dispute Resolution**

13.1. Disputes concerning standards of performance, time of performance, scope of work, compensation or terms specified in the Agreement shall be resolved in the following manner:

13.1.1. The City and the Services Provider will endeavor to conduct good faith negotiations in an effort to resolve any and all disputes in a timely manner.

13.1.2. If any disputes between the Parties remain unresolved after thirty (30) calendar days, the City and the Services Provider shall, within fourteen (14) calendar days, prepare a brief, concise written report summarizing the basis for the dispute, negotiations accomplished and results thereof, and current status of all relevant unresolved issues. Copies of each written summary shall be exchanged between the City and the Services Provider. Within thirty (30) calendar days thereafter, the City's authorized representative, and the Services Provider's authorized representative will meet to resolve the dispute. A written record of these negotiations will be made. The record will summarize all issues of dispute, the resolutions to resolved issues, and unresolved issues, if any.

13.1.3. In accordance with NRS 338.150, if the claim, dispute or controversy cannot otherwise be settled within 90 days, either party may request use of an alternative dispute resolution method before initiation of any judicial action. For purposes of this Agreement, alternative dispute resolution shall mean non-binding mediation before an independent private mediator agreed to by the parties. If the parties cannot agree upon an independent private mediator within 45 days after notice of the claim is provided pursuant to Section 13.1.5. below, the party may proceed to file a judicial action with the Eighth Judicial District Court, Clark County, Nevada. The alternative dispute resolution proceedings shall take place in Clark County, Nevada, unless otherwise agreed to by the parties.

13.1.4. The fees and expenses of the alternative dispute resolution proceedings shall be equally shared by both parties. Each party is responsible for its own costs, expenses, consultant fees and attorney fees incurred in the presentation or defense of any claim, dispute or controversy that may arise between the parties.

13.1.5. In the event that a dispute arises related to the progress of the Services, the party asserting the dispute or controversy must provide written notice thereof to the other party within thirty (30) days after its occurrence. The written notice shall set forth with specificity the nature of the claim, dispute or controversy, the relief sought, and other matters properly relating thereto. The notification is important to the recipient of the notice so that proper measures can be taken to properly observe and record the progress of the Services, to properly document the impact that the claim, dispute or controversy may have thereon, and to enable that party to properly verify any costs incurred by the party asserting the claim, dispute or controversy in connection therewith.

13.1.6. Any claim, dispute, or other matter in question between the parties concerning any provisions of this Agreement that cannot otherwise be resolved between the parties through the use of the alternative dispute resolution required herein and, in the case of the Services Provider, which has not been waived by the acceptance of final payment, may be submitted for judicial action. Prior to the exercise of this right, the party seeking judicial relief shall have provided the other party thirty (30) days' prior written notice before filing such judicial action with the Eighth Judicial District Court, Clark County, Nevada.

#### 14. **Notices**

Any notice requiring or permitted to be given under this Agreement shall be deemed to have been given when received by the party to whom it is directed by personal service, hand delivery or United States mail at the following addresses:

To City:	City of North Las Vegas
	Attention: Dave Buist, Building Maintenance, PW
	2250 Las Vegas Blvd., North Suite 152
	North Las Vegas, Nevada 89030
	Phone: 702-633-1364

To Services Provider:                      Logistical Solutions, LLC  
Attn: Ginnie Salazar, Executive Director  
4780 W Ann Road, Suite 5-237  
North Las Vegas, NV 89031  
Phone: 702-596-2021  
Email: gsalazar@losonow.com

Either party may, at any time and from time to time, change its address by written notice to the other.

15.     **Apprentices**

15.1.   Effective January 1, 2020, Nevada Senate Bill 207 (2019), requires a contractor or subcontractor engaged on a public work to employ one or more apprentices for a certain percentage of the total hours of labor performed on the public work, depending on the type of work performed. This requirement is codified in NRS 338.01165. This requirement applies to any and all public works projects where prevailing wage requirements apply and where bids are opened on or after January 1, 2020. NRS 338.01165 requires that a contractor or subcontractor engaged in vertical construction who employs workers on a public work, as defined in NRS 338.040, shall use one or more apprentices for at least 10% of the total hours of labor worked for each apprenticed craft or type of work to be performed on the public work for which more than three workers are employed. NRS 338.01165 further requires that a contractor or subcontractor engaged in horizontal construction who employs workers on a public work, as defined in NRS 338.040, shall use one or more apprentices for at least 3% of the total hours of labor worked for each apprenticed craft or type of work to be performed on the public work when more than three workers are employed.

15.2.   All contractors and subcontractors shall comply with NRS 338.01165 and the apprenticeship utilization provisions of NRS 338. For more information, please refer to the State of Nevada Labor Commission at <http://labor.nv.gov>.

16.     **Preferential Employment**

The Services Provider shall comply with the preferential employment provisions of NRS Chapter 338.130. This law requires, in all cases where persons are employed in the construction of public works, preference must be given, when the qualifications of applicants are equal: first, to persons who have been honorably discharged from the Army, Navy, Air Force, Marine Corps or Coast Guard of the United States, a reserve component thereof or the National Guard, and are citizens of the State of Nevada; second, to other citizens of the State of Nevada. If the Services Provider does not comply with these provisions of NRS 338 while engaged on the public work, the Agreement shall be void, and any failure or refusal to comply with any of these provisions of this section renders any such agreement void.

17. **Entire Agreement**

This Agreement, together with any attachment, contains the entire Agreement between Services Provider and City relating to rights granted and obligations assumed by the parties hereto. Any prior agreements, promises, negotiations or representations, either oral or written, relating to the subject matter of this Agreement not expressly set forth in this Agreement are of no force or effect.

18. **Miscellaneous**

18.1 **Governing Law and Venue.** The laws of the State of Nevada and the North Las Vegas Municipal Code govern the validity, construction, performance and effect of this Agreement, without regard to conflicts of law. All actions shall be initiated in the courts of Clark County, Nevada or the federal district court with jurisdiction over Clark County, Nevada.

18.2 **Assignment.** Any attempt to assign this Agreement by Services Provider without the prior written consent of the City shall be void.

18.3 **Amendment.** This Agreement may be amended or modified only by a writing executed by the City and Services Provider.

18.4 **Controlling Document.** To the extent any of the terms or provisions in Exhibit A conflict with this Agreement, the terms and provisions of this Agreement shall govern and control. Any additional, different or conflicting terms or provisions contained in Exhibit A or any other written or oral communication from Services Provider shall not be binding in any way on the City whether or not such terms would materially alter this Agreement, and the City hereby objects thereto.

18.5 **Time of the Essence.** Time is of the essence in the performance of this Agreement and all of its terms, provisions, covenants and conditions.

18.6 **Waiver.** No consent or waiver, express or implied, by the Services Provider or the City of any breach or default by the other in performance of any obligation under the Agreement shall be deemed or construed to be a consent or waiver to or of any other breach or default by such party.

18.7 **Waiver of Consequential Damages.** The City shall not be liable to Services Provider, its agents, or any third party for any consequential, indirect, exemplary or incidental damages, including, without limitation, damages based on delay, loss of use, lost revenues or lost profits. This section survives default, expiration, or termination of this Agreement.

18.8 **Severability.** If any provision of this Agreement shall be held to be invalid or unenforceable, the remaining provisions of this Agreement shall remain valid and binding on the parties hereto.

18.9 No Fiduciary or Joint Venture. This Agreement is not intended to create, and shall not be deemed to create, any relationship between the parties hereto other than that of independent entities contracting with each other solely for the purpose of effecting the provisions of this Agreement. Neither of the parties hereto shall be construed to be the agent, employer, representative, fiduciary, or joint venturer of the other and neither party shall have the power to bind the other by virtue of this Agreement.

18.10 Effect of Termination. In the event this Agreement is terminated, all rights and obligations of the parties hereunder shall cease, other than indemnity obligations and matters that by their terms survive the termination.

18.11 Ownership of Documents. Services Provider shall treat all information related to this Agreement, all information supplied to Services Provider by the City, and all documents, reconciliations and reports produced pursuant to this Agreement as confidential and proprietary information of the City and shall not use, share, or release such information to any third-party without the City's prior written permission. This section shall survive the termination or expiration of this Agreement.

18.12 Fiscal Funding Out. The City reasonably believes that sufficient funds can be obtained to make all payments during the Term of this Agreement. Pursuant to NRS Chapter 354, if the City does not allocate funds to continue the function performed by Services Provider under this Agreement, the Agreement will be terminated when appropriate funds expire.

18.13 Public Record. Pursuant to NRS 239.010 and other applicable legal authority, each and every document provided to the City may be a "Public Record" open to inspection and copying by any person, except for those documents otherwise declared by law to be confidential. The City shall not be liable in any way to Services Provider for the disclosure of any public record including, but not limited to, documents provided to the City by Services Provider. In the event the City is required to defend an action with regard to a public records request for documents submitted by Services Provider, Services Provider agrees to indemnify, hold harmless, and defend the City from all damages, costs, and expenses, including court costs and reasonable attorneys' fees related to such public records request. This section shall survive the expiration or early termination of the Agreement.

18.14 Interpretation. The language of this Agreement has been agreed to by both parties to express their mutual intent. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. Preparation of this Agreement has been a joint effort by the City and Services Provider and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

18.15 Electronic Signatures. The use of facsimile, email, or other electronic medium shall have the same force and effect as original signatures.

18.16 Counterparts. This Agreement may be executed in counterparts and all of such counterparts, taken together, shall be deemed part of one instrument.

18.17 Federal Funding. Supplier certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, in receipt of a notice of proposed debarment 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.

**IN WITNESS WHEREOF**, the City and Services Provider have executed this Agreement as of the Effective Date.

City of North Las Vegas  
a Nevada municipal corporation

Logistical Solutions, LLC  
a Nevada limited liability company

By: \_\_\_\_\_  
John J. Lee, Mayor

By: \_\_\_\_\_  
Ginnie Salazar, Executive Director

ATTEST:

By: \_\_\_\_\_  
Catherine A. Raynor, MMC, City Clerk

Approved as to form:

By: \_\_\_\_\_  
Micaela Rustia Moore, City Attorney

**EXHIBIT A**

Services

[Attach page(s).]



**EXHIBIT B**