

Assessor's Parcel Number: N/A

Date: OCTOBER 21, 2019

Recording Requested By:

Name: NATALIE WOOD, COUNTY MANAGER'S OFC

Address: _____

City/State/Zip: _____

Real Property Transfer Tax: \$ N/A



00100365201909369320090094

KAREN ELLISON, RECORDER

CONTRACT #2019.183

(Title of Document)

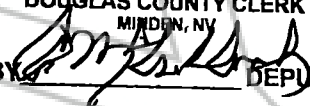
CONTRACT FOR SERVICES BY AN INDEPENDENT CONTRACTOR

A CONTRACT BETWEEN

DOUGLAS COUNTY

AND

MOSS ADAMS LLP

FILED
 NO. 2019.183
 10-21-19
 DATE
 DOUGLAS COUNTY CLERK
 MINDEN, NV
 BY  DEPUTY

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, (the "County"), and Moss Adams LLP, a Washington limited liability partnership ("Contractor"). The County and Contractor are at times collectively referred to hereinafter as the "Parties" or individually as a "Party."

WHEREAS, County, from time to time, requires the services of independent contractors;

WHEREAS, County believes it is beneficial to retain Contractor to provide County with internal audit support services as further detailed herein; and

WHEREAS, Contractor represents that it is duly qualified, equipped, staffed, competent, ready, willing and able to perform the services required by County as 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 and will remain in effect through June 30, 2020, unless terminated earlier as provided in Paragraph 6 herein.

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, its officers, employees, and agents are not employees 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, in the event of receiving notice from its insurer(s) regarding a lapse or cancellation of coverages, Contractor shall promptly provide notice to County or immediately obtain replacement coverage:

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.

- 4. SERVICES TO BE PERFORMED.** The Contractor will perform the internal audit support services identified under the Work Plan attached hereto as Exhibit "1."

With regard to the fraud, waste, and abuse ("FWA") services described in the Work Plan, this Contract is intended to assist the County with its FWA compliance efforts, and does not constitute a guarantee that the County will not experience any fraud, waste or abuse in the future. The County is responsible for the implementation of actions identified in the course of this engagement and the results achieved from using any services or deliverables. Contractor has not been engaged to, and will not, perform management functions, make management decisions, or act in a capacity equivalent to that of an employee.

5. PAYMENT FOR SERVICES. Contractor agrees to provide the services set forth in Paragraph 4 at a cost not to exceed One Hundred Thousand Dollars (\$100,000) ("Service Fees). Contractor is solely responsible for providing all materials, supplies, insurance, and other costs necessary to perform Contractor's services. County additionally agrees to reimburse Contractor for actual travel and other related expenses incurred by Contractor in an amount not to exceed Ten Thousand Dollars (\$10,000). The Service Fees will be based upon the hourly rates of the individuals providing services to the County and the hours actually worked. Contractor will provide a current list of the hourly rates of each of Contractor's employees within 30 days of the execution of this Contract and will update that list as necessary. Contractor agrees to send a monthly invoice to County for the services rendered to County no later than ten (10) days after the end of each month and payment will be due to Contractor within 30 days of the County's receipt of Contractor's invoice for the services provided to County.

6. TERMINATION OF CONTRACT. County may terminate the Contract upon at least 30 days advance written notice to Contractor.

7. NONAPPROPRIATION. 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.

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. County will not waive and intends to assert all available NRS chapter 41 liability limitations.

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.

a. Any books, reports, studies, photographs, negatives or other documents, data, drawings or other materials supplied by the County to Contractor in the performance of its obligations under the Contract (the "County Materials") will be the exclusive property of the County and all such materials (if originals) will be remitted and delivered, at Contractor's expense, to the County by Contractor, or will be destroyed (if copies), upon the County's request following the completion, termination or cancellation of the contract. Notwithstanding the foregoing, or anything to the contrary in this Contract, Contractor may retain County Materials to the extent

embodied or incorporated into its work papers supporting Contractor's services for the County, and Contractor shall maintain the confidentiality of such County Materials until the work papers are destroyed in conformance with Contractor's document retention policy. Contractor will not use, willingly allow or cause to have such County 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.

b. With the exception of training materials, the County shall own all completed deliverables provided by Contractor under the Contract, excluding any Contractor Materials (defined below), contained or embodied therein (hereafter, "Deliverables"). Deliverables are solely for the informational purposes of the County, and not intended for use or reliance by any third parties. The County shall have a non-exclusive, non-transferable license to use Contractor Materials for its own internal use and only for the purposes for which they are delivered to the extent they form part of a Deliverable.

c. With regard to any training materials, Contractor grants the County a non-exclusive, non-transferable license to use the training materials provided to the County under this Contract (the "Training Materials"). All Training Materials are solely for County informational purposes and internal use. The County may not use, copy, modify, or transfer the Training Materials, in whole or in part, except as expressly provided in this Contract. The County may not rent, lease, loan, resell, or distribute the Training Products, or any part thereof, in any way. Contractor retains all of the intellectual property rights in the Training Materials (including any developments, improvements, and derivative works generated therefrom). Nothing in this Contract is intended to prevent Contractor from using the Training Materials for any purpose outside the scope of this Agreement, including to train other clients regarding the same subject matter, provided Contractor shall not disclose any confidential or proprietary information of the County.

d. Contractor shall own its work papers and any consulting-related general skills, know-how, expertise, ideas, concepts, methods, techniques, processes, software, materials or other intellectual property which may have been discovered, created, received, developed or derived by Contractor either prior to or as a result of providing services under the Contract (collectively, "Contractor Materials"). Contractor and its personnel are free to use and employ their general skills, know how, and expertise, and to use, disclose, and employ any generalized ideas, concepts, know-how, methods, techniques, or skills gained or learned during the course of this Contract so long as they acquire and apply such information without any unauthorized use or disclosure of confidential or proprietary information 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 OF COUNTY. To the fullest extent permitted by law, Contractor shall indemnify, hold harmless and defend County from and against all liability, claims, actions, damages, losses, and expenses, including, without limitation, reasonable attorneys' fees and costs (collectively, "Claims"), arising out of any personal injury (including death) or damage to real or tangible personal property to the extent caused by the alleged negligent or willful acts or omissions of Contractor, its officers, employees and agents. Contractor will defend, hold harmless and/or indemnify County against such claims. In the event of a Claim, the County shall provide Contractor with prompt written notice of such Claim and cooperate with Contractor in handling the Claim. Contractor shall be entitled to control the handling of such Claim and to defend or settle any such Claim, in its sole discretion, with counsel of its own choosing. Notwithstanding the obligation of Contractor to defend County as set forth in this paragraph, County may elect to participate in the defense of any claim brought against County because of the conduct of Contractor, its officers, employees and agents. Such participation shall be at County's own expense and County shall be responsible for the payment of its own attorney's fees it incurs in participating in its own defense.

15. LIMITATION OF LIABILITY. EACH PARTY'S TOTAL LIABILITY FOR ANY AND ALL DAMAGES WHATSOEVER ARISING OUT OF OR IN ANY WAY RELATED TO THIS CONTRACT FROM ANY CAUSE, INCLUDING BUT NOT LIMITED TO CONTRACT LIABILITY OR NEGLIGENCE, ERRORS, OMISSIONS, STRICT LIABILITY, BREACH OF CONTRACT OR BREACH OF WARRANTY SHALL NOT, IN THE AGGREGATE, EXCEED ONE HUNDRED THOUSAND DOLLARS (\$100,000). IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR OTHERWISE ARISING OUT OF THIS CONTRACT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

16. MODIFICATION OF CONTRACT. The Contract and the attached Exhibit "1" constitute the entire agreement and understanding between the Parties and may only be modified by a written amendment signed by both of the Parties.

17. AUTHORITY. The Parties represent and warrant that they have the authority to enter into this Contract.

18. 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.

19. 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.

20. THIRD PARTY BENEFICIARY. Nothing contained in this Contract 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.

21. 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: Patrick Cates, County Manager
Douglas County
Post Office Box 218
Minden, Nevada 89423
Telephone: (775) 782-6268

To Contractor: Moss Adams LLP
Attn: Mr. Mark Steranka, Partner
999 Third Avenue
Suite 2800
Seattle, WA 98104
Telephone: (206) 302-6409

With a copy mailed to:
Moss Adams LLP
Attn: General Counsel
999 Third Avenue
Suite 2800
Seattle, WA 98104

22. 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.

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

Moss Adams LLP

By: Mark Steranka
Mark Steranka, Partner

10-02-19
(Date)

Douglas County

By: William B. Penzel
William B. Penzel
Chairman, Board of County Commissioners

05 17 2019
(Date)

EXHIBIT "1" WORK PLAN

The FY 2019-20 internal audit program, as defined below, was recommended by the Audit Committee for approval by the Board of County Commissioners on June 12, 2019, and it was approved by the Board of County Commissioners on August 15, 2019. The internal audit program consists of the following four activities:

1. Permitting Efficiency Study: Assess the economy, efficiency, and effectiveness of the County's permitting processes (14 weeks).
2. Cash Handling Internal Controls Testing: Test controls for cash handling across the County and compare to best practices (12 weeks).
3. Policies and Procedures Inventory: Perform an inventory of County policies, compare to best practices, and establish a prioritized process to develop/update priority policy (12 weeks).
4. Ongoing Program Management: Attend Audit Committee and Board meetings, prepare status reports, manage internal audit program, manage Ethics Hotline, and prepare FY 2020-21 internal audit plan (52 weeks).

The service fees and general timing for each activity is depicted below.

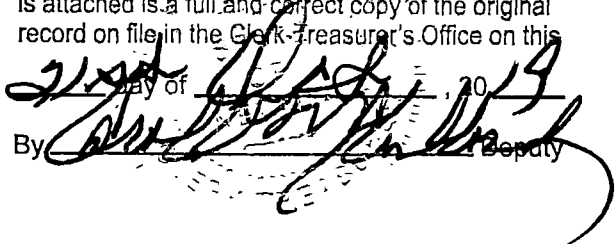
#	Project	Fees	7-9/19	10-12/19	1-3/20	4-6/20
1	Permitting Efficiency Study	\$35,000				
2	Cash Handling Internal Controls Testing	\$25,000				
3	Policies and Procedures Inventory	\$30,000				
4A	Ongoing Program Management	\$10,000				
4B	FY 20-21 Audit Plan	-				
4C	Audit Committee Meetings	-				
4D	Board of County Commissioners Meetings	-				
Total Fees		\$100,000				

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

By  Deputy