

Recorder's Office Cover Sheet

Recording Requested By:

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Department: Public Works



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KAREN ELLISON, RECORDER

Type of Document: (please select one)

- Agreement
- Contract
- Grant
- Change Order
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FILED

NO. 2020.061

4/14/2020
DATE

DOUGLAS COUNTY CLERK
MINDEN, NV

CONTRACT FOR SERVICES BY AN INDEPENDENT CONTRACTOR BY OSB **DEPUTY**

A CONTRACT BETWEEN

DOUGLAS COUNTY, NEVADA

AND

JACOBS ENGINEERING GROUP

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 *Jacobs Engineering Group*, a *Foreign Corporation* registered with the Nevada Secretary of State ("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 ("Effective Date"). Time is of the essence in this Contract. Unless earlier terminated as set forth in paragraph 7, the terms of this Contract shall remain in effect for the duration of the service period, which will expire 365 days after the Effective Date.

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;
- (6) Unemployment compensation coverage provided by the County if the requirements of NRS 612.085 for independent contractors are met.

Additionally, the Contractor is not in the classified or unclassified service of the County and has none of the rights or privileges available to officers, employees or other appointees of the County.

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:

Jacobs Engineering Group has entered into a contract with Douglas County to perform services related to SCADA support services through May 1, 2021, 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
ATTN: Senior Engineer, Richard Robillard
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 services related to SCADA support services, including: 1) on-call SCADA consulting assistance, 2) On-call North Valley Wastewater Treatment Plant Process Assistance, and 3) Remote Network Communication Setup Assistance. The Services are more particularly described and shall be completed in accordance with the requirements set forth in Exhibit A hereto.

5. PAYMENT FOR SERVICES. Contractor agrees to provide the services set forth in Paragraph 4 on a time and materials basis not to exceed a total of Forty-Nine Thousand Dollars (\$49,000) (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. WARRANTY. Contractor agrees and hereby provides, warrants and represents each of the following with respect to any services provided under this Contract: the services, installations, or work performed under this Contract shall be free of defects in material and workmanship for a period of 365 days following the completion of such work.

7. TERMINATION OF CONTRACT. Either Party may terminate the Contract if the other 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. Provided, however, that except as otherwise set forth in this Contract, early termination will not relieve a Party of any obligation that became due prior to the date of termination.

8. 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.

9. 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. The Contract Documents consist of this

document, and Exhibits A. The Parties agree to be bound by the terms, conditions and specifications set forth in all Contract Documents, except as specifically modified or amended. The terms of the Contract Documents shall, to the extent reasonably practical, be read as complimentary to one another. In the event of an irreconcilable conflict between the terms of the Contract Documents, the terms of this document shall prevail, thereafter the terms of Exhibit A.

10. DISPUTE RESOLUTION. 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.

11. 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.

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

13. 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.

14. 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.

15. 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.

16. 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 negligent performance pursuant to the terms of the Contract by Contractor or Contractor's agents or employees.

17. 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.

18. AUTHORITY. The Parties represent and warrant that they have the authority to enter into this agreement. Each signatory individually warrants that he or she is authorized to sign on behalf of the party for whom he or she is signing.

19. 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.

20. 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.

21. 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.

22. FORCE MAJEURE. Neither Party shall be deemed to be in violation of this Agreement if it is prevented from performing any of its obligations hereunder due to protests, strikes, legal impossibility, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, emergencies or acts of God, including, without limitation, earthquakes, floods, winds, or storms. In such an event, the intervening cause must not be through the fault of the Party asserting such an excuse, and the excused Party is obligated to promptly perform in accordance with the terms of this Agreement after the intervening cause ceases.

23. **WAIVER.** The County's failure to insist upon Contractor's performance of any obligation hereunder shall not constitute a waiver of the County's right to enforce that obligation and the County may require compliance with that obligation or any other obligation at any time.

24. **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, Senior Engineer
Post Office Box 218
Minden, Nevada 89423

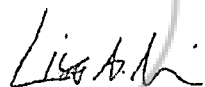
To Contractor: Jacobs Engineering Group
50 West Liberty, Suite 205
Reno, NV 89501

25. **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.

Jacobs Engineering Group

By:



April 8, 2020

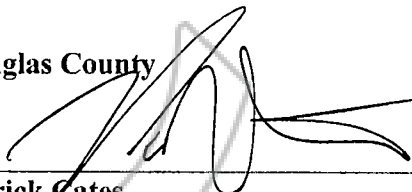
Name: Lisa Alliger, PE

Title: Designated Project Executive

(Date)

Douglas County

By:



**Patrick Cates
County Manager**

4/8/2020

(Date)

EXHIBIT A

Scope of Work for 2020 DCPW On-Call Services

Prepared for
Douglas County Public Works

April 2020

JACOBS

50 West Liberty, Suite 205
Reno, NV 89501

Exhibit A: Scope of Work for 2020 On-call Services

This exhibit is to the Agreement, between Jacobs Engineering Group Inc. (Consultant), and Douglas County Public Works (County), for engineering and consulting services on an on-call basis for the 2020 calendar year. The official name for the project will be the 2020 DCPW On-call Services, hereinafter referred to as the "Project."

Consultant's Scope of Work

The Consultant proposes the following three Tasks to manage and address any engineering, consulting, or SCADA support services for the County:

Task 1 – Project Management

Consultant will initiate and manage project activities, schedule, and plan work to complete activities in a properly integrated and timely manner. Project management activities will include Progress Monitoring, Team Coordination, Consultant Team Health and Safety stewardship, and Project Administration.

Task 1 Deliverables:

- Monthly project billings showing labor hours by staff member and by task and brief description of services performed.

Task 2 – On-call SCADA Consulting Assistance

Consultant will coordinate with the County to provide short-term assistance on any SCADA network or HMI issues at any of the County facilities as they arise. Assistance can include, but not be limited to consulting services, remote programming changes and edits, changes to Human-Machine Interface (HMI) devices and Programmable Logic Controllers (PLCs), network system infrastructure, and other control related devices and hardware.

Task 3 – On-call North Valley Wastewater Treatment Plant Process Assistance

Consultant will coordinate with the County to provide short-term assistance with treatment process start-up, on-going operations, and process optimization at the North Valley WWTP. This assistance is primarily intended for the new sequencing batch reactor (SBR), but assistance can be provided for any of the wastewater processes. This assistance may include, but not limited to, diagnostics, calculations or modeling, analysis of data, or on-site investigation of issues.

Task 4 – Remote Network Communication Setup Assistance

Consultant will provide support to the County for implementation of mobile devices (tablet computers) for the purpose of remote access to the County's SCADA network. The mobile devices will be procured under a separate work order. The Consultant will assist with device set up, training of staff on how to operate the equipment, and provide product support as needed after implementation. It is assumed that one (1) site visit by two (2) Consultant staff will be conducted for setup and training. Post set-up support is assumed to be provided remotely, but additional site visits may be conducted as budget allows.

Schedule

The terms of this Contract shall remain in effect for the duration of the service period.. If addition tasks are desired beyond this length of time, Consultant reserves the right to request a scope and fee modification for additional administrative and support time and updated billing rates.

Compensation

Consultant shall provide a written scope of services and estimated cost to perform services as requested by the County prior to initiating work. No work shall be performed on Task 2, Task 3 or Task 4 unless authorized in writing by the County.

Compensation for services described herein will be on a time and materials basis for a total not-to-exceed budget of \$49,000. Compensation is based on hourly bill rates included in the table below. Approximately 215 hours of engineering assistance and/or SCADA programming can be provided along with up to \$2000 of various expenses, including travel, if required. This total fee will not be exceeded without prior authorization from County. County is not obligated to compensate the Consultant for work beyond the authorized budget nor is the Consultant obligated to incur costs that exceed the authorized budget.

2020 Hourly Labor Billing Rate Schedule

<u>Classification</u>	<u>2020 Rate</u>
Sr. Principal Technologist*/Sr. Principal Project Manager	\$255
Principal Technologist*/Principal Project Manager	\$251
Sr. Technologist*/Sr. Project Manager	\$235
Senior Project Engineer*/Project Manager	\$214
Project Engineer*	\$194
Associate Engineer*	\$173
Staff Engineer 2*	\$152
Staff Engineer 1*	\$130
Engineering Tech 5	\$157
Engineering Tech 4	\$141
Engineering Tech 3	\$123
Engineering Tech 2	\$112
Engineering Tech 1	\$100
Office/Clerical/Accounting	\$90

* includes engineering, consulting, planner, and scientist disciplines

Notes:

1. Direct Expenses are those necessary costs and charges incurred for the PROJECT including, but not limited to: (1) the direct costs of transportation, meals and lodging, mail, subcontracts, and outside services; special client-approved PROJECT-specific insurance, letters of credit, bonds, and equipment and supplies; (2) Consultant's charges for direct use of Consultant's vehicles, computing systems, laboratory test and analysis, word processing, printing and reproduction services, and certain field equipment; and (3) Consultant's project charges for special health and safety requirements of Occupational Safety and Health Administration (OSHA) services.
2. Consultant's rates for the following direct expenses shall be: Computer charges of \$6.00 will be applied to all labor hours for all staff. These rates are subject to change for work performed beyond the work period noted below.
3. A markup of 10% will be applied to all other Direct Costs and Expenses.
4. An additional premium of 25% will be added to the above rates for Expert Witness and Testimonial Services.
5. Rates are applicable for work performed through December 31, 2020. Rate increases will go into effect on January 1, 2021.

A rate increase, which will not exceed 5%, is anticipated in 2021. A new Hourly Billing Rate Schedule will be provided to the County at that time. The 2021 rates will not change the contract amount.

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

14th day of April, 2020

By Laniya Balde Deputy