

**LEASE, PROFESSIONAL ANIMAL SERVICES & ENFORCEMENT AGREEMENT
(CARSON CITY ANIMAL SHELTER)**

THIS LEASE, PROFESSIONAL ANIMAL SERVICES & ENFORCEMENT AGREEMENT (hereinafter "Agreement") is made and entered into this 1st day of October, 2014, by and between **CARSON CITY**, a Nevada consolidated municipality, hereinafter "City" or "Landlord", and **NEVADA HUMANE SOCIETY**, a private, Nevada non-profit organization recognized as exempt under section 501(c)(3) of the Internal Revenue Code hereinafter "Tenant."

WITNESSETH:

WHEREAS, City is the owner of certain land and improvements currently located at 3770 Butti Way, Carson City, Nevada and commonly referred to as the Carson City Animal Shelter (hereinafter the "Old Shelter");

WHEREAS, City is in the process of raising capital funding to develop and construct a new animal shelter in a new location yet to be exactly determined, but in an area commonly referred to as the Carson City Corporate Yard located at 549 Airport Road, Carson City, Nevada, and upon completion and issuance of a certificate of occupancy by the City, this Agreement shall automatically terminate from the Old Shelter and automatically become effective with respect to the new location (hereinafter "New Shelter");

WHEREAS, City desires to make the Old Shelter and eventually the New Shelter (hereinafter "Property") available to a private, non-profit organizations to provide animal services, animal licensing and law enforcement with respect to Carson City Municipal Code, Title 7 – ANIMALS (hereinafter "Animal Code"), and NRS chapter 574;

WHEREAS, Tenant is a private, Nevada non-profit organization recognized as exempt under section 501(c)(3) of the Internal Revenue Code with an established record of providing humane animal services in Nevada;

WHEREAS, Tenant is an incorporated society for prevention of cruelty to animals ("Society") under Nevada Revised Statutes (NRS) chapter 574;

WHEREAS, pursuant to NRS 574.040 a member, agent or local or district officer of a Society, if authorized in writing by the trustees of the Society, approved by a First Judicial District Court Judge, and sworn in the same manner as peace officers are sworn, and carrying a badge issued by the Society, may enforce Carson City's Animal Code and NRS chapter 574;

WHEREAS, without the services of Tenant, the City would otherwise be required to expend money for the welfare, safety and protection of animals and citizens; and

WHEREAS, pursuant to NRS 244.2835, NRS 244.284 and the above recitals, City is authorized to lease its Property to Tenant for a term of years (not exceeding 99 years) without first acquiring an appraisal, and may lease such for no or nominal consideration.

NOW, THEREFORE, in consideration of the promises and commitments made herein, the sufficiency of which is hereby acknowledged, it is agreed as follows:

1. Leased Premises (Old Shelter). Landlord does grant, demise and let unto Tenant, and Tenant does by these presents lease from Landlord the “Leased Premises” being the building and appurtenances thereto located at 3770 Butti Way, Carson City. The “Leased Premises” is further commonly referred to as the Carson City Animal Shelter (not including the pet cemetery) (hereinafter the “Old Shelter). Landlord also hereby grants to Tenant a license, which is ~~irrevocable~~revocable only for cause during the term of this Lease, to use the access ways, parking area(s), sidewalks and other common use/common areas of the Property and any designated City public parking areas adjacent to the Property as are reasonably necessary for Tenant’s use of the Leased Premises.

1.1 Leased Premises (New Shelter). Upon issuance of a certificate of occupancy for the New Shelter, the Old Shelter lease shall automatically terminate and Landlord does thereupon grant, demise and let unto Tenant, and Tenant does by these presents lease from Landlord the “Leased Premises” being the building and appurtenances thereto located at a location yet to be exactly determined by the City, but in an area commonly referred to as the Carson City Corporate Yard located at 549 Airport Road, Carson City, Nevada (hereinafter the “New Shelter”), which shall eventually have a more specific property description that shall be deemed to be incorporated in this Agreement. Landlord also hereby grants to Tenant a license, which is ~~irrevocable~~only for cause during the term of this Lease, to use the access ways, parking areas, sidewalks and other common use/common areas of the Property and any designated City public parking area(s), if any, adjacent to the Property as are reasonably necessary for Tenant’s use of the Leased Premises.

2. Term (Old Shelter). The term of the Old Shelter Lease shall be for five (5) years, commencing on October 1, 2014, and shall end on September 30, 2019, unless sooner terminated upon the City’s issuance of a certificate of occupancy for the New Shelter, or otherwise terminated pursuant to any provisions in this Agreement.

2.1 Term (New Shelter). Upon the termination of the Old Shelter Lease, this agreement can be renegotiated. The term of the New Shelter Lease shall be approximately ten (10) years, commencing upon the issuance of a certificate of occupancy by the City for the New Shelter, and shall in any event end on September 30, 2029, that date which is 10 years from the Commencement Date of the Lease with successive automatic five (5) year renewal periods thereafter,

unless sooner terminated pursuant to any provisions in this Agreement. The term of the New Shelter Lease shall have a maximum term date of 99 years.

3. Possession. If the Landlord cannot deliver possession of said Premises (Old Shelter or New Shelter) to the Tenant at the commencement of the term hereof, this Lease shall not be void or voidable, nor shall Landlord be liable to Tenant for any loss or damage resulting therefrom, nor shall the expiration date of the above term be in any way extended. In the event that Landlord shall permit Tenant to occupy the Premises prior to the commencement date of the term, such occupancy shall be subject to all the provisions of this Lease. Said early possession shall not advance the termination date hereinabove provided.

4. Tenant - Professional Animal Services. The Leased Premises is being let to Tenant for the purpose of providing professional animal services, animal licensing, and Animal Code and law enforcement on behalf of the City and the citizens of Carson City. The services to be provided by Tenant shall include those services as set forth in **Exhibit A – Independent Contractor Agreement - Scope of Work** which is attached hereto and made a part hereof (“Services”). Tenant understands that this Lease is conditioned upon providing such Services on a continuing and uninterrupted basis. In the event Tenant ceases to exist or operate and is no longer able to provide the Services for any reason whatsoever, Tenant shall immediately provide written notice to Landlord and this Lease shall terminate. Tenant’s failure to provide Services shall constitute a default under this Lease.

5. Rent / Capital Improvement Reserve Payments. Landlord agrees to let the Leased Premises to Tenant for a rental fee of \$1.00 per year.

6. Security Deposit. A security deposit shall not be required of the Tenant.

7. Obligation of Landlord. Landlord warrants peaceful possession and quiet enjoyment of the Leased Premises to Tenant during the term hereof upon performance of Tenant’s covenants herein. Landlord shall not be responsible for the behavior of the public in response to any law enforcement activity, without limitation, including the professional services provided pursuant to this Agreement.

8. Condition of Leased Premises. Tenant covenants, agrees and represents that prior to occupancy it has conducted a physical inspection of the Leased Premises and that it accepts the same in its present condition, as is, as to its fitness for Tenant’s purposes.

9. Use of Leased Premises. Unless specifically prohibited herein or by law, Tenant shall have the right to occupy, use, operate and conduct its business within and upon the Leased Premises specifically to provide those services and related administrative operations as set forth in **Exhibit A – Independent Contractor Agreement - Scope of Services** attached hereto and incorporated herein. No other uses, activities or

operations shall be conducted by the Tenant from the Leased Premises without first obtaining the Landlord's prior written consent. In using the Leased Premises, Tenant must comply with all applicable laws, ordinances, and regulations from any and all authorities having jurisdiction. Subject to the provisions of Paragraph 13.2, tenant specifically agrees to comply and pay all costs associated with achieving such compliance.

9.1 Donation, Use and Replacement of City Personal Property Located Upon the Leased Premises – Temporary Transitional Support. The Carson City Animal Shelter is an ongoing operation with numerous City personal property assets necessary to its operation. City's personal property shall be inventoried in writing in **Exhibit B - City Property Inventory**, which shall be incorporated and made part of this Agreement.

9.1.1 *Donations of City Personal Property.* While generally it would be the desire of Landlord to donate to Tenant most of its personal property found in **Exhibit B – City Property Inventory** to Tenant, Landlord will need to conduct a records search on many of the property items to determine any limits of law, limits of grants and limits of terms of the originating gift(s) or donation(s) regarding such property, individually, before any gift or donation of such individual property to Tenant can be completed, if at all. Therefore, with respect to each personal property item on the **Exhibit B – City Property Inventory**, until receipt of written notification from Landlord (or from an authorized City official) of actual donation of one or more particular items of such personal property to Tenant, the following shall apply:

9.1.1.1 The property identified in **Exhibit B – City Property Inventory** shall remain City property until normal wear and tear destruction and replacement. Tenant shall have right and license to use such City personal property without rent. Tenant shall have a right of first refusal to any City desired temporary use of such personal property. Tenant shall be responsible to reasonably maintain such used City property to ensure adequate property life and adequate employee and public safety. Tenant shall not have the right to sell or trade any of the donated personal property without the express written authorization of the City. The Landlord shall have no duty or obligation to maintain, repair or replace any such personal property.

9.1.1.2 Property purchased with grant funds will remain City Property which can be used by the Tenant. The Landlord shall have no duty or obligation to maintain, repair or replace any such personal property.

9.1.1.3 Any City licensed vehicles found in the City Property Inventory that are used by the Tenant shall be privately insured by the Tenant consistent with terms specified in **Exhibit A - Independent Contractor Agreement – Scope of Work** “Insurance Requirements” and the City, its officers and employees shall be named as additional insured.

9.1.1.4 The City will donate the Animal Shelter phones, software and related systems to Tenant. Chameleon Software will be donated per approval by the vendor. The Landlord shall have no duty or obligation to maintain, repair or replace any such personal property.

9.1.1.5 The City will donate the radios and radio system to Tenant. Tenant agrees to abide by the Federal Trade Commission’s rules and regulations pertaining to radio systems and pay the monthly lease fee. The Landlord shall have no duty or obligation to maintain, repair or replace any such personal property.

9.1.1.6 All replacement of personal property shall be at the discretion of Tenant, shall be the fiscal responsibility of the Tenant, and any such replacement property shall be separately inventoried annually in writing in **Exhibit C – Tenant Replacement Property Inventory**, which shall be incorporated and made part of this Agreement. Except as otherwise provided below in Section 25 (Personal Property upon Cancellation or Term of Lease), all donated ~~or lent~~ City property and all Tenant’s replacement property shall remain the property of the Tenant.

10. Alterations, Improvements and Repairs. Except as otherwise provided below in Sections 11 and 13 of this Lease, Tenant shall make no alterations, improvements or repairs to any portion of the Leased Premises or the Property without written approval of the City Manager of Carson City, or his designee. Further, Tenant agrees not to commit waste on the Leased Premises and to return and surrender same to Landlord upon termination of this Lease in as good a condition as when the Lease commenced, normal wear and tear excepted. Tenant shall promptly notify Landlord of any necessary and emergency repairs. Any alterations, improvements and repairs shall remain the property of Landlord.

11. Damage to Leased Premises. Tenant shall not cause damage to the Leased Premises or the Property. The doors, sashes, window, glass doors, lights and skylights that reflect or admit light into the halls or other places of the Leased Premises shall not be covered or obstructed. The toilets and urinals shall not be used for any purpose other than those for which they were constructed, and no rubbish, newspapers or other substance of any kind shall be thrown into them. Waste and excessive or unusual use of water shall not be allowed. Tenant shall be permitted to hang pictures on the walls of

Tenant's offices, but it must be done in a workmanlike manner and in such a way as not to damage or deface such walls in an abnormal manner. Tenant agrees that it shall be held liable for and bear the cost of repair for the acts of its agents, employees, clients, occupants, invitees and guests which result in the breakage, stoppage or damage to Leased Premises and appurtenant facilities.

12. Inspections. Except in cases of emergency, Landlord may only enter upon the Leased Premises after a 24 hour written or verbal notice at all reasonable times, with others or through others, for any or all of the following purposes:

12.1 To examine the condition of the Leased Premises and/or of any adjacent premises owned, leased or controlled by Landlord.

12.2 With prospective tenants, if any, to show the premises for lease.

12.3 To effectuate any necessary repairs, construct improvements or perform maintenance.

12.4 Landlord's rights hereunder shall require such entry and all work done by Landlord and its contractors be carried out with as little interference with Lessee's business operations as is reasonable, and shall be subordinate to the rights and privacy of patients and clients of Tenant.

12.5 Tenant hereby waives any claim for damages or for any injury or inconvenience to or interference with Tenant's Services, any loss of occupancy or quiet enjoyment of the Leased Premises, and any other loss occasioned thereby. For each of the aforesaid purposes, Landlord shall at all times have and retain a key with which to unlock all of the doors in, upon and about the Leased Premises, excluding Tenant's vaults, safes and files, and Landlord shall have the right to use any and all means which Landlord may deem proper to open said doors in an emergency, in order to obtain entry to the Leased Premises without liability to Tenant except for any failure to exercise due care for Tenant's property. Any entry to the Leased Premises obtained by Landlord by any of said means, or otherwise shall not under any circumstances be construed or deemed to be a forcible or unlawful entry into, or a detainer of, the Leased Premises, or an eviction of Tenant from the Leased Premises or any portion thereof.

13. Maintenance, Repairs, Replacement and Snow Removal.

13.1 Tenant shall provide for all routine maintenance of the Leased Premises and the Property to maintain it in good condition and repair, in compliance with all applicable laws and normal professional standards for maintenance. Such maintenance shall include, routine repairs to the Leased Premises, ~~landscaping and irrigation,~~ ceiling light and bulb replacement, repair or replacement of bathroom or kitchen finish plumbing, water heater, basic electrical plugs, switches, fuses, sound, phone or data, staff room kitchen fixtures, if any, and

basic HVAC and mechanical systems maintenance and repair. Tenant shall provide for its own janitorial services, paper products, cleaning supplies, and interior painting.

13.2 Landlord shall provide all major maintenance and repairs such as exterior painting, roof maintenance and replacement, HVAC and mechanical system replacement, major plumbing, major electrical, asphalt, concrete sidewalks and walkways. The Landlord shall provide for landscaping, irrigation, and snow removal including but not limited to the designated public sidewalk(s), public entrance area and public parking area.

14. Halls and Stairways. The sidewalks, halls, passages, and stairways shall not be obstructed by any of the Tenants, their agents, employees, clients, guests or invitees, or used by them for any purpose other than for ingress to and egress.

15. Wiring. Electric wiring of every kind shall be introduced and connected as directed by Landlord and no boring or cutting for wires will be allowed except with the prior written consent of Landlord. The location of telephones, call boxes and similar equipment shall be subject to approval of Landlord.

16. Safes, Moving, Furniture, Etc. Landlord shall prescribe the weight, size and position of all safes and other property brought into the Leased Premises, and also the times of moving the same in and out of the building, and all such moving must be done under the supervision of Landlord. Landlord will not be responsible for any loss or damage to any such safe or property from any cause; but all damage done to the building by moving or maintaining any such safe or property shall be repaired at the expense of Tenant.

17. Signs. Tenant shall not affix or post any manner of sign, banner, poster, or notice anywhere within any exterior windows, on the outside of the Leased Premises or elsewhere on the Property without permission of the City Manager of Carson City, which permission shall not unreasonably be withheld. Signage shall be adequate for the public services being provided without damaging the esthetics of the building design and the surrounding neighborhood.

18. Smoking/Alcohol. Tenant shall not permit smoking or vaping at any time anywhere within the Leased Premises, restrooms or common areas. Smoking or vaping is permitted only in those outside areas as specifically designated and identified by Tenant, if any. Tenant's agents, employees, clients, guests and invitees who smoke/vape on the Property are responsible for proper disposal of cigarette butts, ashes, and packaging. Except with respect to any Tenant-hosted tours, fundraisers or special events, possession and consumption of alcoholic beverages is prohibited at anytime, anywhere within the Leased Premises, restrooms and common areas. Tenant shall notify its agents, employees, clients, invitees and guests as necessary to enforce the smoking/vaping and alcohol prohibition.

19. Antennae. Tenant shall not install any antennae, aerial wires or other equipment outside the building without the prior written approval of the City Manager of Carson City.

20. Locks. Tenant must upon the termination of Tenant's tenancy, restore or provide to Landlord all keys furnished to or otherwise procured by Tenant and in the event of the loss of any keys so furnished, Tenant shall pay to Landlord the cost thereof.

21. Outside Window Shades. Tenant shall not install any blinds, shades, awnings, or other form of outside window covering, or window ventilators or similar devices without the prior written consent of the City Manager of Carson City.

22. Vehicles and Refuse. Tenant shall not allow anything to be placed on the outside window ledges of the premises or to be thrown out of the windows of the building. Except vehicles necessary to Animal Shelter operations, no vehicle shall be brought to and stored upon the Property by Tenant or by their agents, employees, clients, guests or invitees of Tenant. Tenant shall not place or permit to be placed any obstruction or refuse in any public part of the building.

23. Defects. Tenant shall give Landlord immediate notice of any accidents to or defects in the water pipes, gas pipes, electric systems, heating apparatus, or any other service equipment based on the nature of the problem so it can be fixed without increased cost and/or damage to the facility. Tenant agrees that it shall be liable for and bear the costs of any damage resulting from failure of Tenant to give timely notice of any accidents or defects, which threaten the major systems or structural integrity of the building.

24. Utilities. Landlord and Tenant agree that the utility services, including but not limited to ~~(electricity, gas, water, sewer, trash collection, cable and telephone.)~~ provided at the Leased Premises shall be the responsibility of the Tenant.

25. Personal Property Upon Cancellation or Term of Lease. Tenant's personal property shall be removed upon the termination or expiration of this Lease unless otherwise identified as personal property that has been donated by Landlord to Tenant or it has been inventoried and identified in **Exhibit C – Tenant Replacement Property Inventory**, which is incorporated herein. Because the uninterrupted operation of the Carson City Animal Shelter is critical to both public and animal safety, City shall have a right to claim and require the return of any property donated to Tenant by Landlord and still possessed and used by Tenant on the Leased Premises, and a right to purchase any of the listed **Exhibit C -Tenant Replacement Property Inventory** at its depreciated book value, and any such property so claimed or purchased shall return to, or remain in, Landlord's possession at the time of termination or expiration of the Lease.

26. Insurance. Landlord shall maintain a policy of fire and extended coverage insurance on the Property and all improvements thereon. Tenant shall, at Tenant's expense, obtain and keep in force during the term of the lease, a policy of fire, theft and

other perils insurance covering tenant's furniture, fixtures, goods, wares, merchandise and other personal property maintained on the Leased Premises unless caused by or due to the negligence of Landlord, its agents, servants or employees.

In addition, Tenant agrees that at all times during the term of this Lease or extension thereof, at Tenant's expense, it shall obtain and keep in force during the term of this Lease a policy of comprehensive public liability insurance insuring Landlord and Tenant against any liability arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall have a Combined Single Limit of at least One Million Dollars (\$1,000,000.00) each occurrence and Two Million Dollars (\$2,000,000.00) general aggregate including both liability and property damage, and insure against any liability for personal injury, death or property damage, as set forth above, and shall be written on an "occurrence basis". The limit of said insurance shall not, however, limit the liability of the Tenant hereunder. Tenant may carry said insurance under a blanket policy, providing, however, said insurance by Tenant shall have a Landlord's protective liability endorsement attached thereto. If Tenant shall fail to procure and maintain said insurance, Landlord may, but shall not be required to, procure and maintain same, but at the expense of Tenant. Insurance required hereunder, shall be in companies rated A VII or better in "Best's Insurance Guide" licensed to do business in the State of Nevada. Tenant shall deliver to Landlord prior to occupancy of the Premises copies of policies of liability insurance required herein or certificates evidencing the existence and amounts of such insurance with loss payable clauses satisfactory to Landlord. Without 30 days prior written notice to Landlord the policy shall not be canceled, non-renewed and/or coverage limited reduced or materially altered. No policy shall be cancelable or subject to reduction of coverage except after thirty (30) days prior written notice to Landlord.

Tenant hereby agrees that except to the extent provided for under Landlord's insurance, Landlord shall not be liable for injury to Tenant's business or for damage to the goods, wares, merchandise or other property of Tenant, Tenant's agents, employees, clients, invitees, guests or any other person in or about the Leased Premises or the Property, nor shall Landlord be liable for injury to the person of Tenant, Tenant's employees, agents, contractors, invitee, clients or customers, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water, rain, ice or snow, or from the breakage, leakage, obstruction or other defects of pipes, sprinklers, wires, appliances, plumbing, air conditioning, or lighting fixtures, or from any other cause, including without limitation, any failure in the supply of any of the items or services in the Building, whether said damage or injury results from conditions arising upon the Leased Premises or upon the Property or from any other sources or places, and regardless of whether the cause of such damage or injury or the means of repairing the same is inaccessible to Tenant. Landlord shall not be liable for any damages arising from any act or negligence of any other Tenant on any portion of the Property.

27. Hold Harmless. Tenant shall indemnify and hold harmless Landlord against and from any and all claims arising from Tenant's use of the Leased Premises for the conduct of its business or from any activity, work or other thing done, permitted or suffered by the Tenant in or about the Leased Premises, and shall further indemnify and hold harmless Landlord against and from any and all claims arising from any breach or default in the performance of any obligation on Tenant's part to be performed under the terms of this Lease, or arising from any act or negligence of the Tenant, or any officer, agent, employee, client, guest, or invitee of Tenant, and further from all and against all costs, attorney's fees, expenses and liabilities incurred in or about any such claim or any action or proceeding brought thereon, and, in any case, action or proceeding be brought against Landlord by reason of any such claim, Tenant upon notice from Landlord shall defend the same at Tenant's expense by counsel reasonably satisfactory to Landlord. Tenant as material part of the consideration to the Landlord hereby waives all claims in respect thereof against Landlord. Tenant does not indemnify nor hold harmless the Landlord for any acts of or results of negligence on the part of the Landlord, its employees or agents.

Landlord or its agents shall not be liable for any damage to property entrusted to agents, employees, clients, guests or invitees of the Leased Premises at the Property, nor for loss or damage to any property by theft or otherwise, nor for any injury or damage to persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water or rain which may leak from any part of the Property or from the pipes, appliances or plumbing works therein or from the roof, street or subsurface or from any other place resulting from dampness or any other cause whatsoever, unless caused by or due to the negligence of Landlord, its agents, servants or employees. Landlord or its agents shall not be liable for interference with the loss of business or services by Tenant, nor shall Landlord be liable for any latent defect in the Leased Premises or in the Property. Tenants shall give prompt notice to Landlord in case of fire or accidents in the Premises or in the Property or of defects therein or in the fixtures or equipment.

28. Cancellation by Landlord. In addition to any right to which it may be entitled by law, Landlord may cancel this Lease for cause or no-cause upon ~~after~~ notice as provided herein. No-cause cancellation shall be after 180 days notice. Cause cancellation shall be after default by Tenant in the performance of any of the terms and conditions herein required to be kept and performed by Tenant, and its failure to remedy such breach for a period of 90 days after receipt from Landlord of written notice of the existence of such default. Additionally, Landlord may cancel for cause this Lease with 30 days notice to cure in the event Tenant loses its legal non-profit status, does not maintain NRS 574.040 sworn personnel on staff or ceases to deliver services which, in the sole judgment of Landlord, are minimally necessary to qualify as a Tenant of the Property.

28.1 Landlord may cancel this Lease for non-appropriation of funds necessary for the Landlord's obligations under this Agreement or nonappropriation of funds for all payments and SERVICES provided under the Independent Contractor Agreement (Exhibit A) made part of this lease under

Section 4 of this Agreement. In the event that Carson City does not acquire and appropriate the funding necessary to perform in accordance with the terms of the Agreement, the Agreement shall automatically terminate upon Landlord's notice to Tenant of such nonappropriation, and no claim or cause of action may be based upon any such nonappropriation.

29. Cancellation by Tenant. Tenant may cancel this Lease and terminate all of its obligations hereunder at any time subsequent to the commencement of the term for cause of no-cause. No-cause cancellation shall be after 180 days notice. Tenant can cancel for cause upon the breach of Landlord of, or its failure to perform any of the covenants or agreements herein contained and the failure of Landlord to remedy such breach for a period of 90 days after receipt of written notice from Tenant of the existence of such breach.

30. Default. The occurrence of any one or more of the following events shall constitute a default and breach of this Lease by Tenant:

30.1 The vacating or abandonment of the Leased Premises by Tenant without adequate notice provided for Cancellation;

30.2 The failure by Tenant to make any payment required to be made hereunder, as and when due, where such failure shall continue for a period of ten (10) days after written notice thereof by Landlord to Tenant.

30.3 The failure by Tenant to observe or perform any of the covenants, conditions or provisions to be observed or performed by the Tenant in this Lease, where such failure shall continue for a period of ten (10) days after written notice thereof by Landlord to Tenant; provided; however, that if the nature of Tenant's default is such that more than ten (10) days are reasonably required for its cure, then Tenant shall not be deemed to be in default if Tenant commences such cure within said ten (10) day period and thereafter diligently pursues such cure to completion.

30.4 The failure of Tenant to adequately provide Services as agreed upon by the parties above, and more specifically set forth in **Exhibit A – Independent Contractor Agreement – Scope of Work** attached hereto.

31. Remedies in Default. In the event of any default or breach by Tenant, Landlord may at any time thereafter, with or without notice or demand and without limiting Landlord in the exercise of a right or remedy that Landlord may have by reason of such default or breach:

31.1 Terminate Tenant's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Tenant shall immediately surrender possession of the Premises to Landlord. In such event Landlord shall be entitled to recover from Tenant all damages incurred by Landlord by reason of

Tenant's default including, but not limited to, the cost of recovering possession of the Premises; including expenses necessary for renovation and alteration of the Leased Premises, and reasonable attorney's fees.

31.2 Maintain Tenant's right to possession, in which case this Lease shall continue in effect whether or not Tenant shall have abandoned the Premises. In such event Landlord shall be entitled to enforce all of Landlord's rights and remedies under this Lease.

31.3 Terminate this Lease, or

31.4 Pursue any other remedy now or hereafter available to Landlord under the laws or judicial decision of the State of Nevada.

32. Notices. Notice days set forth in this Agreement shall be calendar days. All notice to be given hereunder shall be in writing and shall be deemed given upon the lapse of two days after deposit into the United States mail postage prepaid, or upon hand delivery if hand delivered, addressed as follows:

Landlord: Carson City
Attn: City Manager
201 North Carson Street
Carson City, Nevada 89701

Tenant: Nevada Humane Society
2825B Longley Lane
Reno, Nevada 89502

33. Assignment, Sublease. Tenant shall not assign this Lease, or sublet any portion of the Leased Premises without first obtaining the Landlord's prior written consent.

34. Liens. Tenant shall not encumber the Lease, leasehold estate or any improvements thereon, nor shall Tenant permit any liens to be filed against the Property on account of any labor, material or supplies for which the lien laws of Nevada authorize the filing of a lien, but agrees to promptly pay for such labor, materials or supplies before liens are filed.

35. Waiver. It is agreed that a failure on the part of Landlord to declare this Lease canceled for default by Tenant in any one or more of the terms, covenants or conditions will not be considered or construed as a waiver of such rights on any further or future default on the part of Tenant. It is further mutually agreed that any failure on the part of Landlord to take action against Lessee for any breach of term, covenant or condition herein shall not be construed to constitute a waiver of any other or subsequent breach nor shall the subsequent acceptance of rent hereunder by Landlord be construed as a waiver of any precedent breach of any term, covenant or condition by Tenant.

36. Force Majeure. Landlord shall not be deemed in default with respect to any of the terms, covenants and conditions of this Lease on Landlord's part to be performed, if Landlord fails to timely perform same and such failure is due in whole or in part to any strike, lockout, labor trouble (whether legal or illegal), civil disorder, inability to procure materials, failure of power, restrictive governmental laws and regulations, riots, insurrections, war, fuel shortages, accidents, casualties, acts of God, acts caused directly or indirectly by Tenant (or Tenant's agents, employees, clients, guests or invitees) or any other cause beyond the reasonable control of Landlord.

37. Section Headings. The section headings contained herein are for convenience in reference and are not intended to define, govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of this Lease.

38. Time. Time is of the essence of this Lease and of the performance of each and every provision hereof.

39. Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of Nevada. Venue for initiation of any legal action shall be a court of competent jurisdiction located in Carson City, Nevada.

40. Representative Authority. Each individual executing this Lease on behalf of Tenant and Landlord represents and warrants that he/she is duly authorized to execute and deliver this Lease, and that this Lease is binding upon said the parties in accordance with its terms. This Lease is effective only after approval by the Carson City Board of Supervisors. Tenant shall, within thirty (30) days after execution of this lease, deliver to Landlord a certified copy of a resolution of the Board of Directors of its non-profit organization authorizing or ratifying the execution of this Lease.

41. Entire Agreement/Amendments. This Lease together with all exhibits expressly incorporated herein by reference and attached hereto shall constitute the whole agreement between the parties. There are no terms, obligations, covenants or conditions other than those contained herein. No modification or amendment of this Lease shall be valid or effective unless evidenced by an agreement in writing signed by both parties.

IN WITNESS WHEREOF Lessor and Lessee have caused this Lease to be executed the day and year written at the top of this Lease.

NEVADA HUMANE SOCIETY
Tenant

By: _____
Name: _____
Title: _____

CARSON CITY
Landlord

By: ROBERT L. CROWELL.
Mayor

ATTEST:

CLERK-RECORDER

APPROVED AS TO LEGAL FORM:

DEPUTY DISTRICT ATTORNEY

Exhibit A
INDEPENDENT CONTRACTOR AGREEMENT - SCOPE OF WORK **Item #24B**

LEASE, PROFESSIONAL ANIMAL SERVICES & ENFORCEMENT AGREEMENT

THIS Exhibit A, which is an incorporated document into the real property lease, is a material part of the LEASE, PROFESSIONAL ANIMAL SERVICES & ENFORCEMENT AGREEMENT (hereinafter "Agreement"), and sets out separately the terms and conditions of the Tenant's services to be provided under the Agreement. This Exhibit A is hereinafter referred to as the "Services Contract" or "Contract". Carson City, who is the "Landlord" under the Agreement shall hereinafter be referred to as "**CITY**", and Nevada Humane Society, who is "Tenant" under the Agreement shall hereinafter referred to as "**CONTRACTOR**".

WITNESSETH:

WHEREAS, Carson City Municipal Code (CCMC) 7.13.020(1) provides: "There is established Carson City Animal Services which is and shall be maintained in such place or places as provided for by the board of supervisors. The operation, direction, supervision and necessary control of Carson City Animal Services shall be duties delegated by or contracted for by the board of supervisors";

WHEREAS, CCMC 7.13.010(5) provides: "'Animal Services' means the facility authorized by the Carson City Board of Supervisors for receiving, impounding, care and disposal of animals that come into the custody of Carson City Animal Services";

WHEREAS, it is deemed necessary that the services of **CONTRACTOR** are both necessary and in the best interest of **CITY** to operate "Animal Services" under the name of "Nevada Humane Society – Carson City Animal Services"; and

NOW, THEREFORE, in consideration of the aforesaid premises, and the following terms, conditions and other valuable consideration, the parties mutually agree as follows:

1. REQUIRED APPROVAL:

This incorporated Services Contract shall not become effective until and unless the **LEASE, PROFESSIONAL ANIMAL SERVICES & ENFORCEMENT AGREEMENT** is approved by the Carson City Board of Supervisors.

2. SCOPE OF WORK:

2.1 **CONTRACTOR** represents that it is duly licensed by **CITY** for the purposes of performing the Scope of Work set forth in this Section 2 (hereinafter "SERVICES").

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

For P&C Use Only	
CCBL expires	_____
NVCL expires	_____
GL expires	_____
AL expires	_____
WC expires	_____

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2.3 **CONTRACTOR** represents that it and/or the persons it may employ possess all skills and training necessary to perform the SERVICES describe herein and required hereunder. **CONTRACTOR** 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. **CONTRACTOR** shall be responsible for the professional quality and technical accuracy of all SERVICES furnished by **CONTRACTOR** to **CITY**.

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

2.5 Before commencing with the performance of any SERVICES under this Services Contract, **CONTRACTOR** shall obtain all necessary permits and licenses as may be necessary. Before and during the progress of work under this Services Contract, **CONTRACTOR** 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 **CONTRACTOR** performs any work that is contrary to any such law, ordinance, rule or regulation, **CONTRACTOR** shall bear all the costs arising therefrom.

2.6 It is expressly understood and agreed that all SERVICES done by **CONTRACTOR** shall be subject to inspection and acceptance by **CITY**.

2.7 **CONTRACTOR** shall provide and perform the following SERVICES:

2.7.1 **CONTRACTOR** shall be deemed the "Animal Services Manager" of "Animal Services" as defined in Carson City Municipal Code (CCMC) 7.13.010, and shall possess all authority granted to such under Title 7 – ANIMALS of the Carson City Municipal Code.

2.7.2 **CONTRACTOR** shall follow, comply with, and enforce the various Chapters and Sections of Title 7 – ANIMALS of the Carson City Municipal Code (CCMC) and NRS chapter 574. As used in Section 7.13.010(5) of the CCMC, "policing" means supervising, controlling, or keeping in order through the enforcement of the provision set forth at CCMC, Section 7.13.020. **CONTRACTOR** may issue misdemeanor citations in a form approved by the CITY, but shall not unilaterally exercise the police power to arrest a human being allegedly violating any section of CCMC Title 7 or any other Nevada Revised Statute or municipal code section, and may refer any such arrest recommendation or complaint to the Sheriff's Office for its discretionary action. **CONTRACTOR** may make recommendations to the Board of Supervisors regarding any necessary changes to the Animal Code. However, changes to the Carson City Municipal Code require approval of a majority of the elected Board of Supervisors at both a first and second reading in compliance with the Carson City Charter regarding any new ordinance or amendment to an existing ordinance. The Board of Supervisors reserves the right to amend Title 7 – ANIMALS of the Carson City Municipal Code, with or without the consent of **CONTRACTOR**.

2.7.3 **CONTRACTOR** shall comply with NRS 574.040 and obtain approval from the First Judicial District Court in Carson City to provide for sufficient sworn enforcement staff to provide

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for any necessary protection of the welfare and safety of animals and citizens in carrying out the requirements and needs of Title 7 – ANIMALS of the Carson City Municipal Code.

2.7.4 **CONTRACTOR** shall provide sufficient staffing of Animal Services to ensure the needs and demands of the community and its animals are adequately provided for consistent with law. **CONTRACTOR** is free to supplement paid staff with as many volunteer staff as it deems necessary.

2.7.5 **CONTRACTOR** shall coordinate its SERVICES with the Carson City Sheriff, the Carson City 911 Emergency Dispatch Center and the Carson City District Attorney.

2.7.6 **CONTRACTOR shall interface with animal welfare organizations.**

3. CONTRACT TERM:

3.1 This Services Contract shall be effective upon approval of the **LEASE, PROFESSIONAL ANIMAL SERVICES & ENFORCEMENT AGREEMENT** (“Agreement”) by the Carson City Board of Supervisors and shall continue for the Term set forth in Section 2 (and Section 2.1) of the Agreement, unless sooner terminated by either party as specified in Section 28 (Cancellation by Landlord) or in Section 29 (Cancellation by Tenant) of the Agreement, or in the terms of this Service Contract.

4. NOTICE:

4.1 Notice is set forth in Section 32 (Notices) of the Agreement.

5. COMPENSATION:

5.1 The parties agree that **CONTRACTOR** will provide the SERVICES specified in **Section 2** (SCOPE OF WORK) of this Services Contract based upon a fee schedule for animal services. **CONTRACTOR** may charge its fees to individual members of the public directly for its services based upon a fee schedule. **CONTRACTOR** may waive its fees as it deems appropriate. In addition to fees **CONTRACTOR** may charge the public, **CITY** agrees to pay **CONTRACTOR** (except in the first partial year), a fix sum of SEVEN HUNDRED THOUSAND DOLLARS AND NO/100 (\$700,000.00) per year in monthly installments of FIFTY-EIGHT THOUSAND THREE HUNDRED AND THIRTY-THREE DOLLARS AND 33/100 (\$58,333.33) (with one adjusted monthly odd payment), payable in advance the first (1st) day of each month, but no later than the tenth (10th) day of the month, for private entity law enforcement services under the authority of NRS 574.040 with respect to the licensing of animals and enforcement of Title 7 – ANIMALS of the Carson City Municipal Code, and all such fees and fixed sum are hereinafter referred to as “Contract Sum”.

5.1.1 **CONTRACTOR’S** Annual Fee Schedule shall be set forth in writing and is deemed incorporated into this Services Contract upon approval. The first Annual Fee Schedule shall be considered and approved by the Carson City Board of Supervisors in its approval of this Services Contract and the Agreement.

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5.1.1.1 **CONTRACTOR** may amend its approved Fee Schedule on an annual basis, provided however that any material new fee shall be first approved by the Board of Supervisors, and any increase in the aggregate of all percentage increase(s) from a prior year's Fee Schedule shall not increase in the aggregate by more than ten (10) percent per year without such individual fee increase(s) first being approved by the Board of Supervisors, which approval shall not be unreasonably withheld.

5.1.1.2 Before the effective date of **CONTRACTOR'S** first Annual Fee Schedule, the Board must first repeal the fee schedule provided for in CCMC 7.13.040 – Collections/disbursements/fee schedule.

5.1.2 In the event that repeal of the existing fee ordinance cannot timely be accomplished, in lieu of a **CONTRACTOR'S** approved Annual Fee Schedule, the fees set forth in CCMC 7.13.040 may be followed and charged by **CONTRACTOR** to the public. However, until such time as this **CITY** ordinance is otherwise amended, fees collected pursuant to CCMC 7.13.040 "shall be paid into the general fund of Carson City" first and then reimbursed to **CONTRACTOR** as part of the Contract Sum under this Services Contract.

5.1.3 In the first year of this Services Contract and Agreement, the fixed sum payment from the **CITY** to **CONTRACTOR** shall be prorated on an actual Contract-day basis in a 365-day year, to wit: ONE THOUSAND NINE HUNDRED SEVENTEEN DOLLARS AND 80/100 (\$1917.80) per day calculated and paid in advance on the first (1st) day of each month for that calendar month, but no later than the tenth (10th) day of the month.

5.1.4 If the scope of work increases due to changes to CCMC 7.13 and/or there is an increased community need for service level, this agreement can be evaluated and renegotiated.

5.2 *Court Awarded Fees or Restitution.* Any awards by the Court of any fees and/or restitution for damages or costs for prosecution shall be the property of the **CITY** unless the award, in whole or in part, is expressly to **CONTRACTOR** for its timely claimed right to restitution from a defendant.

5.3 *City Donation Accounts.* **CITY** maintains numerous gift donation accounts made by private individuals to benefit the Carson City Animal Shelter. **CONTRACTOR** may occasionally request contributions, with the supporting documentation of an actual or proposed purchase, from the **CITY** to **CONTRACTOR** from these accounts provided the terms of the gift are consistent with the request.

5.4 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.

5.5 **CONTRACTOR** shall not be entitled to reimbursement for expenses incurred by **CONTRACTOR** in performance of its duties hereunder.

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

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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.

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.

7.1.2 **CITY** reserves the right to terminate this Contract for convenience whenever it considers termination, in its sole and unfettered discretion, to be in the public interest. In the event that the Contract is terminated in this manner, payment will be made for **SERVICES** actually completed. If termination occurs under this provision, in no event shall **CONTRACTOR** be entitled to anticipated profits on items of **SERVICES** not performed as of the effective date of the termination or compensation for any other item, including but not limited to, unabsorbed overhead. **CONTRACTOR** shall assure that all subcontracts which he/she enters related to this Contract likewise contain a termination for convenience clause which precludes the ability of any subcontractor to make claims against **CONTRACTOR** for damages, due to breach of contract, of lost profit on items of **SERVICES** not performed or of unabsorbed overhead, in the event of a convenience termination.

7.2 Termination for Nonappropriation:

7.2.1 All payments and **SERVICES** provided under this Contract are contingent upon the availability of the necessary public funding for payment of the Contract Sum, which may include various internal and external sources. In the event that Carson City does not acquire and appropriate the funding necessary to perform in accordance with the terms of the Contract, the Contract shall automatically terminate upon **CITY'S** notice to **CONTRACTOR** of such nonappropriation, and no claim or cause of action may be based upon any such nonappropriation.

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

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

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7.3.2.3 If **CONTRACTOR** 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 **CONTRACTOR'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 **CONTRACTOR**, or any agent or representative of **CONTRACTOR**, 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 **CONTRACTOR** has failed to disclose any material conflict of interest relative to the performance of this Contract.

7.4 Time to Correct (Declared Default or Breach):

7.4.1 Termination upon a declared default or breach may be exercised only after service of formal written notice as specified above and the time to correct as provided in the Agreement.

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 **Subsection 7.5** 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; and

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

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

7.5.1.4 **CONTRACTOR** shall preserve, protect, and promptly deliver into **CITY** possession all proprietary information in accordance with City Ownership of Proprietary Information.

7.6 Notice of Termination:

7.6.1 Termination shall not be effective until the notice provided for in the Agreement.

8. REMEDIES:

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

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limitation, actual damages, and to a prevailing party reasonable attorney's 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 **CONTRACTOR** to **CITY**.

9. LIMITED LIABILITY:

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 expressly provided for elsewhere in this Contract. Damages for any **CITY** breach shall never exceed the amount of funds appropriated for payment under this Contract, but not yet paid to **CONTRACTOR**, for the fiscal year budget in existence at the time of the breach. **CONTRACTOR'S** tort liability shall not be limited.

10. FORCE MAJEURE:

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 To the extent permitted by law, including, but not limited to, the provisions of Nevada Revised Statutes Chapter 41, each party shall indemnify, hold harmless and defend, not excluding the other's right to participate, the other party from and against all liability, claims, actions, damages, losses, and expenses, including but not limited to reasonable attorney's fees and costs, arising out of any alleged negligent or willful acts or omissions of the indemnifying party, its officers, employees and agents. 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 section.

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.

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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 **CONTRACTOR**, as 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 **CITY**, except as to the results of the SERVICES, and not as to the means by which the SERVICES are accomplished.

12.2 It is mutually agreed that **CONTRACTOR** 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. **CONTRACTOR** 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 **CONTRACTOR** or any other party.

12.4 **CONTRACTOR**, in addition to **Section 11** (INDEMNIFICATION), 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, **CONTRACTOR'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 **CONTRACTOR** nor its employees, agents, or representatives shall be considered employees, agents, or representatives of **CITY**.

13. INSURANCE REQUIREMENTS (GENERAL):

13.1 **NOTICE: The following general insurance requirements shall apply unless these general requirements are altered by any specific requirements set forth in CITY'S solicitation for bid document, the adopted bid or other document incorporated into this Contract by the parties.**

13.2 **CONTRACTOR**, 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.

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

13.4 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.

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13.5 *Insurance Coverage (13.6 through 13.23):*

13.6 **CONTRACTOR** shall, at **CONTRACTOR'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 **CONTRACTOR** and shall continue in force as appropriate until the latter of:

13.6.1 Final acceptance by **CITY** of the completion of this Contract; or

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

13.6.3 Any insurance or self-insurance available to **CITY** under its coverage(s) shall be in excess of and non-contributing with any insurance required from **CONTRACTOR**. **CONTRACTOR'S** insurance policies shall apply on a primary basis. Until such time as the insurance is no longer required by **CITY**, **CONTRACTOR** 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 **CONTRACTOR** has knowledge of any such failure, **CONTRACTOR** shall immediately notify **CITY** and immediately replace such insurance or bond with an insurer meeting the requirements.

13.7 *General Insurance Requirements (13.8 through 13.23):*

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 **CONTRACTOR**, 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 **CONTRACTOR** 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 **CONTRACTOR** from the obligation to pay any deductible or self-insured retention. Any deductible or self-insured retention shall not exceed \$5,000.00 per occurrence, unless otherwise approved by **CITY**.

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.

13.14 **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

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agents in Nevada upon whom service of process may be made, and currently rated by A.M. Best as "A-VII" or better.

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

13.16 **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 **CONTRACTOR**.

13.17 **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** (Additional Insured).

13.18 **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.

13.19 **Review and Approval:** Documents specified above must be submitted for review and approval by **CITY** Purchasing and Contracts prior to the commencement of work by **CONTRACTOR**. Neither approval by **CITY** nor failure to disapprove the insurance furnished by **CONTRACTOR** shall relieve **CONTRACTOR** of **CONTRACTOR'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 **CONTRACTOR** 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.

13.20 COMMERCIAL GENERAL LIABILITY INSURANCE:

13.20.1 *Minimum Limits required:*

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

13.20.3 Two Million Dollars (\$2,000,000.00) - Products & Completed Operations Aggregate.

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

13.20.5 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).

13.21 BUSINESS AUTOMOBILE LIABILITY INSURANCE:

13.21.1 *Minimum Limit required:*

13.21.2 One Million Dollars (\$1,000,000.00) per occurrence for bodily injury and property damage.

13.21.3 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

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liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

13.22 PROFESSIONAL LIABILITY INSURANCE (Architects, Engineers and Land Surveyors)

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

13.23 WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY INSURANCE:

13.23.1 **CONTRACTOR** 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 \$500,000.00 each employee per accident for bodily injury by accident or disease.

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

14. BUSINESS LICENSE:

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

14.2 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.

15. COMPLIANCE WITH LEGAL OBLIGATIONS:

CONTRACTOR 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 **CONTRACTOR** to provide the goods or SERVICES or any services of this Contract.

CONTRACTOR 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 **CONTRACTOR** in accordance with Nevada Revised Statutes Chapter 361 generally and NRS 361.157 and 361.159, specifically regarding for profit activity. **CONTRACTOR** 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.

16. WAIVER OF BREACH:

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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.

17. SEVERABILITY:

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.

18. ASSIGNMENT / DELEGATION:

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. **CONTRACTOR** shall neither assign, transfer nor delegate any rights, obligations or duties under this Contract without the prior written approval of **CITY**. The parties do not intend to benefit any third party beneficiary regarding their respective performance under this Contract.

19. CITY OWNERSHIP OF PROPRIETARY INFORMATION:

19.1 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 **CONTRACTOR** (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 **CONTRACTOR** upon completion, termination, or cancellation of this Contract. **CONTRACTOR** shall not use, willingly allow, or cause to have such materials used for any purpose other than performance of **CONTRACTOR'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.

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

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

20. PUBLIC RECORDS:

Pursuant to Nevada Revised Statute 239.010, information or documents received from **CONTRACTOR** 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. **CONTRACTOR** 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 **CONTRACTOR** 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.

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21. CONFIDENTIALITY:

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

22. FEDERAL FUNDING:

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

22.1.1 **CONTRACTOR** 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.

22.1.2 **CONTRACTOR** 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.

22.1.3 **CONTRACTOR** 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 Executive Order 11478 (July 21, 2014) and shall not discriminate against any employee or offeror for employment because of race, national origin, creed, color, sex, sexual orientation, gender identity, religion, age, disability or handicap condition (including AIDS and AIDS-related conditions).

23. LOBBYING:

23.1 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:

23.1.1 Any federal, state, county or local agency, legislature, commission, council or board;

23.1.2 Any federal, state, county or local legislator, commission member, council member, board member, or other elected official; or

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

24. GENERAL WARRANTY:

CONTRACTOR 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.

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25. PROPER AUTHORITY:

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. **CONTRACTOR** 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 **CONTRACTOR** before this Contract is effective or after it ceases to be effective is performed at the sole risk of **CONTRACTOR**.

26. GOVERNING LAW / JURISDICTION:

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. **CONTRACTOR** consents and agrees to the jurisdiction of the courts of the State of Nevada located in Carson City, Nevada for enforcement of this Contract.

27. ENTIRE CONTRACT AND MODIFICATION:

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.

28. ACKNOWLEDGMENT AND EXECUTION:

This Contract may be executed in counterparts. The parties hereto have caused this Contract to be signed and intend to be legally bound thereby as follows:

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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

I certify that funds are available and that
CONTRACTOR will not be given authorization
to begin work until this Contract has been
signed by Purchasing and Contracts

Funding Source: _____
Budget Allocation: \$ _____
Project #: _____

BY: _____

By: _____

Dated _____

PROJECT CONTACT PERSON:

_____, Name
_____, Title
_____, Phone

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

CONTRACTOR

BY: _____

TITLE: _____

FIRM: _____

CARSON CITY BUSINESS LICENSE #: ____ - _____

NEVADA CONTRACTOR'S LICENSE #: _____ (if applicable)

Address: _____

City: _____ **State:** _____ **Zip Code:** _____

Telephone: _____ / **FAX No.** _____

E-mail Address: _____

(Signature of Contractor)

DATED _____

STATE OF _____)

)ss

County of _____)

Signed and sworn (or affirmed before me on this _____ day of _____, 2014.

(Signature of Notary)

(Notary Stamp)

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CONTRACT ACCEPTANCE AND EXECUTION:

The Board of Supervisors for Carson City, Nevada at their publicly noticed meeting of _____ approved the acceptance of the attached Contract hereinbefore identified as **CONTRACT No.** _____. 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 ___ day of _____, 2014.

ATTEST:

ALAN GLOVER, CLERK-RECORDER

DATED this ___ day of _____, 2014.