

INTERLOCAL AGREEMENT

This Agreement, made and entered into as of the Effective Date, defined below, by and between the City of Boulder City ("BOULDER CITY"), a municipal corporation and political subdivision of the State of Nevada and the City of Henderson ("HENDERSON"), a municipal corporation and political subdivision of the State of Nevada, hereinafter individually a "Party" or collectively as the "Parties."

WITNESSETH:

WHEREAS, NRS 277.180 authorizes any one or more public agencies to contract with any one or more other public agencies to perform any governmental service, activity, or undertaking which any of the public agencies entering into the agreement is authorized by law to perform and refers to such as an interlocal contract; and

WHEREAS, BOULDER CITY wishes to contract with HENDERSON for land surveying, right-of-way and property research related support; and

WHEREAS, HENDERSON has capable personnel and is willing to have said personnel provide said support; and

NOW, THEREFORE, in consideration of the premises and the terms contained herein, BOULDER CITY and HENDERSON agree as follows:

AGREEMENT

1. Term: This Agreement shall not become effective until and unless approved by appropriate official action of the governing body of each Party. This Agreement shall be effective on the later of the approval dates of this Agreement by the Parties' respective boards or councils ("Effective Date"). The term of this agreement is for ten (10) years, subject to termination by either Party by a 30-day written notice.

2. Scope of Work: The land surveying, right-of-way and property related support will be completed on an as-needed basis (the "Services"). Once the work is requested by BOULDER CITY, HENDERSON will respond within ten (10) business days with a schedule in which the work will be completed by HENDERSON. BOULDER CITY will accept the schedule or will cancel the request for Services within five (5) business days of receipt of HENDERSON's response. "Business days" shall mean Monday-Thursday, excluding holidays.

A non-exclusive list of the Services HENDERSON may be able to provide are:

- Boundary Survey;
- Topographic Survey;
- Construction Staking and Layout;
- Map review;
- Geodetic Leveling;
- UAV drone flight for data collection, aerial imagery or structure inspection;
- 3D laser scanning capture to analyze and visualize spatial data;
- As-built/Verification survey;
- Property, ROW, and Easement verification; and
- Field Map verification checks.

3. Cost: BOULDER CITY agrees to reimburse HENDERSON for the cost and expenses of all personnel, including proportionate employee benefit costs, equipment and material cost incurred for work performed, including travel time to and from HENDERSON City Hall and the project location. BOULDER CITY does not authorize the use of independent contractors to complete the Services and will not reimburse for contracted Services.

4. Billing: HENDERSON will bill BOULDER CITY on a quarterly basis for personnel, equipment, and material cost. Billing invoices will be submitted to the director of Public Works for Boulder City. Payment shall be made within 30 days of receipt of the billing invoices.

5. Correction of Work: If any deficiency, error, or omission in the Services, including any deliverable, is found HENDERSON agrees to expeditiously and at no additional expense to BOULDER CITY, re-perform or replace the Service.

6. Ownership of Documents: All materials, drawings, specifications, reports or other documents given, prepared, or assembled by HENDERSON, which are related to the performance of this Agreement, are deemed to be the property of BOULDER CITY. This Section survives default, expiration, or termination of this Contract or excuse of performance.

7. Indemnification: BOULDER CITY hereby indemnifies and shall defend HENDERSON, its representatives and employees from and against any and all suits, actions, legal or administrative proceedings, claims, demands, attorneys fees, cost and expenses arising from providing the Services hereunder. BOULDER CITY's aforesaid indemnity obligation or portions or applications thereof shall apply to the fullest extent permitted by law, excepting liability resulting from the negligence or willful misconduct of HENDERSON or anyone acting under its direction or control or on its behalf in connection with or incident to the performance of this Agreement. Notwithstanding the foregoing, BOULDER CITY does not waive and intends to assert all available NRS Chapter 41 liability limitations.

8. Termination for Default: Failure of either Party to perform any material obligation of this Agreement that has not been cured within thirty (30) days, or if cure is not possible within thirty (30) days the Party shall have commenced and continuously works to cure any failure to perform, shall be deemed a breach of this Agreement, and shall entitle the non-breaching Party to immediately terminate this Agreement. Termination shall not relieve or excuse any payments due or to become due for Services provided by HENDERSON to BOULDER CITY prior to the date of termination, which amounts shall remain due and payable.

9. No Waiver: Failure to declare a breach or the actual waiver of any particular breach of the Agreement 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, including another breach of the same provision.

10. Limitation of Liability: Neither Party waives and each intends to assert available statutory limitations in all cases, including, without limitation, the provisions of Nevada Revised Statutes Chapter 41. Agreement liability of both Parties shall not be subject to punitive damages.

11. Notices: All notices or other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by email, facsimile with simultaneous regular mail, or by certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other Party at the address set forth below:

FOR BOULDER CITY: Gary Poindexter, Director Public Works
City of Boulder City
Address: 401 California Ave.
Boulder City, NV 89005
Phone: (702) 293-9442
Email: gpoindexter@bcnv.org

FOR HENDERSON: Lance M. Olson, PE, Director Public Works
City of Henderson
Mailing:
P.O. Box 95050
Henderson, NV 89009-5050
Physical:
240 Water Street
Henderson, NV 89015
Phone: (702) 267-3030
Fax: (702) 267-1301
E-mail: Lance.Olson@cityofhenderson.com

12. Severability: The illegality or invalidity of any provision or portion of this Agreement shall not affect the validity of the remainder of the Agreement, and this Agreement shall be construed as if such provision did not exist. The unenforceability of such provision or provisions shall not be held to render any other provision or provisions of this Agreement unenforceable.

13. Assignment; Subleasing: Neither Party shall assign, transfer, or delegate any rights, obligations, or duties under this Agreement without the prior written consent of the other Party. Except as otherwise provided by this Agreement, all or any property presently owned by either Party shall remain in such ownership upon termination of this Agreement, and there shall be no transfer of property between the Parties during the course of this Agreement.

14. Non-liability of Officials and Employees: No official or employee of a Party hereto shall be personally liable for any default or breach by any Party hereto, for any amount, which may become due hereunder, or for any obligation under the terms of the Contract.

15. Amendments: This Agreement may not be amended or modified except by written instrument, duly authorized by the Party's governing body and executed by the authorized representatives of each Party hereto. Any other attempt at modification, amendment or extension of this Agreement shall have no force or effect and shall not be relied upon by any of the Parties.

16. Public Records: Pursuant to NRS Chapter 239, information or documents may be open to public inspection and copying. The Parties will have the duty to disclose unless a particular record is confidential by law or a common law balancing of interests.

17. Confidentiality: Each Party shall keep confidential all information, in whatever form, produced, prepared, observed, or received by that Party to the extent that such information is confidential by law or otherwise required by this Agreement.

18. Authority: The Parties hereto represent and warrant that the person executing this Agreement on behalf of each Party has full power and authority to enter into this Agreement, and that the Parties are authorized by law to perform the Services set forth herein.

19. Choice of Law; Venue: This Agreement and the rights and obligations of the Parties hereto shall be governed by, and construed according to, the laws of the State of Nevada.

The Parties consent to the exclusive jurisdiction of the Nevada state district courts for enforcement of this Agreement. Venue for any action shall be in the Eighth Judicial District Court, Clark County, Nevada.

20. No Third-Party Beneficiary: It is specifically agreed between the Parties executing this Agreement that it is not intended by any of the provisions of any part of this Agreement to create in the public or any member thereof a third-party beneficiary status hereunder, or to authorize anyone not a Party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement.

21. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute but one and the same instrument. Executed copies hereof may be delivered by e-mail and upon receipt will be deemed originals and binding upon the Parties, regardless of whether originals are delivered thereafter.

22. Headings; Exhibits; Cross-References: The headings and captions used in this Agreement are for convenience and ease of reference only and shall not be used to construe, interpret, expand, or limit the terms of this Agreement. All exhibits attached to this Agreement and the recitals at the front of this Agreement are incorporated herein by the references thereto contained herein. Any term used in an exhibit hereto shall have the same meaning as in this Agreement unless otherwise defined in such exhibit. All references in this Agreement to sections and exhibits shall be to sections and exhibits of or to this Agreement, unless otherwise specified.

23. Entire Agreement: This Agreement constitutes the entire agreement of the Parties and is intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Agreement specifically displays a mutual intent to amend a particular part of this Agreement, general conflicts in language between any such attachment and this Agreement shall be construed consistent with the terms of this Agreement. Unless otherwise expressly authorized by the terms of this Agreement, no modification or amendment to this Agreement shall be binding upon the Parties unless the same is in writing and signed by the respective Parties hereto.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year first above written.

CITY OF BOULDER CITY
CLARK COUNTY, NEVADA

ATTEST:

Michael Mays
Acting City Manager

Tami McKay
City Clerk

APPROVED AS TO FORM:

Brittany Lee Walker, Esq.
City Attorney

CITY OF HENDERSON
CLARK COUNTY, NEVADA

Stephanie Garcia-Vause, ICMA-CM, FAICP
City Manager/CEO

ATTEST:

Jose Luis Valdez, MMC
City Clerk

APPROVED AS TO FORM

Nicholas Vaskov CAO Review
City Attorney

APPROVED AS TO FUNDING

Maria Gamboa
Director of Finance

APPROVED BY DEPARTMENT

Lance M. Olson, PE,
Director of Public Works