

County of Nevada
IGS - Purchasing Division



Request for Proposals
For

**CONSULTING AND FACILITATION SERVICES
FOR MARIJUANA REGULATION COMMUNITY ADVISORY GROUP**

Date Issued: 12/16/2016

Proposal Submission Deadline:
Tuesday, January 17, 2017 at 3:00 PM Pacific Time

Proposal Submission Instructions:

1. Submit one (1) hard copy of complete proposal to:

US Mail, Fed Ex, UPS, etc. to:
Nevada County Purchasing Division
Eric Rood Administrative Center
950 Maidu Avenue
Nevada City, CA 95959

or

Hand Deliver to:
Nevada County Auditor/Controller's Office
Eric Rood Administrative Center, 2nd floor
950 Maidu Avenue
Nevada City, CA 95959

AND

2. Submit one (1) copy of complete proposal in PDF format to: submit.proposal@m1.nevcounty.net
Note: This email address is to be used only for proposal submission.

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1. SUMMARY

The Nevada County Purchasing Agent, on behalf of the Community Development Agency (CDA), hereinafter collectively referred to as “County,” is requesting proposals from all interested providers of consulting and facilitation services to support the activities of the County’s Marijuana Regulation Community Advisory Group.

The term “offeror” as used herein shall refer to providers submitting proposals in response to this Request for Proposals (RFP). The term “Contractor” or “Provider” is also used to describe the successful offeror(s) in the context of providing services under a contract resulting from this RFP.

An electronic copy may be downloaded from <http://www.mynevadacounty.com/nc/igs/purchasing>. Potential offerors must register with the County in order to be notified of addenda and other notices. To register, please send an email to pamela.mowry@co.nevada.ca.us indicating “Consulting and Facilitation Services for Marijuana Regulation Community Advisory Group - Registration” in the subject field. If you do not receive a reply to this email indicating that you have been registered, please call 530-265-1692.

Each proposal received in response to this RFP will be evaluated on the criteria described herein. All proposals must be sealed, clearly marked “PROPOSAL – Consulting and Facilitation Services for Marijuana Regulation Community Advisory Group” and must include all elements described in the **PROPOSAL CONTENT AND FORMAT REQUIREMENTS** section of this RFP. One unbound, signed original proposal and one copy in PDF format must be submitted as directed on page 1 before the date and time listed in the **CONTRACT AWARD SCHEDULE** section of this RFP. The County will not be responsible for proposals delivered to a person or location other than that specified herein, and reliance on the postal service will not excuse late proposals.

Questions or requests for clarification of this Request for Proposals must be submitted in writing no later than the date and time listed in the **CONTRACT AWARD SCHEDULE** section of this RFP. Responses to questions will be published in an addendum after the question submittal deadline has passed. The County reserves the right to decline to respond to any questions.

Any amendment or addendum to this RFP is valid only if issued in writing by the County of Nevada Purchasing Agent.

2. CONTRACT AWARD SCHEDULE

Publish RFP	December 16, 2016
Deadline for Questions	Friday, December 30, 2016 at 5:00 p.m.
Proposal Submission Deadline	Tuesday, January 17, 2017 at 3:00 p.m.
Interviews with Finalists (tentative)	Thursday, February 2, 2017
Contract Approval (tentative)	Tuesday, February 21, 2017
Services to Begin (tentative)	March 1, 2017

3. GENERAL CONDITIONS

- 3.1. Prime Responsibility: The selected Contractor(s) will be required to assume full responsibility for all services and activities offered in its/their proposal(s), whether or not provided directly. Further, the County will consider the selected Contractor(s) to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the contract.
- 3.2. Assurance: Any contract awarded under this RFP must be carried out in full compliance with Title VI and VII of the Civil Rights Act of 1964 as amended, and Section 504 of the Rehabilitation Act of 1973 as amended. The Provider must guarantee that services provided will be performed in compliance with all applicable county, state and federal laws and regulations pertinent to this project. Prior to executing an agreement the Provider will be required to provide evidence substantiating the necessary skill to perform the duties through the submission of references.
- 3.3. If this contract involves protected health information and the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-199 (HIPAA) applies: Any contract awarded under this RFP must comply with the requirement of 42 U.S.C. §§ 1171 et seq., Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its subsequent amendments, related to Protected Health Information (PHI), in performing any task or activity related to this Agreement.
- 3.4. Independent Contractor: In performance of the work, duties and obligations assumed by the offeror, it is mutually understood and agreed that the offeror, including any and all of the offeror's officers, agents and employees, will at all times be acting and performing in an independent capacity and not as an officer, agent, servant, employee, joint venture, partner or associate of the County.
- 3.5. Vendors may submit alternate proposals. Alternate proposals shall be clearly marked as such.
- 3.6. Nevada County prohibits discrimination in employment or in the provision of services because of race, color, religion, religious creed, sex, age, marital status, ancestry, national origin, political affiliation, physical disability or medical condition. This clause does not require the hiring of unqualified persons.
- 3.7. The County reserves the right to reject any and all proposals, to negotiate specific terms, conditions, compensation, and provisions on any contracts that may arise from this solicitation; to waive any informalities or irregularities in the proposals; and to accept the proposal(s) that appear(s) to be in the best interest of the County of Nevada. In determining and evaluating the proposals, costs will not necessarily be controlling; the experience of those who will be providing services under the contract, quality, equality, efficiency, utility, suitability of the services offered, and the reputation of applicants will be considered, along with other relevant factors.
- 3.8. Nevada County reserves the right to:
 - Request clarification of any submitted information;
 - Not enter into any agreement;
 - Not to select any applicant;
 - Amend or cancel this process at any time;
 - Interview applicants prior to award and request additional information during the interview;
 - Negotiate a multi-year contract or a contract with an option to extend the duration;
 - Award more than one contract if it is in the best interest of the County; and/or
 - Issue similar RFPs in the future.
- 3.9. Qualified vendors must be prepared to enter into the County's standard Personal Services Contract, a sample of which is attached as Attachment A to this RFP. Please review the details of Attachment A carefully. By reference, it incorporates many standards, terms and conditions required as part of this RFP. The County intends to award contracts substantially in the form of the sample agreement to the selected vendor(s). Portions of this RFP and the vendor's proposal may be made part of any resultant contract and incorporated in the Contract.

- 3.10. Prior to commencement of services, the Contractor must provide evidence of the following insurance coverages: Worker's Compensation, Commercial General Liability (naming the County of Nevada as additional insured), Comprehensive Business or Commercial Automobile Liability for Owned Automobiles and Non-owned /Hired Automobiles, and may also be required to provide Errors and Omissions insurance, Professional Liability or Malpractice Insurance depending on the nature and risks associated with the services provided. The Contractor will be required to maintain the required coverages, at its sole cost and expense, throughout the entire term and any subsequent renewal terms of the contract.
- 3.11. Pursuant to the County's Green Procurement and Sustainable Practices Policy, vendors are requested to use recycled products and sustainable practices whenever possible in preparing their response to this RFP, including using post-consumer recycled content paper and packaging products, and copying on both sides of the paper.
- 3.12. The County of Nevada encourages its contractors and subcontractors to use the US. Citizenship and Immigration Services E-Verify system to verify that employees are eligible to work in the United States. Information about the E-Verify system is available at www.dhs.gov/e-verify.
- 3.13. Proprietary Information: Trade secrets or similar proprietary data that the prospective contractor does not wish disclosed to other than personnel involved in the proposal evaluation effort or post-award contract administration will be kept confidential to the extent permitted by law as follows. Each page alleged to contain proprietary information shall be identified by the prospective contractor in boldface text at the top and bottom as "PROPRIETARY." Any section of the proposal that is requested to remain confidential shall also be so marked in boldface text on the title page of that section. Despite what is labeled as confidential, proprietary, or trade secret, the determination as to whether or not certain material is confidential, proprietary or trade secret shall be determined in accordance with applicable law. If a prospective contractor designates any information in its proposal as proprietary pursuant to this provision, the prospective contractor must also submit one copy of the proposal from which the proprietary information has been excised. The proprietary material shall be excised in such a way as to allow the public to determine the general nature of the material removed and to retain as much of the content of the proposal as possible.
- 3.14. If the work to be performed is subject to the prevailing wage requirements of the California Labor Code, each contractor or subcontractor listed on the proposal must be registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)]. No contractor or subcontractor may be awarded a contract for public work on a public works unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5. Projects subject to the prevailing wage requirements are also subject to compliance monitoring and enforcement by the Department of Industrial Relations.

4. BACKGROUND

4.1. General

The Nevada County Board of Supervisors Marijuana Regulations Subcommittee (hereinafter "Board Subcommittee") intends to form a Marijuana Regulation Community Advisory Group (hereinafter "Advisory Group") to advise the Board Subcommittee on development of a permanent County Ordinance with respect to the regulation of marijuana-related activities in Nevada County.

The Board Subcommittee recognizes that the regulation of marijuana is a controversial issue to the Nevada County community, with both proponents and opponents of marijuana-related activities. In order to ensure an inclusive and participatory process, the County is seeking the services of a skilled and experienced consultant to advise and assist the Board Subcommittee in forming the Advisory Group; to facilitate and document the work of the Advisory Group, including performance of a community assessment and development of recommendations for a permanent

marijuana ordinance; and to serve as a liaison between the Advisory Group, the Board Subcommittee, cognizant County departments and offices, and the public.

In soliciting proposals for these professional consulting and facilitation services, the County seeks to ensure, and to reassure the public, that the Advisory Group's work to provide recommendations to the Board of Supervisors for long-term marijuana regulations is representative of the community at large and demonstrates in good faith an inclusive and participatory process with applicable stakeholders. The County acknowledges that this is a controversial issue in our community and seeks to retain an independent and neutral facilitator to ensure a sound process and positive outcome for Nevada County.

The contract resulting from this solicitation is expected to be for a period of one year, and may be extended an additional six months if necessary.

4.2. **Recent History of Marijuana Regulation in Nevada County**

4.2.1. ***Initial and Urgency Marijuana Ordinances***

On May 8, 2012 the Board of Supervisors adopted Ordinance 2349, *An Urgency Ordinance Adding Article 5 to Chapter IV of the Nevada County General Code Regarding Medical Marijuana Cultivation* ("Cultivation Ordinance"). In January 2016, in response to increased complaints and new state legislation, the Board of Supervisors adopted Ordinance No. 2405, *An Urgency Ordinance Amending Article 5 of the Nevada County General Code regarding Medical Marijuana Cultivation*. Ordinance No. 2405 banned outdoor cultivation of marijuana.

4.2.2. ***Measure W***

In addition to the passage of Ordinance No. 2405, the Board of Supervisors passed Resolution No. 16-038 seeking to place provisions related to the outdoor cultivation ban on the June 2016 ballot (Measure W). To clarify the Board's intention in the event Measure W failed, the Board of Supervisors passed Resolution 16-082 in February 2016. By adopting this Resolution, the Board committed to repeal the outdoor cultivation ban and implement alternative cultivation regulations at the next available meeting after the results of the election were certified. On June 7, 2016, Measure W failed to pass. The election results were certified on July 19, 2016 with 59.45% of voters casting a no vote on Measure W.

4.2.3. ***Interim Ordinance No. 2416***

To honor the Board's commitment to repeal the outdoor ban and implement alternative cultivation regulations, the Chair of the Board appointed two Supervisors to serve as a Marijuana Subcommittee. The Marijuana Subcommittee was charged with meeting with marijuana cultivation stakeholders and to make recommendations on interim cultivation regulations.

Given the Board's commitment and desire to repeal the ban on an expedited basis, it was determined the best course would be to seek passage of an interim ordinance on an urgency basis. It was explained to the stakeholders that any urgency ordinance would require passage by the Board of Supervisors by a 4/5ths vote. It was also explained that, in order to avoid any delay by triggering a lengthy CEQA compliance process, the proposed interim regulations would need to be very modest with respect to the size of allowed grow areas. It was also explained that the Board would be working on developing more comprehensive permanent regulations based on input and discussion with all stakeholder interests.

The Marijuana subcommittee met with the stakeholders on three separate occasions: June 15, June 27 and July 12, 2016. Proposals were exchanged between the subcommittee and the stakeholders, but consensus was not reached. Shortly after the June 27, 2016 meeting, the subcommittee received written proposals from four cultivation groups which were considered, together with the verbal representations made at the subcommittee meetings, in developing the proposed Urgency Ordinance. On July 19,

2016, the stakeholders submitted a document entitled “Nevada County Cannabis United-Recommendations.” An interim ordinance, Ordinance No. 2416, was passed on July 27, 2016 allowing for indoor and outdoor cultivation in rural and agricultural zones. Cultivation limitations were based on parcel size and zoning classification. This ordinance was meant to allow for some cultivation while the Subcommittee worked toward the development of long-term marijuana regulations.

Specifically, cultivation was not allowed on parcels of two acres or less or in any R1, R2 or R3 zones. In R-A zones cultivation was only allowed up to 12 plants indoors only on 5-10 acre parcels, up to 16 plants indoors or outdoors on 10-20 acre parcels, and up to 25 plants indoors or outdoors on parcels of more than 20 acres. In RA, AG, AE, FR, and TPZ zones cultivation was allowed of up to 6 plants outdoors only on two-acre parcels, up to 12 plants indoors only on 5-10 acre parcels, up to 16 plants indoors or outdoors on 10-20 acre parcels, and up to 25 plants indoors or outdoors on parcels of more than 20 acres. Additionally, the ordinance outlined that a) plant counts include both mature and immature plants, b) all parcels are limited to a maximum of 12 plants indoors, regardless of the total number allowed on the parcel, c) setbacks are measured from the border of an outdoor staked grow area or indoor cultivation area to the property line of an adjacent legal parcel under separate ownership, and d) outdoor cultivation must be conducted in one continuous grow area, along with additional regulations and requirements outlined in Article 5 of the Nevada County General Code.

4.2.4. ***Dissolution of Interim Ordinance Subcommittee and Formation of Marijuana Regulations Subcommittee***

Since the work of the Interim Ordinance Subcommittee was completed, on November 8, 2016 the Board dissolved the Interim Ordinance subcommittee and formed a new Nevada County Board of Supervisors Marijuana Subcommittee charged with obtaining marijuana stakeholder and community input for the development of recommendations for long-term regulations for consideration by the Board of Supervisors pertaining to marijuana-related activities in Nevada County. The Chair appointed Supervisors Hank Weston and Richard Anderson to serve on the new Marijuana Subcommittee and directed the Subcommittee to first work with the Community Development Agency, the Sheriff’s Office, the CEO’s office and County Counsel’s Office to prepare a proposal to obtain community input for the development of long-term regulations on marijuana-related activities in Nevada County.

4.2.5. ***Proposition 64 Passage***

On November 8, 2016, California voters passed Proposition 64, the *Control, Regulate and Tax Adult Use of Marijuana Act* (commonly referred to as “AUMA”) allowing adults 21 years of age or older to legally cultivate, possess and use marijuana for nonmedical purposes, with certain restrictions. Specifically, the proposition allows cities and counties to regulate marijuana-related activities, including the ability to ban marijuana-related businesses. However, Proposition 64 prohibits cities and counties from completely banning the cultivation, for personal use, of up to six plants inside a private residence or an accessory structure to a private residence. As such, in an effort to ensure compliance with Proposition 64, an amendment to the County’s Marijuana Ordinance No. 2416 was introduced to the Board of Supervisors on December 13, 2016 to narrowly amend the County’s ordinance to allow the indoor personal cultivation of six marijuana plants per private residence or accessory structure by persons 21 or older for medical or nonmedical purposes. This amendment will be considered for adoption by the Board of Supervisors on January 10, 2017.

5. DESCRIPTION OF SERVICES REQUIRED

5.1. Form Advisory Group and Develop Operational Processes

The consultant will advise and assist the Board of Supervisors Marijuana Subcommittee members in forming a Marijuana Regulation Community Advisory Group and establishing an operational process for the Group to follow. This will include:

- 5.1.1. Meet with the Board Subcommittee to understand the Subcommittee's expectations for the Group.
- 5.1.2. Provide the Board Subcommittee with a list of recommended best practices options on the process of forming an inclusive Advisory Group that is representative of community stakeholders.
- 5.1.3. Provide the Board Subcommittee with a list of recommended best practices options on organizational and operational processes and activities for the Group to undertake, including defining roles and responsibilities of Group members and a timeline for the Group's activities.
- 5.1.4. Once the Subcommittee has decided upon processes for forming the Group and structuring its activities, provide logistical support and communications to convene the Group.

5.2. Advisory Group Operations & Facilitation

- 5.2.1. The consultant will serve as the lead facilitator for all meetings, including chairing the meetings, scheduling the meetings, managing all logistics for the meetings, ensuring applicable resource materials are provided to the Group, coordinating presentations and expert testimonials presented to the Group; and communicating and coordinating Group members and meeting schedules.
- 5.2.2. The consultant will act as a liaison between the Group and the Board Subcommittee, County Executive Office, County Counsel and Community Development Agency with respect to the Group's activities.
- 5.2.3. The consultant will act as the primary consultant for the County on public education and communication regarding the Advisory Group activities.
- 5.2.4. The consultant will provide other support to the Marijuana Regulation Community Advisory Group as needed.

5.3. Reports & Recommendations

- 5.3.1. Consultation on the design and potential administration of a Community Assessment on the issue of marijuana cultivation, and other marijuana-related activities in Nevada County that may include an analysis on community stakeholders and standard quantitative and qualitative research methods for report to the Marijuana Regulations Subcommittee and/or Advisory Group
- 5.3.2. Develop and provide periodic written reports and a final comprehensive written report on the Advisory Group's findings to the Board Subcommittee.
- 5.3.3. Develop and provide periodic written reports and a final written report on the Group's recommendations for a permanent ordinance on the regulation of marijuana-related activities and present the report to the Board Subcommittee.

6. PROPOSAL CONTENT AND FORMAT REQUIREMENTS

Interested offerors shall submit one original copy of their proposal and one copy in PDF format as directed on Page 1 of this RFP.

Proposals shall be delivered no later than the date and time listed in the CONTRACT AWARD SCHEDULE and shall contain at a minimum the following items:

6.1. Cover Sheet (Attachment B)

- 6.1.1. Provide the full legal name of the Contractor who will execute the contract. Provide specific information concerning the agency, including: the agency's legal name, type of entity, and Federal Tax ID #.
- 6.1.2. The cover sheet must be signed by an owner, corporate officer, or agent authorized by the Contractor.

6.2. Description of Services, Background and Staff – 60 points

6.2.1. Services

- a. Itemize the complete list of services to be provided.
- b. Note instances where services exceed the scope or detail offered in this proposal.
- c. Note instances where services do not meet the scope offered in this proposal.
- d. Address instances where possible cost efficiencies may be gained, quality may be improved or County may otherwise benefit from adopting your proposal over the generally listed terms of this RFP.

6.2.2. Background and Experience

- a. Provide an overview of the types of work that you or your organization have performed. Describe your qualifications as they relate to this proposal.
- b. Provide examples of work performed that involved controversial projects requiring demonstrated conflict resolution and negotiation between two or more parties.
- c. Provide examples and references that substantiate your (or your organization's) experience in providing the types of service requested in this proposal. This needs to be detailed and verifiable.
- d. Please describe any current, pending or past litigation (within the last 10 years) to which the organization has been, is, or is expected to be a party.

6.2.3. Staffing

- a. Provide names and qualifications of key employees to be assigned to this work.
- b. Provide a staffing plan for meeting the requirements.
- c. Provide other relevant information that can aid the County in its selection process.
- d. Identify the individual(s) who will be responsible for performing the terms of the contract and provide their qualifications.

6.3. Proposed Costs – 40 points

- a. Break out costs by category or item as presented in the description of services (or by milestones or by time increment).
- b. Include in your proposed costs all material support for meetings, travel, administrative support, and any other costs required to perform the scope of work.
- c. Present proposed costs so that fixed and variable costs are clearly identified as such, and identify the conditions and assumptions associated with variable costs.
- d. Describe the cost basis for all variable charges. (e.g. hourly rates for staff)
- e. Describe the basis for costing adjustments on subsequent years in contract or for potential future contract extensions.

7. SELECTION PROCEDURES

Proposals will be evaluated on the criteria outlined in the PROPOSAL CONTENT AND FORMAT REQUIREMENTS section, with a maximum possible score of 100 points.

After an initial review and evaluation of each of the proposals, the offerors submitting the most highly- rated proposals may be invited for interviews prior to final selection. The County reserves the right to award a contract without holding interviews, in the event the written proposals provide a clear preference on the basis of the criteria described.

The Contractor(s) selected for this project will be required to accept the County's standard contract and to comply with insurance standards as deemed acceptable to the County's Risk Manager. No agreement with the County of Nevada is in effect until both parties have signed a contract.

8. INQUIRIES

Direct all inquiries regarding the proposal process or proposal submissions to:

Pamela Mowry
Nevada County Purchasing Division
950 Maidu Avenue
Nevada City, CA 95959
(530) 265-1692
pamela.mowry@co.nevada.ca.us

ATTACHMENT A: PERSONAL SERVICES CONTRACT (SAMPLE)
PERSONAL SERVICES CONTRACT
County of Nevada, California

This Personal Services Contract is made between the COUNTY OF NEVADA (herein "County"), and

Contractor's Name _____

(herein "Contractor"), wherein County desires to retain a person or entity to provide the following services, materials and products generally described as follows:

(§1) **Description of Services** _____

SUMMARY OF MATERIAL TERMS

(§2) **Maximum Contract Price:** _____

(§3) **Contract Beginning Date:** _____ **Contract Termination Date:** _____

(§4) **Liquidated Damages:** _____

INSURANCE POLICIES

Designate all required policies:

		Req'd	Not Req'd
(§6)	Commercial General Liability (\$1,000,000)	_____	_____
(§7)	Automobile Liability (\$ 300,000) Personal Auto	_____	_____
	(\$1,000,000) Business Rated	_____	_____
	(\$1,000,000) Commercial Policy	_____	_____
(§8)	Worker's Compensation	_____	_____
(§9)	Errors and Omissions (\$1,000,000)	_____	_____

LICENSES AND PREVAILING WAGES

(§14) Designate all required licenses:

NOTICE & IDENTIFICATION

(§26) **Contractor:** _____ **County of Nevada:** _____

Contact Person:

()

e-mail:

Contact Person:

()

e-mail:

Contractor is a: (check all that apply)

Corporation:	_____ Calif.,	_____ Other,	_____ LLC,	_____ Non-profit
Partnership:	_____ Calif.,	_____ Other,	_____ LLP,	_____ Limited
Person:	_____ Individ.,	_____ Dba,	_____ Ass'n	_____ Other

EDD: Independent Contractor Worksheet Required: _____ Yes _____ No

HIPAA: Schedule of Required Provisions (Exhibit D): _____ Yes _____ No

ATTACHMENTS

Designate all required attachments:

	Req'd	Not Req'd
Exhibit A: Schedule of Services (Provided by Contractor)	_____	_____
Exhibit B: Schedule of Charges and Payments (Paid by County)	_____	_____
Exhibit C: Schedule of Changes (Additions, Deletions & Amendments)	_____	_____
Exhibit D: Schedule of HIPAA Provisions (Protected Health Information)	_____	_____

Terms

Each term of this Contract below specifically incorporates the information set forth in the Summary at page one (1) above as to each respective section (§) therein, as the case may be.

Services

1. **Scope of Services:**

Contractor shall provide all of the services, materials and products (herein "Services") generally described in **Exhibit "A"**, according to a performance schedule, if applicable, as set forth in said exhibit (herein "Performance Schedule"). If requested, Contractor agrees to serve as an expert witness for County in any third party action or proceeding arising out of this Contract.

Payment

2. **Charges and Payments:**

The charges (herein "Charges") for furnishing the aforesaid Services under this Contract are set forth in **Exhibit "B"**, including, if applicable, hourly rates, unit pricing, and expense, mileage and cost limits. Said Charges shall be presented monthly by invoice, and shall be due within thirty (30) days of receipt unless payment is otherwise set forth in said **Exhibit "B"**, and shall remain in effect for the entire term of this Contract, and any extension hereof. In no event will the cost to County for Services to be provided under this Contract, including direct non-salary expenses, exceed the **Maximum Contract Price** set forth at §2, page one (1), above.

Time for Performance

3. **Contract Term:**

This Contract shall commence on the **Contract Beginning Date** set forth at §3, page one (1), above. All Services required to be provided by this Contract shall be completed and ready for acceptance no later than the **Contract Termination Date** set forth at §3, page one (1), above.

4. **Liquidated Damages:**

County and Contractor agree that damages to County due to delays in timely providing Services in accordance with the aforesaid Performance Schedule and Contract Termination Date are impractical and difficult to ascertain. Therefore, if §4 at page one (1) hereof shall indicate a daily amount as **Liquidated Damages**, County shall have the right to assess said daily sum, not as a penalty, but as and for damages to County due to delays in providing Services not in accordance with the said Performance Schedule, or later than the Contract Termination Date (herein "Delay"). Liquidated Damages shall be offset against amounts owing to Contractor, including retention sums.

To the extent that any Delay is a result of matters or circumstances wholly beyond the control of Contractor, County may excuse said Liquidated Damages; provided however, that County may condition such excuse upon Contractor having given prompt notice to County of such delay immediately by telephone and thereafter by written explanation within a reasonable time. The time for Contractor's performance shall be extended by the period of delay, or such other period as County may elect.

5. **Time of the Essence:**

Time is of the essence with respect to Contractor's performance under this Contract. Delay in meeting the time commitments contemplated herein will result in the assessment of liquidated damages, if indicated at §4 at page one (1), hereof. If Liquidated Damages are not so indicated, damages shall be as otherwise provided by law.

Insurance

6. **Commercial General Liability Insurance:** (County Resolution No. 90674)

If §6 at page one (1) hereof shall indicate a **Commercial General Liability** insurance policy is required, Contractor shall promptly provide proof of such insurance evidenced by a certificate of insurance with properly executed endorsements attached, which insurance shall include the following:

- (i) Broad form coverage for liability for death or bodily injury to a person or persons, and for property damage, combined single limit coverage, in the minimum amount indicated at said §6;

- (ii) An endorsement naming County as an additional insured under said policy, with respect to claims or suits arising from the Services provided or the relationships created under this Contract;
- (iii) A provision that said insurance shall be primary and other insurance maintained by the County of Nevada shall be excess only and not contributing with Contractor's insurance;
- (iv) A provision that said insurance shall provide for thirty (30) days written notice to County of any termination or change in coverage protection, or reduction in coverage limits (except ten (10) days notice for non-payment of premium).

7. Automobile Liability Insurance: (County Resolution No. 90676)

If §7 at page one (1) hereof shall require either a Business Rated or a Commercial Automobile Liability insurance policy, for each vehicle used including non-owned and hired automobiles, Contractor shall promptly provide proof of such insurance evidenced by a certificate of insurance with properly executed endorsements attached, which insurance shall include the following provisions:

- (i) Liability protection for death or bodily injury to a person or persons, property damage, and uninsured and underinsured coverage, combined single limit coverage, in the minimum amount indicated at said §7;
- (ii) An endorsement naming County as an additional insured under said policy, with respect to claims or suits arising from the Services provided or the relationships created under this Contract;
- (iii) A provision that said insurance shall be primary and other insurance maintained by the County of Nevada shall be excess only and not contributing with Contractor's insurance;
- (iv) A provision that said insurance shall provide for thirty (30) days written notice to County of any termination or change in coverage protection, or reduction in coverage limits (except ten (10) days notice for non-payment of premium).

If §7 at page one (1) hereof shall require a Personal Auto policy, for each vehicle used including non-owned and hired automobiles, Contractor shall promptly provide proof of such insurance for a minimum of three hundred thousand dollars, (\$300,000), in combined single limits, and naming the County as additionally insured.

8. Worker's Compensation: (County Resolution No. 90674)

If §8 at page one (1) hereof shall indicate a **Worker's Compensation** insurance policy is required, Contractor shall maintain said policy as required by law, and shall promptly provide proof of such insurance evidenced by a certificate of insurance, or other documentation acceptable to County.

Before commencing to utilize employees in providing Services under this Contract, Contractor warrants that it will comply with the provisions of the California Labor Code, requiring Contractor to be insured for worker's compensation liability or to undertake a program of self-insurance therefor.

9. Errors and Omissions:

If §9 at page one (1) hereof shall indicate **Errors and Omissions** insurance is required, Contractor shall maintain either a professional liability or errors & omissions policy in the minimum amount indicated, and shall promptly provide proof of such insurance evidenced by a certificate of insurance, or other documentation acceptable to County.

10. Miscellaneous Insurance Provisions: (County Resolution No. 90675)

All policies of insurance required by this Contract shall remain in full force and effect throughout the life of this Contract and shall be payable on a "per occurrence" basis unless County specifically consents to "claims made" coverage. If the County does consent to "claims made" coverage and if Contractor changes insurance carriers during the term of this Contract or any extensions hereof, then Contractor shall carry prior acts coverage.

Insurance afforded by the additional insured endorsement shall apply as primary insurance, and other insurance maintained by County, its officers, agents and/or employees, shall be excess only and not contributing with insurance required or provided under this agreement.

At all times, Contractor shall keep and maintain in full force and effect throughout the duration of this Contract, policies of insurance required by this Contract which policies shall be issued by companies with a Best's Rating of B+ or higher (B+, B++, A-, A, A+ or A++), or a Best's Financial Performance Rating

(FPR) of 6 or higher (6, 7, 8 or 9) according to the current Best's Key Rating Guide, or shall be issued by companies approved by the County Risk Manager. In the event the Best's Rating or Best's FPR shall fall below the rating required by this paragraph, Contractor shall be required to forthwith secure alternate policies which comply with the rating required by this paragraph, or be in material breach of this Contract.

Failure to provide and maintain the insurance policies (including Best's ratings), endorsements, or certificates of insurance required by this Contract shall constitute a material breach of this agreement (herein "Material Breach"); and, in addition to any other remedy available at law or otherwise, shall serve as a basis upon which County may elect to suspend payments hereunder, or terminate this Contract, or both. (See §13, ¶2, below, as these provisions additionally apply to subcontractors.)

11. Indemnity:

Nothing herein shall be construed as a limitation of Contractor's liability, and Contractor shall indemnify, defend and hold harmless the County and its officers, officials, employees, agents and volunteers from any and all liabilities, claims, demands, damages, losses and expenses (including, without limitation, defense costs and attorney fees of litigation) which result from the negligent act, willful misconduct, or error or omission of Contractor, except such loss or damage which was caused by the sole negligence or willful misconduct of County or its officers, officials, employees, agents and volunteers.

Personal Services

12. Contractor as Independent:

In providing services herein, Contractor, and the agents and employees thereof, shall act in an independent capacity and as an independent contractor and not as agents or employees of County.

13. Assignment and Subcontracting:

Except as specifically provided herein, the rights, responsibilities, duties and Services to be performed under this Contract are personal to the Contractor and may not be transferred, subcontracted, or assigned without the prior written consent of County. Contractor shall not substitute nor replace any personnel for those specifically named herein or in its proposal without the prior written consent of County.

Contractor shall cause and require each transferee, subcontractor and assignee to comply with the insurance provisions set forth herein at §§6, 7, 8, 9 and 10, to the extent such insurance provisions are required of Contractor under this Contract. Failure of Contractor to so cause and require such compliance by each transferee, subcontractor and assignee shall constitute a Material Breach of this agreement, and, in addition to any other remedy available at law or otherwise, shall serve as a basis upon which County may elect to suspend payments hereunder, or terminate this Contract, or both.

14. Licensing and Permits:

Contractor warrants (i) Contractor is qualified and competent to provide all Services under this contract; (ii) Contractor and all employees of Contractor hold all necessary and appropriate licenses therefor, including those licenses set forth at §14, page one (1) hereof; and, (iii) Contractor shall obtain, and remain in compliance with, all permits necessary and appropriate to provide said Services. Contractor shall cause said licenses and permits to be maintained throughout the life of this Contract. Failure to do so shall constitute a Material Breach of this agreement, and, in addition to any other remedy available at law or otherwise, shall serve as a basis upon which County may elect to suspend payments hereunder, or terminate this Contract, or both.

Public Contracts

15. Prevailing Wage and Apprentices:

To the extent made applicable by law, performance of this Contract shall be in conformity with the provisions of California Labor Code, Division 2, Part 7, Chapter 1, commencing with Section 1720 relating to prevailing wages which must be paid to workers employed on a public work as defined in Labor Code §§1720, et seq.; and shall be in conformity with Title 8 of the California Code of Regulations §§200 et seq., relating to apprenticeship. Where applicable:

- (i) Contractor shall comply with the provisions thereof at the commencement of Services to be provided herein, and thereafter during the term of this Contract. A breach of the requirements of this section shall

be deemed a material breach of this contract. Applicable prevailing wage determinations are available on the California Department of Industrial Relations website at <http://www.dir.ca.gov/OPRL/PWD>.

(ii) Contractor and all subcontractors must comply with the requirements of Labor Code Section 1771.1(a) pertaining to registration of contractors pursuant to Section 1725.5. Registration and all related requirements of those Sections must be maintained throughout the performance of the Contract.

(iii) Contracts to which these prevailing wage requirements apply are subject to compliance monitoring and enforcement by the Department of Industrial Relations. Each contractor and subcontractor must furnish certified payroll records to the Labor Commissioner at least monthly.

(iv) The County is required to provide notice to the Department of Industrial Relations of any public work contract subject to prevailing wages within five (5) days of award.

16. Accessibility (County Resolution No. 00190):

It is the policy of the County of Nevada that all County services, programs, meetings, activities and facilities shall be accessible to all persons, and shall be in compliance with the provisions of the Americans With Disabilities Act and Title 24, California Code of Regulations. To the extent this Contract shall call for Contractor to provide County contracted services directly to the public, Contractor shall certify that said direct Services are and shall be accessible to all persons.

17. Nondiscriminatory Employment:

In providing Services hereunder, Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, national origin, political affiliation, ancestry, marital status or disability. This policy does not require the employment of unqualified persons.

18. Prior Nevada County Employment (County Resolution No. 03-353):

Effective July 22, 2003, it is the policy of the County of Nevada that former members of the Board of Supervisors, a former CEO, or a former Purchasing Agent, for a period of twelve (12) months following the last day of employment, shall not enter into any relationship wherein that former employee or former Board member receives direct remuneration from a legal entity that, during the last twelve (12) months of said employment or Board member's service, entered into a contract with, or received a grant from the County of Nevada. Provided however, that this prohibition shall not apply to any employee that did not personally approve a contract with or grant to said legal entity during the last twelve (12) months of said employment, and shall not apply when the Board of Supervisors did not approve a contact with or grant to said legal entity during the last twelve (12) months of said Board member's service.

A violation of this policy shall subject Contractor to all of the remedies enumerated in said resolution and as otherwise provided in law, which remedies shall include but not be limited to injunctive relief, cancellation and voiding of this contract by County, a return of grant money, a cause of action for breach of contract, and entitlement to costs and reasonable attorney fees in any action based upon a breach of contract under this provision.

19. Cost Disclosure:

In accordance with Government Code Section 7550, should a written report be prepared under or required by the provisions of this Contract, Contractor agrees to state in a separate section of said report the numbers and dollar amounts of all contracts and subcontracts relating to the preparation of said report.

Default and Termination

20. Termination:

A Material Breach of this Contract pursuant to the terms hereof or otherwise, in addition to any other remedy available at law or otherwise, shall serve as a basis upon which County may elect to immediately suspend payments hereunder, or terminate this contract, or both, **without notice**.

If Contractor fails to timely provide in any manner the services materials and products required under this Contract, or otherwise fails to promptly comply with the terms of this Contract, or violates any ordinance, regulation or other law which applies to its performance herein, County may terminate this Contract by giving **five (5) days written notice** to Contractor.

Either party may terminate this Contract for any reason, or without cause, by giving **thirty (30) calendar days written notice** to the other, which notice shall be sent by registered mail in conformity with the notice provisions, below. In the event of termination not the fault of the Contractor, the Contractor shall be paid for services performed to the date of termination in accordance with the terms of this Contract. Contractor shall be excused for failure to perform services herein if such performance is prevented by acts of God, strikes, labor disputes or other forces over which the Contractor has no control.

County, upon giving **sixty (60) calendar days written notice** to Contractor, shall have the right to terminate its obligations under this Contract at the end of any fiscal year if the County or the State of California, as the case may be, does not appropriate funds sufficient to discharge County's obligations coming due under this contract.

Miscellaneous

21. Books of Record and Audit Provision:

Contractor shall maintain complete records relating to this Contract for a period of five (5) years from the completion of Services hereunder. Said records shall include but not be limited to bids and all supporting documents, original entry books, canceled checks, receipts, invoices, payroll records including subsistence, travel and field expenses, together with a general ledger itemizing all debits and credits

Contractor shall permit County to audit said records as well as such related records of any business entity controlled by Contractor. Said audit may be conducted on Contractor's premises or at a location designated by County, upon fifteen (15) days notice. Contractor shall promptly refund any moneys erroneously charged and shall be liable for the costs of audit if the audit establishes an over-charged of five percent (5%) or more of the Maximum Contract Price.

22. Intellectual Property:

All original photographs, diagrams, plans, documents, information, reports, computer code and all recordable media together with all copyright interests thereto (herein "Intellectual Property"), which concern or relate to this Contract and which have been prepared by, for or submitted to Contractor, shall be the property of County, and upon fifteen (15) days demand therefor, shall be promptly delivered to County without exception. Provided however, for personal purposes only and not for commercial, economic or any other purpose, Contractor may retain a copy of Contractor's work product hereunder.

23. Entire Agreement:

This Contract represents the entire agreement of the parties, and no representations have been made or relied upon except as set forth herein. This Contract may be amended or modified only by written, fully executed agreement of the parties.

24. Jurisdiction and Venue:

This Contract shall be construed in accordance with the laws of the State of California and the parties hereto agree that venue shall be in Nevada County, California.

25. Compliance with Applicable Laws:

The Contractor shall comply with any and all federal, state and local laws, codes, ordinances, rules and regulations which relate to, concern or affect the Services to be provided by this Contract.

26. Notices:

This Contract shall be managed and administered on County's behalf by the department and the person set forth at §26, page one (1) of this Contract, and all invoices shall be submitted to and approved by this Department. In addition to personal service, all notices may be given to County and to Contractor by first class mail addressed as set forth at said §26 Said notices shall be deemed received the fifth (5th) day following the date of mailing or the earlier date of personal service, as the case may be.

27. Authority:

All individuals executing this Contract on behalf of Contractor represent and warrant that they are authorized to execute and deliver this Contract on behalf of Contractor.

IN WITNESS WHEREOF, the parties have executed this Contract effective on the Beginning Date, above.

ATTACHMENT B: COVER SHEET

Name of Person, Business or Organization:	
Type of Entity: (e.g. Sole-Proprietorship, Partnership, Corp., Non-Profit, Public Agency)	
Federal Tax ID Number:	
Contact Person – Name	
Contact Person – Address	
Contact Person – Phone Number (s)	
Contact Person – e-mail address	

By signing this **Cover Sheet** I hereby attest: that I have read and understood all the terms listed in the RFP; have read and understood all terms listed in this proposal; that I am authorized to bind the listed entity into this agreement; and that should this proposal be accepted, I am authorized and able to secure the resources required to deliver against all terms listed within the RFP as published by the County of Nevada, including any amendments or addenda thereto except as explicitly noted or revised in my submitted proposal.

 Signature of Authorized Representative

 Printed Name of Authorized Representative

 Date