

**AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES
RELATED TO A BANKING SERVICES RFP PROCESS**

This AGREEMENT FOR PROFESSIONAL SERVICES (“**AGREEMENT**”) is entered into this ____ day of _____, 2019 by and between PFM Asset Management LLC, whose address is 213 Market Street, Harrisburg, PA 17101, hereinafter referred to as the (“**CONSULTANT**”); and the City of Reno, a municipal corporation in the State of Nevada, whose address is One East First Street, Reno, Nevada 89501 and hereinafter referred to as the (“**CITY**”).

RECITALS

WHEREAS, CITY has had the same service provider since 2009; and

WHEREAS, it is prudent business practice to evaluate the provision of banking services to CITY from time to time to ensure CITY is receiving the best quality and most efficient services; and

WHEREAS, CONSULTANT possesses the necessary experience, sources of information, advice, assistance and facilities available to undertake certain duties and responsibilities and perform the services of RFP development and evaluation related to banking services needed by CITY; and

WHEREAS, CITY desires to retain the services of CONSULTANT and CONSULTANT is willing to provide such services.

NOW, THEREFORE, in consideration of the aforesaid recitals, which are incorporated by reference into this AGREEMENT, the parties mutually agree as follows:

**ARTICLE I
SCOPE OF SERVICES TO BE PERFORMED BY CONSULTANT**

1.1 Specific Services: CONSULTANT agrees to provide services and deliverables as described in the *Scope of Services* attached herein as Attachment A. However, should any term and condition in Attachment A contradict a term of this Agreement, the terms and conditions of this Agreement shall control.

1.2 Changes of Scope of Work: No substantial changes to the scope of services may be made without prior written approval of both CITY and CONSULTANT.

1.3 Principal-in-Charge: It is agreed and understood by CITY and CONSULTANT that CONSULTANT will be the principal in charge of the work as described in Attachment A. Any changes to the principal-in-charge shall be subject to written approval by the CITY.

**ARTICLE II
TERM OF AGREEMENT**

2.1 Term of Agreement: This AGREEMENT shall be effective commencing as of the date this agreement is executed until deliverables have been accepted by the CITY, unless otherwise terminated or extended.

ARTICLE III COMPENSATION TERMS AND CONDITIONS

3.1 Compensation: The fee for financial advisory services shall be as stated in CONSULTANT'S compensation proposal and are provided in the CONSULTANT'S *Fee Schedule* attached herein as Attachment B and shall not exceed fifty thousand dollars (\$50,000).

In addition, if events or circumstances are encountered that result in a modification to the scope of the engagement and cost adjustments need to be considered, any proposed cost adjustments will be discussed in detail and negotiated with the City's Director of Finance and subject to final approval by the City's Director of Finance. However, certain proposed cost adjustments may be subject to City Council final approval.

3.2 Method of Payment: CONSULTANT will bill CITY for services performed under this AGREEMENT. Said bill shall include a statement indicating the basis upon which the fee was calculated. CITY shall pay CONSULTANT the amount payable pursuant to this AGREEMENT not later than 30 days after receipt of the invoice.

ARTICLE IV OBLIGATIONS OF CITY

4.1 CITY Responsibilities: Unless otherwise specified in this AGREEMENT, the CITY shall be responsible for providing information related to current banking services being provided and any additional information needed for a successful request for proposal process and selection of a qualified vendor. CITY staff shall coordinate internal and external meetings as requested.

4.2 City Principal Contact: The CITY shall designate in writing a staff person to act as the CITY's principal contact with respect to the CONSULTANT for services to be performed under this AGREEMENT, and such person shall have complete authority to transmit instructions, receive information, interpret and define the CITY'S policies and decisions with respect to services covered by this AGREEMENT.

4.3 Special Services: No additional services shall be performed and no additional compensation shall be permitted without a City approved written supplemental agreement. This supplemental agreement must be approved by the City's Finance Director, City Manager or City Council depending on the signatory authority required. Further, such supplemental agreement must be executed prior to the commencement or performance of any additional work.

ARTICLE V
OBLIGATIONS OF CONSULTANT

5.1 Performance: CONSULTANT agrees to devote the time necessary to complete performance of the above described services covered under this AGREEMENT. CONSULTANT is not precluded hereunder from representing or performing services for and being employed by other persons or companies, provided that such services do not create a conflict of interest relative to the CITY.

5.2 Assignment: Neither this Agreement nor any duties or obligations, including the right to receive payment, under this Agreement may be assigned by CONSULTANT without the prior consent of the CITY.

5.3 Compliance: CONSULTANT shall, at their own expense, obtain and pay for all licenses, permits or fees and agree to observe and comply with all applicable federal, state and local laws, rules and regulations, including but not limited to, compliance with State of Nevada Workers' Compensation laws and CITY of Reno business license requirements.

5.4 Independent Contractor: The parties understand and agree that CONSULTANT is an independent contractor as recognized under Nevada law. Accordingly, with respect to the CONSULTANT, the CITY will NOT:

- (a) Withhold any income taxes;
- (b) Provide workers' compensation coverage;
- (c) Provide group insurance plans which may be available to CITY employees;
- (d) Participate or contribute by either the independent contractor or the CITY to the public employees' retirement system;
- (e) Provide for vacation leave or sick leave; or
- (f) Approve or authorize unemployment compensation coverage.

5.5 Worker's Compensation Insurance: As required by the laws of the State of Nevada, Consultant shall carry during the term of this AGREEMENT, Worker's Compensation Insurance under the laws of the State of Nevada, to cover any compensable injuries or diseases arising during the performance of this AGREEMENT. Specifically, Consultant shall comply with the provisions of NRS Chapters 616A, 616B, 616C regarding Industrial Insurance, and NRS Chapters 617 and 618 regarding Occupational Diseases, Safety and Health.

5.6 Insurance: CONSULTANT shall maintain comprehensive general liability coverage for limits of not less than one million dollars (\$1,000,000) for bodily injury and property damages, per occurrence during the term of this Agreement. The City to be an additional insured with thirty (30) day notice of termination requirement for reasons other than non-payment of premium and at least ten (10) days for non-payment of premium. Automobile coverage of no less than \$1,000,000 combined single limit per accident for bodily injury and property damage. No aggregate limit may apply. CONSULTANT shall also maintain during the term of this Agreement professional liability insurance in the amount of not less than Two

Million Dollars (\$2,000,000.00) per claim and Four Million Dollars (\$4,000,000) aggregate. As evidence of insurance coverage, the CITY will accept certification of insurance by an authorized representative of the insurance carrier. Each certificate will bear a thirty (30) day written notice of cancellation to the CITY for reasons other than non-payment of premium and at least ten (10) days for non-payment of premium. Certificates of insurance should be delivered to the office of the Risk Manager c/o Reno City Attorney's Office, at; 1 E. 1st Street, Reno, NV 89501, or mailed to: P.O. Box 1900, Reno, NV 89505.

ARTICLE VI TERMINATION OF AGREEMENT AND SERVICES

6.1 Notice and Termination: This Agreement and all services to be rendered hereunder may be terminated at any time upon thirty (30) days written notice from either party. In such event, all finished and unfinished documents, project data and reports shall become CITY property and shall be delivered to it or to any party it may designate. In the event of such termination, CONSULTANT shall be paid for the work actually performed prior to the effective date of termination, plus any agreed on work required for closing the services.

6.2 Cancellation may occur in the event the type, quality and/or work is unsatisfactory to the City of Reno. In the event CONSULTANT does not perform in an acceptable and/or satisfactory manner or is in default for whatever reason, the City of Reno reserves the right to cancel the Agreement and to procure the product(s) or service from other sources and hold the contractor responsible for any excess cost occasioned thereby.

6.3 In the event CONSULTANT shall default or is terminated for default, they shall be recommended to the Reno City Council, for debarment from doing business with the City of Reno for at least one (1) year after the termination of the term of the defaulted agreement.

6.4 In the event the City of Reno fails to obligate requisite funds for the ensuing fiscal year(s) for payment of amounts due against this Agreement, necessitating cancellation of this Agreement, CONSULTANT shall agree to hold the City of Reno free from any charge or penalty.

ARTICLE VII GENERAL PROVISIONS

7.1 Entire Agreement: This AGREEMENT supersedes any and all agreements, either oral or written between the parties hereto with respect to rendering of services by CONSULTANT for the CITY and contains all of the covenants and agreements between the parties with respect to the rendering of such services in any manner whatsoever. Each party of this AGREEMENT acknowledges that no representation, inducements, promises, or agreements orally or otherwise have been made by any party that are not embodied herein, and that no other agreement, statement or promise not contained in this AGREEMENT shall be valid or binding. Any modification of this AGREEMENT will be effective only if it is in writing and signed by the parties to this AGREEMENT.

7.2 Non-Discrimination Policy: CONSULTANT shall not discriminate in the employment of persons to work under this AGREEMENT on the basis of age, color, creed, marital status, national origin, physical disability, political affiliation, race, religion, veteran status, sex, gender identity, gender expression or sexual orientation of such person or any other protected class status applicable under federal, state or local law, rule or regulation. Any violation of this provision shall constitute a material breach of contract.

7.3 Approvals. Whenever this AGREEMENT calls for CITY approval, consent, or waiver, the written approval, consent, or waiver of the CITY's Director of Finance shall constitute the approval, consent, or waiver of the CITY, without further authorization required from the City Council. Where this AGREEMENT specifically refers to City Council, then City Council approval, consent or waiver is required. The CITY hereby authorizes the foregoing persons to deliver such approvals or consents as are required by this AGREEMENT, or to waive requirements under this AGREEMENT, on behalf of the CITY.

7.4 Waiver: The waiver by either party of a breach or violation of any provision of this AGREEMENT will not operate as or be construed to be a waiver of any subsequent breach thereof.

7.5 Force Majeure: CONSULTANT shall have no liability for any losses arising out of delays in performing or inability to perform the services which it renders under this AGREEMENT which results from events beyond its control, including interruption of business activities of CONSULTANT or other financial institutions due to acts of God, acts of government authority, acts of war, terrorism, civil insurrection, riots, labor difficulties, or any action or inaction of any carrier or utility, or mechanical or other malfunction.

7.6 Records: CONSULTANT'S books, documents, papers and records ("Records") specifically relating to this AGREEMENT shall be open for inspection and subject to audit, examination, excerpts and transactions, during working hours by the CITY, Reno City Attorney, the City's Finance Department, or any of their duly authorized representatives at the expense of the CITY. CONSULTANT shall maintain all Records for six (6) years after the date of final payment and close of all other pending matters.

7.7 Indemnification:

- (a) To the fullest extent permitted by law, CONSULTANT shall assume the defense of, indemnify and hold harmless the CITY and its officers, agents, employees, and volunteers (collectively "Indemnitees") from and against any claim, loss, damage, injury (including, without limitation, injury to or death of an employee of the CONSULTANT or its sub-consultants) and liability of every kind, nature and description (including without limitation, attorneys' fees, reasonable costs of litigation, and other applicable losses) that arise directly from: (1) the negligent or intentionally wrongful performance of the services under this Agreement, or any part thereof, (2) any negligent or intentionally wrongful act or omission of CONSULTANT, and sub-consultants to the CONSULTANT, anyone employed by it, agents of

CONSULTANT, or anyone performing the services hereunder that CONSULTANT controls (collectively “Liabilities”), even if such Liabilities are caused in part by the negligence of any indemnitee, subject to the provisions set forth below in this section.

- (b) CONSULTANT assumes no liability for the sole negligence or willful misconduct of Indemnitees.
- (c) CONSULTANT’s indemnification obligations for claims involving “Professional Liability” (claims involving acts, error, or omissions in the rendering of professional services) and “Economic Loss Only” (claims involving economic loss which are not connected with bodily injury or physical damage to property) shall be limited to the proportionate extent of Consultant’s negligence or other breach of duty.
- (d) Any and all Federal, State and local taxes, charges, fees, or contributions required by law to be paid with respect to CONSULTANT’s performance of this AGREEMENT (including, without limitation, unemployment insurance, social security, business license taxes, and income taxes) shall be CONSULTANT’s sole liability.

7.9 Governing Law: This AGREEMENT shall be administered and interpreted under the laws of the State of Nevada. If any part of this AGREEMENT is found to be in conflict with applicable laws, such part shall be inoperative, null and void insofar as it is in conflict with said laws, but the remainder of this AGREEMENT shall be in full force and effect. Any action at law, suit or equity or judicial proceeding for the enforcement of this AGREEMENT or any provision thereof shall be instituted in a court of competent jurisdiction located in Washoe County, Nevada.

7.10 Drafting: This AGREEMENT shall not be construed for or against a party by virtue of which party drafted the terms and conditions of this AGREEMENT. This AGREEMENT shall be construed and interpreted under the laws of the State of Nevada.

7.11 Arbitration: Any controversy or claim arising out of or relating to this AGREEMENT, or the breach thereof, provided both parties agree, may be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association and judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof.

7.12 Limited Liability: The parties will not waive and intend to assert available defenses and limitations contained in Chapter 41 of the Nevada Revised Statutes. Contract liability of both parties shall not be subject to punitive damages. Actual damages for any CITY breach shall never exceed the amount of funds which have been appropriated for payment under this AGREEMENT, but not yet paid, for the fiscal year budget in existence at the time of the breach.

7.13 Bankruptcy: In the event either party applies for or consents to the appointment

of a receiver, trustee, or liquidator of itself or of all or a substantial part of its assets, files a voluntary petition in bankruptcy, admits in writing its inability to pay its debts as they become due, make a general assignment for the benefit of creditors, files a petition or an answer in seeking a reorganization or arrangement with creditors or, as a debtor, invoke or takes advantage of the provisions of any insolvency law, including without limitation any provision of the United States Bankruptcy Act, or any proceeding in any court is instituted seeking to adjudicate either party as a debtor, bankrupt or insolvent, and the same shall not be dismissed or discharged within thirty (30) days after notice thereof given to the appropriate party, the other party may by unilateral notice terminate this AGREEMENT effective on any future date specified in such notice.

7.14 Notices: All notices, requests, demands and other communications which are required or permitted to be given under this AGREEMENT shall be in writing and shall be deemed to have been duly given upon the delivery by registered mail, certified mail, return receipt requested, or Federal Express, as follows:

CITY: CITY OF RENO
Deborah Lauchner, Director of Finance
One East First Street, 9th Floor
Reno, Nevada 89501

With copy to: Reno City Attorney
P.O. Box 1900
Reno, Nevada 89505

CONSULTANT: PFM Asset Mangement LLC
Attention: David Calvert, Director
213 Market Street
Harrisburg, PA 17101

A change in the designation of the person or address to which submittals, requests, notices and reports shall be delivered is effective when the other party has received notice of the change by certified mail.

7.15 Severability: The invalidity in whole or in part of any provision of this AGREEMENT shall not void or affect the validity of any other provision.

7.16 Authorization to Sign: The parties hereby warrant that the persons executing this AGREEMENT are authorized to execute this AGREEMENT and are authorized to obligate the respective parties to perform this AGREEMENT.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be signed and intend to be legally bound thereby.

Executed on this _____ day of _____, 2019.

CITY:

CITY OF RENO, NEVADA

CONSULTANT:

PFM Asset Management LLC

By: Sabra Newby, City Manager

By:
Title:
Address: 213 Market Street
Harrisburg, PA 17101

APPROVED AS TO LEGAL FORM:

Deputy City Attorney