

Assessor's Parcel Number: N/A

Date: OCTOBER 19, 2016

Recording Requested By:

Name: NIKKI SCHMIDT, PUBLIC WORKS  
(RR)

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Real Property Transfer Tax: \$ N/A



00044796201608893730110112

KAREN ELLISON, RECORDER

CONTRACT #2016.247

(Title of Document)

# CONTRACT FOR SERVICES BY AN INDEPENDENT CONTRACTOR

A CONTRACT BETWEEN

**DOUGLAS COUNTY, NEVADA**

AND

**KLEINFELDER**

FILED  
NO. 2016-0227  
2016 OCT 19 AM 11:48  
DOUGLAS COUNTY  
CLERK  
*[Signature]*

This Contract for Services by an Independent Contractor (the "Contract") is entered into by and between Douglas County, a political subdivision of the State of Nevada, through the Board of County Commissioners (the "County"), and Kleinfelder, a California corporation ("Contractor"). The County and Contractor are at times collectively referred to hereinafter as the "Parties" or individually as the "Party."

**WHEREAS**, Douglas County, a political subdivision of the State of Nevada, from time to time requires the services of independent contractors; and

**WHEREAS**, it is deemed that the services of Contractor herein specified are both necessary and desirable and in the best interests of Douglas County; and

**WHEREAS**, Contractor represents that Contractor is duly qualified, equipped, staffed, ready, willing and able to perform and render the services hereinafter described.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants herein made, the County and Contractor mutually agree as follows:

**1. TERM AND EFFECTIVE DATE OF CONTRACT.** The Contract will become effective on the date it is approved and signed by representatives of both Parties. Time is of essence for performance of the professional services described herein and all tasks must be completed by Tuesday, February 28, 2017.

**2. INDEPENDENT CONTRACTOR STATUS.** The Parties agree Contractor will have the status of an independent contractor and that the Contract, by explicit agreement of the Parties, incorporates and applies the provisions of NRS 333.700, as necessarily adapted to the Parties, including the express understanding that Contractor is not an employee of the County and that:

There shall be no:

- (1) Withholding of income taxes by the County;
- (2) Industrial insurance coverage provided by the County;
- (3) Participation in group insurance plans which may be available to employees of the County;

- (4) Participation or contributions by either the Contractor or the County to the public employee's retirement system;
- (5) Accumulation of vacation leave or sick leave; and
- (6) Unemployment compensation coverage provided by the County if the requirements of NRS 612.085 for independent contractors are met.

**3. INDUSTRIAL INSURANCE.** Contractor further agrees that, prior to the commencement of any work and as a precondition to any obligation of the County to make any payment under the Contract, Contractor will provide the County with a work certificate and/or a certificate issued by a qualified insurer in accordance with NRS 616B.627. Contractor also agrees that, prior to commencing any work under the Contract, Contractor will complete and provide evidence to the County that Contractor has made the following written request to Contractor's insurer:

Kleinfelder has entered into a contract with Douglas County to perform work through Tuesday, February 28, 2017 and requests that an authorized insurer provide to Douglas County: (1) A certificate of coverage issued pursuant to NRS 616B.627 and (2) Notice of any lapse in coverage or nonpayment of coverage that the Contractor is required to maintain.

The certificate and notice should be mailed to:

Douglas County  
Public Works Department  
Post Office Box 218  
Minden, Nevada 89423

Contractor agrees to maintain all required workers' compensation coverage throughout the entire term of the Contract. If Contractor does not maintain the required coverage throughout the entire term of the Contract, Contractor agrees that the County may, at any time the coverage is not maintained by Contractor, order the Contractor to stop work, suspend the Contract, or terminate the Contract at the sole discretion of the County. For each six-month period this Contract is in effect, Contractor agrees, prior to the expiration of the six-month period, to provide another written request to the insurer for the provision of a certificate and notice of lapse in, or nonpayment of, insurance coverage. If Contractor does not make the request or does not provide the certificate before the expiration of the six-month period, Contractor agrees that the County may order the Contractor to stop work, suspend the Contract, or terminate the Contract at the sole discretion of the County.

**4. SERVICES TO BE PERFORMED.** The Parties agree that the Contractor will perform the following:

Civil engineering design services for the repair of embankment slope erosion at the Douglas County North Valley Wastewater Treatment Plant including, but not limited to, wind and wave analysis, preparation of plans and contract documents for bidding, and coordination with the Nevada Division of Environmental Protection as described in the tasks shown in Exhibit "A."

**5. PAYMENT FOR SERVICES.** Contractor agrees to provide the services set forth in Paragraph 4 on a time and materials cost not to exceed Forty-eight Thousand and Four-hundred and Fifty Dollars (\$48,450) (the "Contract Price"). Unless Contractor has received a written exemption from the County, Contractor shall submit monthly requests for payment for services performed under this Contract. Requests for payment shall be submitted no later than fifteen (15) days after the end of a month and must include a detailed summary of the expenditures reported in a form that supports the approved budget. Specifically, Contractor agrees to provide with each request for payment a schedule of actual expenditures for the period, cumulative total expenditures for the entire contract, and a comparison of cumulative total expenditures to the maximum expected fee for the services and tasks set forth in Paragraph 4.

**6. TERMINATION OF CONTRACT.** Either Party may terminate the Contract if either Party fails to correct any breach of the terms of the Contract within 30 days after receiving notice of such breach and having been given a reasonable opportunity to cure the breach.

**7. NON-APPROPRIATION.** All payments required pursuant to the Contract are contingent upon the availability of County funds. In accordance with NRS 354.626 and any other applicable provision of law, the financial obligations between the Parties will not exceed those monies appropriated and approved by the County for the Contract for the then current fiscal year under the Local Government Budget Act. The Contract will terminate and the County's obligations will be extinguished if the County fails to appropriate the necessary funding.

Nothing in the Contract will be construed to provide Contractor with a right of payment from any entity other than the County. Any funds budgeted by the County pursuant to the terms of the Contract that are not paid to Contractor will automatically revert to the County's discretionary control upon the completion, termination, or cancellation of the Contract. The County will not have any obligation to re-award or to provide, in any manner, the unexpended funds to Contractor. Contractor will have no claim of any sort to the unexpended funds.

**8. CONSTRUCTION OF CONTRACT.** The Contract will be construed and interpreted according to the laws of the State of Nevada. There will be no presumption for or against the drafter in interpreting or enforcing the Contract. In the event a dispute arises between the Parties, the Parties promise and agree to first meet and confer to resolve any dispute. If such meeting does not resolve the dispute, then the Parties agree to mediate any dispute arising from or relating to the Contract before an independent mediator mutually agreed to by the parties. The fee, rate or charge of the mediator will be shared equally by the Parties, who will otherwise be responsible for their own attorney's fees and costs. If mediation is unsuccessful, litigation may only proceed before a department of the Ninth Judicial Court of the State of Nevada in and for the County of Douglas that was not involved in the mediation process and attorney's fees and costs will be awarded to the prevailing party at the discretion of the court.

**9. COMPLIANCE WITH APPLICABLE LAWS.** Contractor promises and agrees to fully and completely comply with all applicable local, state and federal laws, regulations, orders, or requirements of any sort in carrying out the obligations of the Contract, including, but not limited to, all federal, state, and local accounting procedures and requirements, all hazardous materials regulations, and all immigration and naturalization laws.

**10. ASSIGNMENT.** Contractor will neither assign, transfer nor delegate any rights, obligations or duties under the Contract without the prior written consent of the County.

**11. COUNTY INSPECTION.** The books, records, documents and accounting procedures and practices of Contractor related to the Contract will be subject to inspection, examination and audit by the County, including, but not limited to, the contracting agency, the County Manager, the District Attorney, and, if applicable, the Comptroller General of the United States, or any authorized representative of those entities.

**12. DISPOSITION OF CONTRACT MATERIALS.** Any books, reports, studies, photographs, negatives or other documents, data, drawings or other materials prepared by or supplied to Contractor in the performance of its obligations under the Contract (the "Materials") will be the exclusive property of the County and all such materials will be remitted and delivered, at Contractor's expense, to the County by Contractor upon the completion, termination or cancellation of the contract. Alternatively, if the County provides its written approval to Contractor, the Materials must be retained by Contractor for a minimum of six years after Contractor's receipt of the final payment from County and all other pending matters are closed. If, at any time during the retention period, the County, in writing, requests any or all of the Materials, then Contractor will promptly remit and deliver the materials, at Contractor's expense, to the County. Unless the County has requested the remittance and delivery by Contractor of the Materials, Contractor will not use, willingly allow or cause to have such Materials used for any purpose other than the performance of Contractor's obligations under the terms of the Contract without the prior written consent of the County. The Materials are not intended to be suitable for re-use by the County or others on extensions of the project or any other project. Any re-use, without the prior written verification or adaptation by the Contractor for the specific purpose intended, will be at the County's sole risk and without liability or legal exposure to the Contractor.

**13. PUBLIC RECORDS LAW.** Contractor expressly understands and agrees that all documents submitted, filed, or deposited with the County by Contractor, unless designated as confidential by a specific statute of the State of Nevada, will be treated as public records pursuant to NRS chapter 239 and shall be available for inspection and copying by any person, as defined in NRS 0.039, or any governmental entity. Contractor expressly and indefinitely waives all of its rights to bring, including but not limited to, by way complaint, interpleader, intervention, or any third party practice, any claims, demands, suits, actions, judgments, or executions, for damages or any other relief, in any administrative or judicial forum, against the County or any of its officers or employees, in either their official or individual capacity, for violations of or infringement of the copyright laws of the United States or of any other nation.

**14. INDEMNIFICATION.** Contractor agrees to indemnify, and save and hold the County, its agents and employees harmless from any and all claims, causes of action or liability to the proportionate extent caused by or resulting from Contractor's negligent performance of the Services pursuant to the terms of the Contract by Contractor or Contractor's agents or employees. Contractor's obligation to indemnify and defend County shall be contingent upon a judicial finding of professional negligence on the part of Contractor, and in proportion to the degree to which such negligence has contributed to the total damages.

**15. MODIFICATION OF CONTRACT.** The Contract and the attached exhibits constitute the entire agreement and understanding between the Parties and may only be modified by a written amendment signed by both of the Parties.

**16. AUTHORITY.** The Parties represent and warrant that they have the authority to enter into this agreement.

**17. STANDARD OF CARE.** Contractor will perform all services in a manner consistent with that level of care and skill ordinarily exercised by other members of Contractor's profession currently practicing in the same locality under similar conditions.

**18. WAIVER OF LIEN.** Contractor understands and agrees that the services it will render to the County are not intended for the improvement of real property or to otherwise grant any rights to Contractor pursuant to NRS chapter 108.

**19. THIRD PARTY BENEFICIARY.** Nothing contained in this Agreement is intended to convey any rights or to create a contractual relationship with any third party or to otherwise allow a third party to assert a cause of action against either Contractor or County.

**20. NOTICES.** All notices, requests, demands and other communications hereunder must be in writing and will be deemed delivered when sent via certified mail, return receipt requested or by commercial courier, provided the courier's regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following the courier's receipt from the sender, addressed as follows (or any other address that the Party to be notified may have designated to the sender by like notice):

**To County:** Douglas County  
Attn: Public Works Director  
1120 Airport Road, F2  
Post Office Box 218  
Minden, Nevada 89423  
Telephone: (775) 782-6227

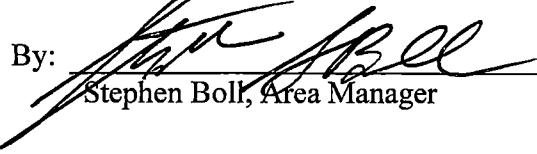
**To Contractor:** Kleinfelder  
Attn: Stephen Boll, Area Manager  
2882 Prospect Park Dr., Suite 200  
Rancho Cordova, CA 95670  
Telephone: 916-366-1701

**21. CONFLICT OF INTEREST.** By signing the Contract, Contractor agrees that any information obtained from Douglas County, in whatever form, will not be divulged to other competing interests without the permission of the County Manager. In the event of a breach of this provision, Douglas County may immediately withdraw, without penalty or any payment, from the Contract. Contractor must notify Douglas County of any other contracts or projects Contractor is working on that may impact Douglas County.




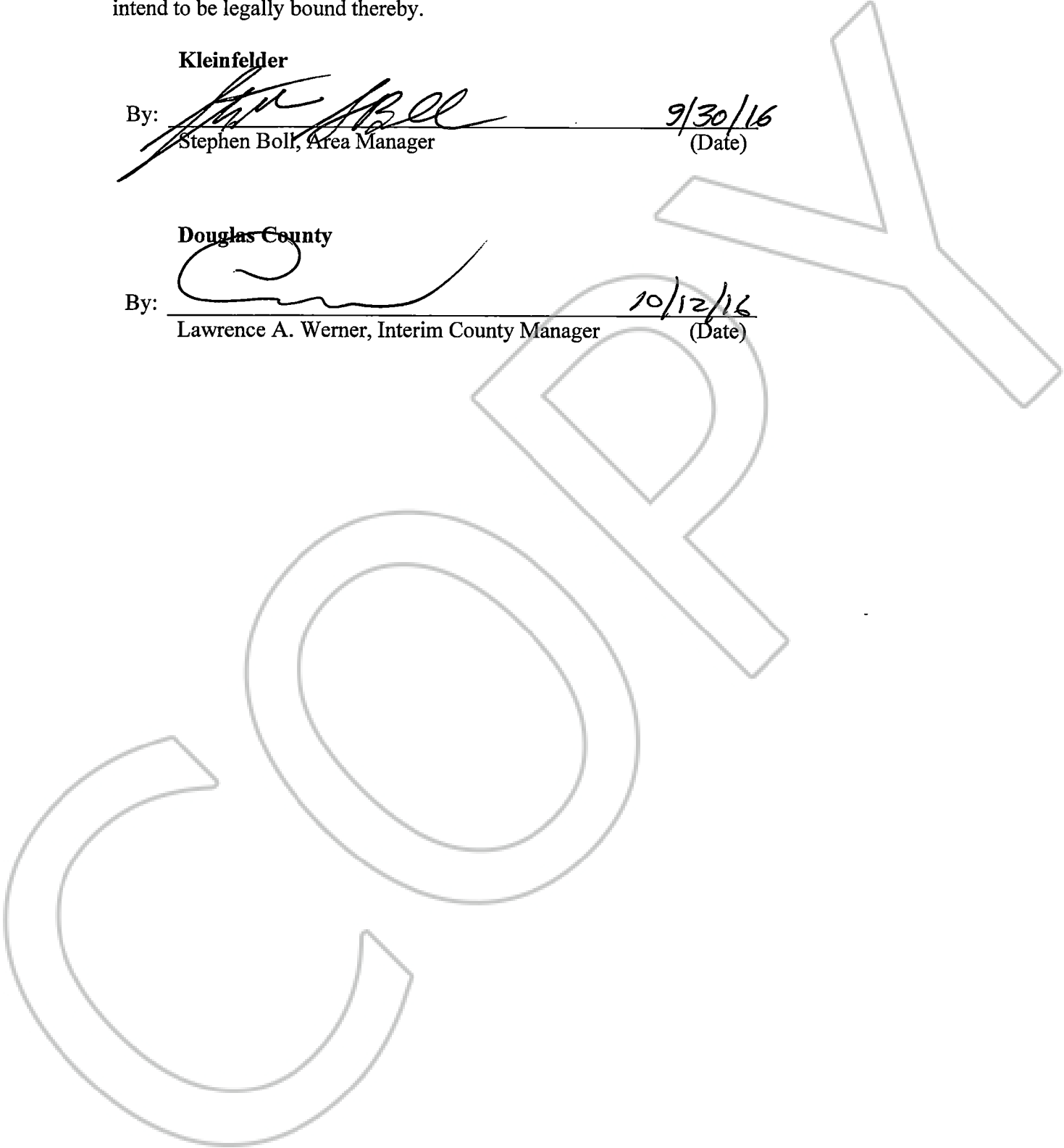
**IN WITNESS WHEREOF**, the Parties hereto have caused the Contract to be signed and intend to be legally bound thereby.

**Kleinfelder**

By:  9/30/16  
Stephen Boll, Area Manager (Date)

**Douglas County**

By:  10/12/16  
Lawrence A. Werner, Interim County Manager (Date)





August 8, 2016  
File No.: 20162778

Ron Roman  
Douglas County Public Works  
1120 Airport Road, Building F-2  
Minden, NV 89423  
Email: RRoman@douglas.nv.us

**SUBJECT: Proposal for Civil Engineering Design Services  
Effluent Storage Pond Embankment Slope Repair  
North Valley Waste Water Treatment Plant  
Douglas County, Nevada**

Dear Mr. Roman:

As requested, Kleinfelder has prepared this proposal to provide civil engineering design services related to the evaluation of the embankment slope erosion experienced at the effluent storage pond at the North Valley WWTP. Kleinfelder is currently providing services to Douglas County Public Works for this project. This proposal is in addition to our proposal dated September 24, 2015 for the project. A draft report for the project was prepared on February 12, 2016.

As requested, Kleinfelder will perform following scope of services.

**Task 5: Wind and Wave Analysis**

Kleinfelder will calculate wave run-up and setup, which gives the height up the slope of an impinging wave. Since this is a pond, US Corps of Engineers shallow water methods would be used. The resulting calculation gives the freeboard required for a given wind speed. The analysis is normally performed for design wind speed and sustained wind speed and does not include wind gusts. We will look at three wind speeds (50 mph, 75 mph, and 100 mph) and calculate freeboard based on wave height against the embankment. The wave set up and run-up are then combined to equal the freeboard.

It is understood that the pond currently has a freeboard of three feet. Based on the calculated freeboard, Kleinfelder will provide options to remediate freeboard if the wind and wave analysis indicates the existing freeboard may be exceeded. These options will be reviewed with the County. The selected option will be incorporated in the design plan set.

The estimated fee for this task is \$10,060. This task is anticipated to require three weeks.

**Task 6: Plans and Specifications for Bidding**

Kleinfelder will prepare plans that will include specifications for contractors to bid on the repair



outlined in Kleinfelder's Waterside Slope Repair report.

It is understood that the County will provide a set of drafting standards and general notes for inclusion on the plans. We anticipate preparing the following plan sheets.

- Title Page
- General Notes
- Repair Plan, Notes, and Details
- Repair Plan, Notes, and Details
- Specifications, Table of Contents, technical specifications, bid schedule, front end assumed by client

A 90% set of plans will be prepared for review by the County. After receipt of comments, a 100% plan set will be prepared.

Kleinfelder will also prepare contract documents. This proposal assumes Douglas County will provide a copy of their standard contract documents for Kleinfelder to use.

The estimated fee for this task is \$30,100. This task is anticipated to require three weeks for 90% plans and 2 weeks after receipt of comments for 100% plans.

**Task 7: NDEP Coordination and Comment Response**

Kleinfelder will submit final plans and specifications to Nevada Department of Environmental Protection (NDEP). Kleinfelder will respond to NDEP comments and resubmit plans and specifications with said comments addressed. This proposal includes time for one meeting with NDEP, if necessary.

The estimated fee for this task is \$8,290.

**ESTIMATED FEES**

We propose our services be compensated on a time and materials basis based on the fees currently in use for this project. For the scope of work outlined above, our fee is estimated to be as follows:

**Table 1: Cost Estimate**

Task	Fee
Task 5: Wind and Wave Analysis	\$10,060
Task 6: Plans and Specifications for Bidding	\$30,100
Task 7: NDEP Coordination and Comment Response	\$8,290
<b>Total</b>	<b>\$48,450</b>

**AUTHORIZATION**

We understand this work will be performed as under a Douglas County professional services agreement. It is understood that this agreement will be similar as recent agreements between Douglas County and Kleinfelder.

**CLOSING**

This proposal is subject to the limitations contained in the referenced proposal. Kleinfelder appreciates the opportunity to be of service to Douglas County and looks forward to continuing working with you on this project. If you have any questions or require additional information, please contact us at (916) 366-1701.

Sincerely,

**KLEINFELDER, INC.**



Edward Matthews, PE\*  
Principal Engineer  
\*Registered in California



Timothy A. Williams, PE\*  
Principal Geotechnical Engineer  
\*Registered in Nevada and California

**FEE SUMMARY**  
**DOUGLAS COUNTY WWTP POND LINER**

LABOR CATEGORY	Tim W	Ed, Brad									TOTAL HOURS	TASK LABOR FEE	TASK LAB FEE	TASK UNITS AND EXPENSES	TASK SUB-CONSULTANTS	TOTAL TASK FEE
	Principal	Principal	11 - Senior	10 - Project	9 - Staff	8 - Staff	7 - Project	6 -	8 - CADD	Administrat						
	1	1	1	1	1 II	1 I	Operator	or I	II							
Billing rate (\$/hr)	\$210.00	\$210.00	\$185.00	\$160.00	\$138.00	\$138.00	\$115.00	\$85.00	\$85.00							
Task : REVIEW EXISTING REPORT/PLANS	0	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0	\$0	\$0
Task : SITE VISIT	0	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0	\$0	\$0
Task : GEOTECH ANALYSIS	0	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0	\$0	\$0
Task : CONSULT/MEETINGS	0	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0	\$0	\$0
Task 5: REPORT/WAVE ANALYSIS	2	28	0	12	0	0	16	0	0	58	\$10,060	\$0	\$0	\$0	\$0	\$10,060
Task 6: POND LINER REPAIR PLANS	12	40	0	48	0	0	48	0	0	148	\$24,120	\$0	\$0	\$0	\$0	\$24,120
Task 7: Contract Document Preparation	2	8	0	20	0	0	0	8	0	38	\$5,980	\$0	\$0	\$0	\$0	\$5,980
Task 8: NDEP Coordination and Comment Response	4	20	0	16	0	0	6	0	0	46	\$8,290	\$0	\$0	\$0	\$0	\$8,290
Task 9	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0	\$0	\$0	\$0
Task 10	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0	\$0	\$0	\$0
<b>LABOR HOURS</b>	<b>20</b>	<b>96</b>	<b>0</b>	<b>96</b>	<b>0</b>	<b>0</b>	<b>70</b>	<b>8</b>	<b>0</b>	<b>290</b>						
<b>LABOR FEE</b>	<b>\$4,200</b>	<b>\$20,160</b>	<b>\$0</b>	<b>\$15,360</b>	<b>\$0</b>	<b>\$0</b>	<b>\$8,050</b>	<b>\$680</b>	<b>\$0</b>		<b>\$48,450</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$48,450</b>

Douglas County State of Nevada

CERTIFIED COPY

I certify that the document to which this certificate is attached is a full and correct copy of the original record on file in the Clerk-Treasurer's Office on this

10/27/2016

By *[Signature]* Deputy