

Recorder's Office Cover Sheet

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KAREN ELLISON, RECORDER

Type of Document: (please select one)

- Agreement
- Contract
- Grant
- Change Order
- Easement
- Other

specify: _____

CONTRACT FOR SERVICES BY AN INDEPENDENT CONTRACTOR

A CONTRACT BETWEEN

DOUGLAS COUNTY, NEVADA

AND

HDR ENGINEERING, INC.

FILED

NO. 2020.154

8-31-20
DATE

DOUGLAS COUNTY CLERK
MINDEN, NV

BY [Signature] DEPUTY

This Contract for 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 HDR Engineering, Inc., a Nebraska 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 Wednesday, June 30, 2021.

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:

HDR Engineering, Inc. has entered into a contract with Douglas County to perform work through Wednesday, June 30, 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
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. Construction Management, Inspection and Material Testing for reconstruction of Centerville Lane from State Route 88 to the Intersection of Foothill Road; and

all of which is more particularly described and shall be completed in accordance with the terms of the detailed scope of work and rate schedule 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 Two Hundred and Seventy-Six Thousand, Five Hundred Eighty-Two Dollars and 67 Cents, (\$276,582.67) (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: HDR Engineering, Inc.
6750 Via Austi Parkway, Suite 350
Las Vegas, Nevada 89119
Telephone: (702) 938-6023

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.

HDR Engineering, Inc.

By: Brent W. Jensen 8/25/2020
(Date)

Brent W. Jensen, Area Manager/Senior Vice President
Name/Title

Douglas County

By: Larry Walsh 8/27/20
**Larry Walsh, Chair - Regional
Transportation Commission** (Date)

EXHIBIT A

FULL CONSTRUCTION ADMINISTRATION OF CENTERVILLE LANE CULVERT REPLACEMENT AND ROADWAY WIDENING SCOPE OF SERVICES

The SERVICE PROVIDER agrees to perform professional and technical engineering services to ensure that the construction of the Centerville Lane Widening Project is accomplished in conformance with the plans, specifications, and all other contract documents.

The SERVICE PROVIDER shall provide up to one (1) Resident Engineer, one (1) Office Person, one (1) Inspectors level IV, one (1) Inspector Level III, one (1) Tester, one (1) nuclear gauge, a fully equipped and functional office, a fully equipped and functional lab, trucks, and cell phones. The SERVICE PROVIDER shall provide incidental equipment as may be required by the County.

The SERVICE PROVIDER shall provide all personnel assigned to this project the proper safety equipment, including but not limited to, soft caps, hard hats and vests meeting the current standards for Work Zone Apparel.

The SERVICE PROVIDER shall provide a principal engineer to act as Project Manager. The Principal Engineer shall be limited to billing no more than twelve (12) hours per month, unless prior approval for additional hours is obtained from the County.

The Principal Engineer shall be certified by the Nevada State Board of Registered Professional Engineers and Land Surveyors, in accordance with Nevada Revised Statutes Chapter 625, as a licensed Civil Engineer.

The SERVICE PROVIDER shall provide personnel who possess the experience, knowledge and character to adequately perform the requirements of these services, so as not to delay the progress of construction. The SERVICE PROVIDER shall ensure all personnel provided to work on the project become familiar with the contract documents, including the plans, specifications, special provisions, and any change orders thereto. The SERVICE PROVIDER shall perform the procedures for office management, documentation, field inspection and field testing in accordance with the specifications and industry standard practice.

The SERVICE PROVIDER shall provide all personnel assigned to this project any specialized training, including safety training, or equipment necessary to perform the assigned duties, including but not limited to certification as a Water Pollution Control Manager, inspection and implementation of Storm Water Pollution Prevention Plans (SWPPP), testing and inspection. Personnel provided shall be approved by the County prior to performance of work on this project.

The SERVICE PROVIDER shall provide its own or lease trucks and cell phones for all personnel who need to perform work outside of the office. Vehicles shall be equipped with high intensity flashing yellow strobe lights.

All testing personnel shall meet and be certified under the American Concrete Institute (ACI) as Concrete Field-Testing Technician - Grade I, and shall have prior experience working on Roadbed Modification and Paving Projects.

When nuclear gauges are required, the SERVICE PROVIDER shall have current licenses as required by the appropriate regulatory agencies. Personnel who operate or transport any nuclear density gauge shall have in their possession evidence of current certification pertaining to the nuclear density gauges under their control. The Service Provider shall be responsible to provide their own storage facility and transportation for nuclear density gauges.

SCOPE OF GRADING/SOILS SERVICES

Grading

An inspector will be assigned to the project on a periodic basis to observe grading operations, obtain appropriate samples for laboratory tests and perform in-place field density testing. The inspector will observe the Contractor's compliance to geotechnical recommendations and project specifications. For this project, our services will include the following:

- Observe the earthwork required for all structural areas.
- Provide a project manager to oversee the activities of NOVA and coordinate field technicians for observation and testing, attend project meetings, monitor field reports, review field and laboratory test results, and prepare the final grading report.
- Provide on-going test reports during construction, and a final report presenting all test results.

On-Site Improvements

- Provide In-place Pavement Verification Report(s) with asphalt coring, pavement thickness and density testing in accordance with jurisdiction guidelines.
- Perform field density testing and observations during installation of drainage pipes, culverts, and associated backfill operations.
- Perform field density testing for roadway subgrade and over-excavation areas.

SCOPE OF STRUCTURAL MATERIALS SERVICES

The following inspections and testing will be provided by an inspector(s)/technician(s) certified by the American Concrete Institute (ACI, Governing Agency Technical Guidelines, and project plans and specifications.

- **Reinforced-Concrete Inspection** Provide testing during concrete placement. A total of five 4-inch by 8-inch representative test specimens will be cast every 150 cubic yards and/or every day for testing of compressive strength. Strength testing will be as follows unless noted otherwise by plans, specification, or owner requirements:
 - 1 cylinder at 7 days, 3 at 28 days and 1 will be held for 56 days provided the 28-day breaks did not meet strength requirements.

Normal concrete pours will consist of one ACI tester/technician. Supplemental testers/technicians may be required during periods of peak construction activity. Contractor is responsible for storage of the concrete cylinder samples secured from damage and protected from hot and cold

weather to comply with the requirements of ACI-305R, ACI-305.1-6 and ACI-306R. **The contractor shall provide 24 hour 7 days a week access to all concrete cylinders for pick-ups.**

- **Project Management** A project manager will be assigned to review the daily activity of inspectors/technicians, monitor the budget for special inspection services, and oversee the preparation of the final report(s) if required. All field and laboratory tests will be reviewed prior to submittal.
- **Final Reports** Final summary report(s) will be prepared for the project as required by the governing jurisdiction. The final report(s) will include the daily inspection reports, field tests and a summary of the laboratory tests performed and documentation of corrective action in response to non-compliant reports. Final reports will be reviewed by a State of Nevada Registered Professional Civil Engineer and wet stamped and signed by the registered engineer.

HDR Estimate of Costs Centerville Lane Construction
7/2/2020

Personnel/Title	Rate/hr 2020	Aug-20	Sep-20	Oct-20	Nov-20	Total Hours 2020	\$ 2020 Total	Tests
Ruedy Edgington, Principal	\$ 217.35	4	4	4	4	16	\$ 3,478	
Reid Kaiser, RE	\$ 280.00	2	32	32	16	82	\$ 22,960	
Wynn Hessler, Inspector III	\$ 128.83	0	0	0	0	0	\$ -	
Mike Pendergraft IV	\$ 176.05	8	140	160	120	428	\$ 75,349	
Matt Goodson, Office	\$ 141.19	2	16	16	16	50	\$ 7,060	
Testing Sub/Nova	\$ 134.50		80	140	140	360	\$ 48,420	11,000
					2020 Sub-	936	\$ 157,267	\$ 11,000

Personnel/Title	Rate/hr 2021	May-21	Jun-21	Total Hours 2021	\$ 2020 Total	Tests
Ruedy Edgington, Principal	\$ 224.96	4	4	8	\$ 1,800	
Reid Kaiser	\$ 280.00	24	16	40	\$ 11,200	
Wynn Hessler, Inspector III	\$ 133.34	80	40	120	\$ 16,001	
Mike Pendergraft IV	\$ 182.21	100	80	180	\$ 32,798	
Matt Goodson, Office	\$ 146.13	16	16	32	\$ 4,676	
Testing Sub/Nova	\$ 139.21	100	100	200	\$ 27,842	14,000
				2010 Sub-	\$ 94,316	\$ 14,000

NTP Estimate 9/11/20
 Winter Shut Down 11/16/20 thru 5/17/20
 Start up 2021 5/17/21
 Completion Estimate 6/7/21

Project To \$ 251,582.67 \$ 25,000.00
 Project Fee \$ 276,582.67

Construction Cost = 7.3% Nova Costs = \$ 101,262

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

31st day of August, 2020
By: [Signature] Deputy