

Recorder's Office Cover Sheet

Recording Requested By:

Name: JON ERB

Department: PUBLIC WORKS



00114269202009489130090095

KAREN ELLISON, RECORDER

Type of Document: (please select one)

- Agreement
- Contract**
- Grant
- Change Order
- Easement
- Other specify: _____

CONTRACT FOR PROFESSIONAL SERVICES BY AN INDEPENDENT CONTRACTOR

FILED

NO. 2020-109

7-9-20
DATE

DOUGLAS COUNTY CLERK
MINDEN, NV

A CONTRACT BETWEEN

DOUGLAS COUNTY, NEVADA

AND

BY [Signature] DEPUTY

SOLAEGUI ENGINEERS, LTD.

This Contract for Professional Services by an Independent Contractor (the "Contract") is entered into by and between Douglas County Regional Transportation Commission, a political subdivision of the State of Nevada (the "County"), and Solaegui Engineers, LTD., a Nevada Professional 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 professional 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 Friday, August 28, 2020.

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.

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:

Solaegui Engineers Ltd. has entered into a contract with Douglas County to perform work through Friday, August 28, 2020 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
Attn: 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:

A. A traffic Analysis study for the future Muller Parkway

all of which is more particularly described in and shall be completed in accordance with the detailed scope of work and work order set forth in Exhibit A, which is attached hereto and incorporated herein by reference.

5. PAYMENT FOR SERVICES. Contractor agrees to provide the services set forth in Paragraph 4 on a time and materials basis at a total cost not to exceed Nine Thousand, Nine Hundred Dollars, (\$9,900.00) (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 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.

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. The Contract Documents consist of this document, and Exhibit A. 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. 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.

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 & LIMITED LIABILITY. 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. The County will not waive and intends to assert available NRS Chapter 41 Limitations in all cases. Contract liability of either party shall not be subject to punitive 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
Post Office Box 218
Minden, Nevada 89423
Telephone: (775) 782-6227

To Contractor: Solaegui Engineers, LTD
715 H Street
Sparks Nevada 89431
Telephone: 775 358-1004

21. 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.

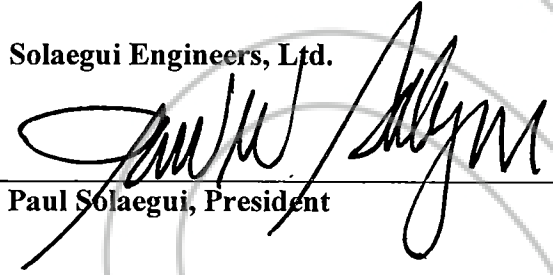
22. CONFLICT OF INTEREST. By signing the Contract, Contractor agrees that any information obtained from Douglas County, in whatever form, will not be divulged to other competing interests without the permission of the County Manager. In the event of a breach of this provision, Douglas County may immediately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

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.

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

Solaegui Engineers, Ltd.

By:


Paul Solaegui, President


(Date)

Douglas County

By:


Patrick Cates, County Manager


(Date)

EXHIBIT A

SOLAEGUI

ENGINEERS

WORK ORDER

Ordered By **Jon Erb, jerb@douglasnv.us** Date **May 27, 2020**

Address **Douglas County, P.O. Box 218, Minden, NV 89423,**

(Street/P.O.Box)

(City,State)

(Zip)

Telephone **775-782-6233** Fax -

Project Financed By

Documents Provided: - Email Request

Description of Work: We propose to prepare a traffic review letter per scope of work input you provided. The tasks include the following: 1. Review traffic operation of the US-395 / Waterloo intersection if Muller Parkway extension is built from the north to Toler Avenue. 2. Review traffic operation of the Waterloo Lane street segment if Muller Parkway extension is built from the north to Toler Avenue. 3. Review traffic operation of the US-395 intersections of Waterloo and Stodick if Muller Parkway extension is built from the north to Stodick Parkway. 4. Review traffic operation of the Waterloo Lane and Stodick Parkway street segments if Muller Parkway extension is built from the north to Stodick Parkway. 5. Obtain AM and PM peak hour turning movement count data at the US-395 intersections of Waterloo and Stodick from Douglas County or from previous counts we have in our files. 6. Manually assign peak hour traffic volumes at the US-395 intersections of Waterloo and Stodick. 7. Manually assign average daily traffic volumes to the Waterloo and Stodick street segments. 8. Perform year 2040 intersection capacity calculations of the two US-395 intersections with discussion of potential intersection geometric design or traffic control changes. 9. Perform year 2040 street segment capacity analysis of the Stodick and Waterloo street segments as two lane and four lanes sections. 10. Provide intersection level of service calculations for those two intersections with possible turn lane additions. 11. Our findings will be presented in letter report form with an initial draft letter followed by a final letter after comments on the initial submittal. We propose to complete the draft letter within three to four weeks of receipt of a signed work order.

Job Name **Muller Parkway Douglas County**

FEE **\$9,900.00**

Retainer (to be paid with execution of this agreement) \$ **0**

Basis of Charge **Lump Sum** Pursuant to NRS 108.245 you are hereby given notice that the Engineer providing the services indicated above may, at a future date, claim a lien as provided by law against the property if the Engineer is not paid.

Bills are rendered monthly for work in the preceding month and except as otherwise provided by written agreement, a charge of one and one-half percent (1 1/2%) per month will be added after thirty (30) days. Client agrees to pay all reasonable collection expenses and interest. Cancellation of this order presupposes payment for work already completed.

The Client agrees that to the fullest extent permitted by law, Engineer's total liability to Client for any and all injuries, claims, losses, expenses, damages or claims expenses arising out of this agreement from any cause or causes, shall not exceed the total compensation received by the Engineer under this agreement. Such causes include but are not limited to Engineer's negligence, errors, omissions, strict liability, breach of contract or breach of warranty.

(Signature)

(Name Printed)

(Date)

PLEASE SIGN AND RETURN TO OUR OFFICE

THANK YOU.

w.o./Muller Parkway Douglas County May 2020

COPY

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

9th day of April 2020

By [Signature] Deputy