

Assessor's Parcel Number: N/A

Date: JUNE 21, 2017

Recording Requested By:

Name: JEANE COX, COMMUNITY DEVELOPMENT

Address: _____

City/State/Zip: _____

Real Property Transfer Tax: \$ N/A



KAREN ELLISON, RECORDER

CONTRACT #2017.095
(Title of Document)

CONTRACT FOR SERVICES BY AN INDEPENDENT CONTRACTOR

A CONTRACT BETWEEN

DOUGLAS COUNTY

AND

R.O. ANDERSON ENGINEERING INC.

1603 ESMERALDA AVE
P.O. BOX 2229
MINDEN, NV 89423


DOUGLAS COUNTY
CLERK
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NO. 2017-093

FILED

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 R.O. Anderson Engineering Inc, a Nevada 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 personal 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 September 29, 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:

R.O. Anderson Engineering Inc. has entered into a contract with Douglas County to perform work from May, 2017 to September, 2017 and requests that the 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
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 personal services to be performed are as follows:

Submittal of a PDM/FMA Grant for the design and construction of the Smelter Creek Flood Mitigation Project. A more detailed scope may be found attached labeled "Exhibit A."

5. PAYMENT FOR SERVICES. Contractor agrees to provide the services set forth in Paragraph 4 at a cost not to exceed sixteen thousand three hundred and fifty dollars (\$16,350) (the "Contract Price"). In addition, the County does not agree to reimburse Contractor for travel expenses and per diem allowances. 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 by Contractor may only be made for reimbursement of actual cash disbursed by Contractor. 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 approved budget.

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 an opportunity to cure the breach.

7. NONAPPROPRIATION. 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. 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. The mediator and court will recognize any offers of judgment made by a Party pursuant to Nevada law.

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.

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, defend, and save and hold the County, its agents and employees harmless from any and all claims, causes of action or liability arising from or related to Contractor's performance pursuant to the terms of the Contract by Contractor or Contractor's agents or employees.

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: County Engineer
1594 Esmeralda Ave.
Post Office Box 218
Minden, Nevada 89423
Telephone: (775) 782-9063

To Contractor:

Robert O. Anderson
1603 Esmeralda Ave
P.O. Box 2229
Minden, NV 89423

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.

R.O. Anderson Engineering Inc.

By: Robert O. Anderson, P.E. 6-16-17 (Date)
Robert O. Anderson, P.E.
Owner

Douglas County

By: Lawrence Werner, P.E. 6/16/17 (Date)
Lawrence Werner, P.E.
County Manager, Douglas County

R O Anderson

May 17, 2017

EXHIBIT A

Via Email and Hand Delivery

Erik Nilssen, P.E., CFM, WRS, County Engineer
DOUGLAS COUNTY COMMUNITY DEVELOPMENT
1594 Esmeralda Avenue
Minden, NV 89423
Email: ENilssen@douglasnv.us

Smelter Creek Flood Mitigation Project Proposal for FEMA BCA Revisions and Preparation of PDM/FMA Grant Application

Dear Erik:

Thank you for the opportunity to submit this proposal to revise and resubmit the former Benefit-Cost Analysis (BCA) that was prepared and submitted last year as well as preparation of a FEMA PDM/FMA Grant Application for this project.

Background and Significance of Project

The purpose of the FEMA PDM/FMA Grant Application is to obtain funding for final design and construction of a regional flood control facility for this area of Douglas County. If successful, the primary objective of the project will be to design and construct flood control improvements that would function to remove 117 structures from the 100-year floodplain and 195 structures from the 500-year floodplain. When implemented, the burden of flood insurance on property owners in the area would be reduced, property values would increase, critical infrastructure would be protected, and the threat to public health and safety would be reasonably eliminated. On behalf of Douglas County, R.O. Anderson Engineering, Inc. (R.O. Anderson) prepared and submitted a PDM/FMA grant application, along with a BCA for Smelter Creek Flood Mitigation Project to FEMA in March 2016. FEMA found that several Nevada projects, including the Smelter Creek application did not meet their requirements and, therefore, were not considered for funding opportunities. More specifically, while reviewing the application FEMA representatives took exception to the BCA included with these applications. Since then, FEMA has provided BCA training for Nevada through the Nevada Department of Emergency Management (NDEM).

Scope of Services

The primary goal of this project is to make appropriate revisions to previously submitted BCA for Smelter Creek Flood Control Reservoir Project. The secondary goal of this project is to perform grant writing services for submittal of this project to the NDEM and FEMA to secure funding for final design and construction of the project. Based on our understanding of the tasks required to complete project objectives, we have prepared the following scope of services for your consideration. The proposed approach might require modification based upon further

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discussions with the NDEM and after the 2017 Notice of Funding Opportunity for this grant is publicly available. We structured our approach into the following tasks:

Task 1 – Revise and Update Benefit-Cost Analysis

\$8,000

R.O. Anderson personnel will migrate the previously prepared BCA data to the latest version (5.3.0) and make appropriate changes, as necessary to meet BCA guidelines. R.O. Anderson anticipates making the following specific changes to previously prepared BCA along with other minor modifications:

- Provide additional supporting documentation to show the proposed project effectiveness in reducing the future flood-induced damages;
- Provide appropriate documentation to support “Finished Floor Elevations” used for the 13 structures included in the Flood Module of the BCA;
- Provide more documentation to support the “Building Replacement Values” used in the BCA;
- Provide additional documentation for before mitigation flood stages;
- Provide required supporting documentation for the 10- and 2-percent annual chance flood stages and peak discharges for both pre-and post-mitigation scenarios;
- Provide formal justification for the sediment and road repair cost estimates used in developing the BCA;
- Quantify and Include social benefits recognized by the implementation of this project; and
- Drought mitigation, groundwater recharge and environmental benefits will be included.

Task 2 – FEMA PDM/FMA Application

\$8,350

1.1 Organize Resources:

- Consult with Douglas County and NDEM staff.
- Gather required information and documentation.

1.2 Prepare Notice of Intent including summary of the project for submittal to NDEM

1.3 Perform Grant Writing for completion by May 31, 2017 for County Staff review

- Prepare the project Scope of Work.
- Compile Preliminary Cost Estimate.
- Finalize Benefit-Cost Analysis and Supporting Documentation.
- Prepare responses to Environmental/Historic Preservation Review.
- Prepare FEMA Unified Hazard Mitigation Assistance grant application for submittal through e-Grants.

1.4 Submit Application to NDEM and Monitor Progress

- Scope of Work and Benefit Cost Analysis in e-Grants;

R O Anderson

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- Attend Northern Nevada Hazard Mitigation Planning Committee (NHMPC) Meeting — Presentations to NHMPC;
- Full Application Package with back up documentation in e-Grants; and
- Final Submission of Applications in e-Grants.

Feedback from NDEM and NHMPC following each review period will be incorporated into the final grant application submittals.

Schedule and Budget

Upon authorization to proceed, R.O. Anderson personnel are prepared to immediately commence these activities, with a completion deadline of June 30, 2017. The anticipated delivery date is contingent upon receiving all needed owner-provided documentation in a timely manner. We require and do hereby request all information and documentation that you, as our client, may have relative to the subject property that may affect the assignment, in accordance with 2.01.C of the attached Terms of Service and Agreement. Unexpected delays over which we have no control may also affect the delivery date.

Based on the scope of services outlined in the above tasks, we propose to provide our services on a lump sum basis and offer a budget in the amount of \$16,350. Billing will be submitted as a lump sum upon submittal of the grant application to Nevada Division of Emergency Management.

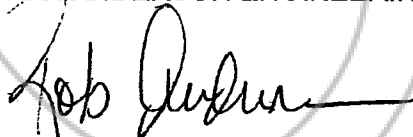
All correspondence provided by our firm will be sent to you via electronic mail unless you indicate otherwise in the space below. If you prefer to receive hard copies of correspondence, please indicate this in the space below.

Please review this letter and the attached Terms of Service and Agreement carefully. Should you have any questions or concerns after reviewing these documents, please contact me directly. Upon your approval, please sign your acknowledgement and acceptance at the bottom of this document, and initial the Terms of Service and Agreement in the space provided on the last page. After receiving executed copies of these documents, we will initiate our efforts.

Thank you for the opportunity to present this proposal.

Yours sincerely,

R.O. ANDERSON ENGINEERING, INC.



Robert O. Anderson, P.E., CFM, WRS
Principal Engineer

R|O|Anderson

Erik Nilssen, P.E., CFM, WRS
May 17, 2017
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Attachments

See signed contract

ACKNOWLEDGED AND ACCEPTED:

DOUGLAS COUNTY

Erik Nilssen, P.E.
County Engineer

Date

Please send all correspondence to my mailing address. I do not wish to use electronic mail.

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

21st day of *January*, 20 *17*
By *[Signature]* Deputy