

Item #4-ZB

**CARSON CITY, NEVADA
REQUEST FOR BOARD ACTION**

Date Submitted: July 6, 2007

Agenda Date Requested: July 19, 2007

Time Requested: Consent Agenda

To: Mayor and Supervisors

From: Public Works

Subject Title: Action to accept Public Works recommendation on the "Professional Land Surveying Services Agreement-Tri State", Contract # 2006-206 and authorize Public Works to issue payments to Tri State Surveying, Ltd., for a contract amount of \$100,000.00 from Various Capital Improvement Projects, as provided for in FY 2007/2008.

Staff Summary: The Carson City Public Works Department has a responsibility of managing an extensive Capital Improvement Project Program, which includes the design and construction of various public facilities; street improvements; water, sewer, storm drain and reclaimed water utility infrastructure; parks and recreational facilities. To facilitate the design and construction of such improvement projects the City requires the services of a professional land surveyor.

The firm may be responsible for surveying and mapping services for a variety of public works projects.

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 accept Public Works recommendation on the "Professional Land Surveying Services Agreement", Contract # 2006-206 and authorize Public Works to issue payments to Tri State Surveying, Ltd., for a contract amount of \$100,000.00 from Various Capital Improvement Projects, as provided for in FY 2007/2008.

Explanation for Recommended Board Action: This is a professional services contract. This consultant was selected using the guidelines of NRS as indicated below. Although not required by law, a Statement of Qualification process was used to select this consultant.

Applicable Statute, Code, Policy, Rule or Regulation: Architects, Engineers and Surveyors are considered professional services contracts pursuant to the requirements of N.R.S., Chapters 332 and 625; therefore, a formal bidding process is not required.

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Fiscal Impact: Not to exceed \$100,000.00.

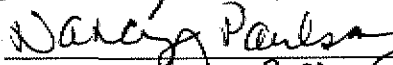
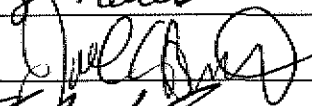
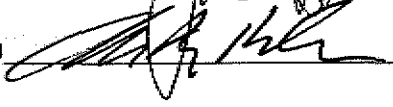
Explanation of Impact: If approved, the referenced account(s) could be decreased by \$100,000.00.

Funding Source: Various Capital Improvement Projects as Provided for in FY 2007/2008.

Alternatives: Provide Other Direction Pursuant to Board Action

Supporting Material: Agreement & Proposal from Consultant

Prepared by: Sandy Scott, Contract Coordinator

Reviewed By: _____	Date: ____/____/____
Kim Belt, Capital Program Manager	
Reviewed By: (C/M) <u></u>	Date: <u>7/10/07</u>
Reviewed By: (Finance Dir) <u></u>	Date: <u>7/10/07</u>
Reviewed By: (DA) <u></u>	Date: <u>7/10/07</u>
Reviewed By: (Public Works) <u></u>	Date: <u>7/10/07</u>

BOARD ACTION:

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

(Vote Recorded By)

THIS AGREEMENT, made and entered into this 19th day of July, 2007, by and between the

PROFESSIONAL SERVICES AGREEMENT RELATED FOR CONSTRUCTION PROJECTS

City and County of Carson City, a political subdivision of the State of Nevada, hereinafter referred to as the "**CITY**", and Tri State Surveying, Ltd., a qualified firm, licensed in the State of Nevada and Carson City, with an office located at 425 E. Long Street, Nevada, 89706, hereinafter referred to as the "**CONSULTANT**".

WITNESSETH:

WHEREAS, the Contracts Division for the City and County of Carson City is authorized to approve and accept the Agreement as set forth in and by the following provisions; and

WHEREAS, no contract or agreement concerning the duties, responsibilities, and/or scope of work by the **CONSULTANT** presently exists; and

WHEREAS, the **CITY** desires to employ the services of the **CONSULTANT** for the intended work of hereinafter referred to as "**CONTRACT #2006-206**", and titled "**Professional Land Surveying Services-Tri State**"; and

WHEREAS, the **CONSULTANT** shall be compensated for all services rendered as herein agreed.

NOW, THEREFORE, in consideration of the premises, mutual promises, covenants and undertakings hereinafter set forth, the parties agree as follows:

ARTICLE 1

1 SCOPE OF WORK:

1.1 Description of Work:

1.1.1 See attached Statement of Qualification from Consultant dated April 25, 2007.

1.2 The **CONSULTANT**, as promptly and as economically as practicable, shall perform the services as described in the **Description of Work**.

1.3 This agreement represents the entire understanding between the parties. Any amendments to this Agreement shall be agreed upon in writing between the **CITY** and **CONSULTANT**.

ARTICLE 2

PROFESSIONAL SERVICES AGREEMENT RELATED FOR CONSTRUCTION PROJECTS

2 TIME OF COMPLETION:

- 2.1 **CONSULTANT** shall complete the **Scope of Work** on or before July 19, 2008, however, this contract continues as long as funding exists to continue. The contract may be terminated after this date by either party giving five (5) days written notice to terminate the contract.
- 2.2 If, however, the **CONSULTANT** is delayed in the performance or completion of the work under this Agreement by labor strikes, lock-outs, fire, unavoidable casualties, or other causes beyond the control of the **CONSULTANT** and without his fault or negligence, then the time for the performance or completion of said work may be extended for a reasonable period to allow therefore.

ARTICLE 3

3 COMPENSATION:

- 3.1 **CITY** agrees to pay the **CONSULTANT** upon performance of the work described in **Scope of Work**.
- 3.2 **CITY** shall pay **CONSULTANT** compensation based upon time and materials not to exceed a maximum amount of \$100,000.00 hereinafter referred to as the **CONTRACT SUM**.
- 3.3 The compensation named herein is for the completed work, and includes the furnishing of all materials, and all labor, equipment, tools, and appliances, and all expenses, direct or indirect, connected with the proper execution of the work.
- 3.4 **CITY** agrees to make payments within thirty (30) days after acceptance of the completed work or from the date the correct invoice is received by the **Contact Person**, whichever is the latter date. Payment is deemed to be made on the date payment is mailed to the **CONSULTANT**.
- 3.5 The **CITY** reasonably believes that funds can be obtained sufficiently to make all payments during the term of this Agreement. If the **CITY** does not allocate funds to continue the function performed by the **CONSULTANT** obtained under this Agreement, this Agreement shall be terminated when appropriated funds expire.
- 3.6 None of the sums due or to become due, nor any of the work to be performed under this Agreement shall be assigned, nor shall the **CONSULTANT** subcontract any substantial portion of this Agreement without the **CITY'S** prior written consent.

ARTICLE 4

PROFESSIONAL SERVICES AGREEMENT RELATED FOR CONSTRUCTION PROJECTS

4 PERMITS AND REGULATIONS:

- 4.1 Before commencing with the performance of any work under this Agreement, the **CONSULTANT** shall obtain all necessary permits and licenses as may be necessary.
- 4.2 Before and during the progress of work under this Agreement, the **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 Agreement.
- 4.3 If the **CONSULTANT** performs any work that is contrary to any such law, ordinance, rule or regulation, he shall bear all the costs arising therefrom.
- 4.4 **CONSULTANT** agrees to obtain a Carson City Business License and provide a copy of same to Carson City Public Works - Contracts Division prior to commencing work.

ARTICLE 5

5 CITY'S RESPONSIBILITIES:

- 5.1 The **CITY** shall provide requested information to the **CONSULTANT** in a timely manner.
- 5.2 The **CITY** shall designate three (3) representatives who are authorized to act on the **CITY'S** behalf with respect to the Project. These authorized representatives shall render decisions on documents submitted by the **CONSULTANT** in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the services.
 - 5.2.1 **Contract Administrator:**
Sandy Scott, Contract Coordinator
Carson City Public Works - Contracts Division
3505 Butti Way
Carson City, NV 89701
775-887-2355 x1101 / FAX 887-2112
 - 5.2.2 **Project Manager:**
Kim Belt, Capital Program Manager
Carson City Public Works
3505 Butti Way
Carson City, NV 89701
775-887-2355 x 1016/ FAX 887-2112
 - 5.2.3 **Detailed Invoices using the City's format shall be mailed to:**
Karen White, Management Assistant
Carson City Public Works - Engineering

PROFESSIONAL SERVICES AGREEMENT RELATED FOR CONSTRUCTION PROJECTS

3505 Butti Way
Carson City, NV 89701
775-887-2355 x1023 / FAX 887-2112

ARTICLE 6

6 INSURANCE:

6.1 GENERAL LIABILITY:

6.1.1 The **CONSULTANT** agrees, as a condition precedent to any duty of the **CITY** to make any payment under this Agreement, to furnish and maintain throughout the term of the Agreement at no cost to the **CITY**, such general liability and property damage insurance as shall protect the **CONSULTANT** and any subconsultant performing work covered by the Agreement from claims for, but not limited to, bodily injury, sickness, disease, death, or property damage arising or resulting from the **CONSULTANT'S** performance, or by any subconsultant, person, firm or employee directly or indirectly employed by him.

6.1.2 The **CONSULTANT** agrees that the City of Carson City, 3505 Butti Way, Carson City, Nevada 89701 shall be listed as an additional insured in the amount Two Million Dollars (\$2,000,000.00) and One Million Dollars (\$1,000,000.00) per occurrence.

6.2 PROFESSIONAL LIABILITY:

6.2.1 The **CONSULTANT** agrees, as a condition precedent to any duty of the **CITY** to make any payment under this Agreement, to furnish and maintain throughout the term of the Agreement at no cost to the **CITY**, errors and omissions insurance in the amount Two Million Dollars (\$2,000,000.00) and One Million Dollars (\$1,000,000.00) per occurrence.

6.3 INDUSTRIAL INSURANCE:

6.3.1 The **CONSULTANT** agrees, as a condition precedent to any duty of the **CITY** to make any payment under this Agreement, to furnish and maintain throughout the term of the Agreement at no cost to the **CITY**, worker's compensation insurance as required by the provisions of Chapter 616 of the NRS.

6.4 ADDITIONAL INSURANCE REQUIREMENTS:

6.4.1 Upon failure to provide insurance, the **CITY** may, at its sole option, order the

PROFESSIONAL SERVICES AGREEMENT RELATED FOR CONSTRUCTION PROJECTS

CONSULTANT to stop work, suspend the Agreement, or terminate the Agreement.

- 6.4.2 The **CONSULTANT** shall furnish to the City of Carson City, 3505 Butti Way, Carson City, Nevada 89701, the certificates of said insurances prior to commencing work.
- 6.4.3 Within 24 hours of any suspension, cancellation, reduction, or termination of coverage, the **CONSULTANT** agrees to provide the **CITY** written notice of same.
- 6.4.4 In the event the **CITY** must pay any premium(s) on behalf of the **CONSULTANT**, after the execution of this Agreement, the **CONSULTANT** shall reimburse the **CITY** for all such payment(s). Said payment(s) shall be deducted from any compensation due, or about to become due the **CONSULTANT** by the **CITY**.

ARTICLE 7

7 INDEMNIFICATION:

- 7.1 This Agreement does not create an employee/employer relationship between the parties. It is the parties' intention that the **CONSULTANT** will be an independent contractor and not Carson City's employee for all purposes, including but not limited to the application of the Fair Labor Standards Act, The Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, Nevada State revenue and taxation law. The **CONSULTANT** will remain sole and absolute discretion in the judgment of the manner and means of carrying out the **CONSULTANTS** activities and responsibilities hereunder. The **CONSULTANT** agrees that it is a separate and independent enterprise from the public employer, that it has full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform the work. This agreement shall not be construed as creating any joint employment relationship between the **CONSULTANT** and the City, and the City will not be liable for any obligation incurred by the **CONSULTANT**, including but not limited to unpaid minimum wages and/or overtime premiums.
- 7.2 The **CONSULTANT** hereby agrees to indemnify, hold harmless and defend, not excluding the City's right to participate, the City, its officers, agents and employees, from and against all liability, claims, actions, damages, losses and expense, including but not limited to reasonable attorneys' fees and costs arising out of any negligent or willful acts or omissions of the **CONSULTANT**, its officers, agents and employees.

ARTICLE 8

8 TERMINATION:

PROFESSIONAL SERVICES AGREEMENT RELATED FOR CONSTRUCTION PROJECTS

- 8.1 Anything in this Agreement to the contrary notwithstanding, if the **CONSULTANT** should fail to make progress as to endanger performance of this Agreement in accordance with its terms, or if he should fail to make prompt payments to subconsultants for material or labor, or if he should violate any laws, ordinances or regulations, or otherwise violate any provision of this Agreement, then the **CITY** may, without prejudice to any other right or remedy, terminate this Agreement in whole or from time to time in part upon written notice and proceed to complete or cause the work to be completed.
- 8.2 The **CITY** may deduct the cost of completing the said work from payments then or thereafter due to the **CONSULTANT**, who shall pay the **CITY** any amount by which such cost of completion shall exceed the unpaid monies due or to become due to the **CONSULTANT**.
- 8.3 In addition to the provisions of the preceding paragraph, the **CITY** shall have the right to terminate this Agreement without cause upon five (5) days' written notice to the **CONSULTANT**. In that event, the **CITY** shall pay to the **CONSULTANT** a proportionate amount of the **CONTRACT SUM**, as amended, based upon the percentage of the completion of the work under this Agreement and any amendment hereto.

ARTICLE 9

9 USE OF CONSULTANT'S DRAWINGS, SPECIFICATIONS & OTHER DOCUMENTS:

- 9.1 The Drawings, Specifications and other documents prepared by the **CONSULTANT** for the Project are instruments of the **CONSULTANT'S** service for use solely with respect to the Project and, unless otherwise provided, the **CONSULTANT** shall be deemed the author of these documents and shall retain all common law statutory and other reserved rights, including the copyright.
- 9.2 The **CITY** shall be permitted to retain copies, including reproducible copies, of the **CONSULTANT'S** Drawings, Specifications, and other documents for information and reference in connection with the Project.
- 9.3 The **CONSULTANT'S** Drawings, Specifications and other documents shall not be used by the **CITY** or others without expressed permission of the **CONSULTANT**.

ARTICLE 10

10 MISCELLANEOUS:

PROFESSIONAL SERVICES AGREEMENT RELATED FOR CONSTRUCTION PROJECTS

- 10.1 This Agreement shall be construed, interpreted, and the rights of the parties determined in accordance with the laws of the State of Nevada.
- 10.2 Causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued and the applicable statutes of limitations shall commence to run not later than either the date of Substantial Completion for acts or failures to act occurring prior to Substantial Completion, or the date of issuance of the final Certificate for Payment for acts or failures to act occurring after Substantial Completion.
- 10.3 The **CITY** and **CONSULTANT**, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement.
- 10.4 This Agreement represents the entire and integrated agreement between the **CITY** and **CONSULTANT** and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both **CITY** and **CONSULTANT**.
- 10.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the **CITY** or **CONSULTANT**.
- 10.6 **CONSULTANT** shall be required to maintain telephone service such that the **CITY** may contact or leave a message for the **CONSULTANT** or their designee at any time. **CONSULTANT** shall provide advance notice to the **CITY** of any change in telephone number.
- 10.7 Written notice under this Agreement, shall be deemed to have been duly served when delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or if sent by registered mail to the **CONSULTANT** at the address shown on page 9, or to the **CITY** at the address shown herein.

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

Carson City Public Works - Contracts Division
C/O Sandy Scott, Contract Coordinator
3505 Butti Way
Carson City, NV 89701
775-887-2355 x1101 / FAX 887-2112

- 10.8 Failure of either party to this Agreement to enforce any provision of this Agreement shall not be deemed a waiver of such provision or of subsequent failures to comply with any such provision.

PROFESSIONAL SERVICES AGREEMENT RELATED FOR CONSTRUCTION PROJECTS

ARTICLE 11

11 COST ACCOUNTING AND AUDITS:

- 11.1 If required by the **CITY**, the **CONSULTANT** agrees to make available to the **CITY** within two (2) years after the completion of the work under this Agreement, such books, records, receipts, vouchers, or other data as may be deemed necessary by the **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 work performed under this Agreement.

PROFESSIONAL SERVICES AGREEMENT RELATED FOR CONSTRUCTION PROJECTS

12 ACKNOWLEDGMENT AND EXECUTION:

12.1 This **AGREEMENT** entered into as of the day and year first written above.

CITY'S CONTRACTING AGENT

BY: Sandy Scott
Title: Contract Coordinator
Carson City Public Works
Contracts Division
3505 Butti Way
Carson City, Nevada 89701
Telephone: 775-887-2355 x1101

Signature

DATED this ____ day of July, 2007

CITY CONTACT PERSON

NAME: Kim Belt, Capital Program Manager

PHONE: 775-887-2355 x 1016

CITY DEPARTMENT:

Public Works

I hereby concur with the initiation of this Agreement and I certify that the consultant will not be given authorization to begin work until this Agreement has been signed by all parties.

BY: Andrew Burnham

Title: Public Works Director

Address: 3505 Butti Way

Carson City, NV 89701

Telephone: 775-887-2355 x1001

Signature

DATED this ____ day of July, 2007

I certify that the funds are available for this project.

FUNDING SOURCE: Various Capital Improvement Projects as needed

BUDGET ALLOCATION: \$100,000.00

By: Kim Belt, Capital Program Manager

Signature

STATE OF NEVADA)
) ss
CARSON CITY)

I further understand that I must not begin work on this project until this agreement has been signed by the Board of Supervisor's.

BY: Ken Iwamura, P.L.S.
TITLE: Vice President
FIRM: Tri State Surveying, Ltd.
BUSINESS LICENSE #: 07- 9323
Address: 425 Long Street
City: Carson City
State/Zip Code: Nevada 89706
Telephone: 775-887-9911
Fax# 775-887-9915

DATED this _____ day of July, 2007

NAME: _____
(printed name of notary)

(signature of notary)

10

PROFESSIONAL SERVICES AGREEMENT RELATED FOR CONSTRUCTION PROJECTS

13 CONTRACT ACCEPTANCE AND EXECUTION:

- 13.1 The Board of Supervisors for Carson City, Nevada at their publicly noticed meeting of July 19, 2007, approved the acceptance of the attached contract hereinbefore identified as **CONTRACT No. 2006-205** and titled "**Professional Land Surveying Services Agreement**". 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

MARV TEIXEIRA, MAYOR

DATED this 19th day of July, 2007

ATTEST:

ALAN GLOVER, CLERK-RECORDER

DATED this 19th day of July, 2007

***** END OF DOCUMENT *****