

**NYE COUNTY**

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**REQUEST FOR QUALIFICATIONS**

**Indefinite Delivery, Indefinite Quantity  
On-Call Professional Civil Engineering Services**

**FOR  
NYE COUNTY**

**RFQ # 2021-08**

DocuSigned by:

*Debra Strickland*

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Debra Strickland, Chair

NYE COUNTY BOARD OF COMMISSIONERS

10/14/2021

\_\_\_\_\_  
DATE



## 1.0 INVITATION

Nye County is requesting Statements of Qualifications for an Indefinite Delivery, Indefinite Quantity, IDIQ, to provide services to Nye County. A competitive one-step process to retain two (2) professional civil engineering consultants to provide comprehensive professional civil engineering support and consultant services. Statements of Qualifications from Professionals to provide On-Call Professional Civil Engineering Services is being requested.

## 2.0 RESPONSE CONDITIONS AND RESPONDENT'S OBLIGATIONS

### 2.1 Submission Deadline

The original and five (5) copies of each Response in a sealed package must be delivered to:

Nye County Purchasing Department  
Honey Strozzi, Purchasing and Contracts Administrator  
2101 E. Calvada Blvd., Ste. 200  
Pahrump, NV 89049

**RESPONSES MUST BE RECEIVED NO LATER THAN 2:00 p.m. on November 25, 2021.** The response opening will be held at **2:00 p.m. on November 25, 2021**, in the Nye County Purchasing Department, 2101 E. Calvada Blvd., Ste. 200 Pahrump, NV 89049.

The Respondent is requested to submit its response in a sealed package, marked with the company name, RFQ Number and Project Name, the closing date and the address as set above and contain the original response and five (5) copies.

Pre-qualification of respondent is not required. All respondents are required to comply with the provisions of Nevada Revised Statutes and other applicable Local, State, and Federal laws and regulations.

Nye County reserves the right to (1) reject any or all proposals not in compliance with public bidding procedures if it is in the best interest of the public to do so, (2) postpone award of the contract for a period not to exceed sixty (60) days from date of proposal opening, (3) select the proposals which appear to be in the best interest of the County.

### 2.2 Presentations

Respondents may be requested to make a presentation and answer questions on their response prior to a selection. Respondents shall have their key team members who are proposed to work on the project present at this interview.

## 3.0 BACKGROUND, SCOPE OF WORK, AND SCHEDULE MILESTONES

### 3.1 Background and Scope of Work

The successful candidate will be available to Nye County to provide IDIQ On-Call Professional Civil Engineering Services.

Including but are not limited to, technical and professional assistance to county departments, tasks as outlined in the Pahrump Phase I Risk Map Project – MAS No. 2021-09-Nye, research, analysis, visioning, conceptual planning, web support, infrastructure design, strategic development, database development, grant development and management, construction management, presentations and public meetings to stakeholders, review of storm water management reports and plans, prepare and review of drainage studies and reports, FEMA mapping studies, CLOMR/LOMR/LOMA development and review, development, review, update and recommendations related to master drainage plans and flood control documents, general engineering review services (QA/QC), flood hazard response plans, outreach product development, and GIS products related to drainage and flood control for select watersheds in Nye County. Extensive experience with both one-and two-dimensional modeling is required.

#### **4.0 QUALIFICATIONS**

A brief general description of the qualifications of the firm(s) must be provided.

##### **4.1 License**

Respondent must have and retain any and all licenses as required by the State of Nevada.

##### **4.2 Conflict of Interest**

Respondents must disclose to the County, in their Response, any potential conflict of interest. If such a conflict of interest does exist, the County may, at its discretion, refuse to consider the Response.

##### **4.3 Similar Project Experience**

Respondent must provide references and brief documentation of experience on work/services/projects of similar type and scope.

##### **4.4 Collusion**

Respondent, by signing this Response, hereby certifies that this Response is genuine and not collusive or made utilizing advance disclosure of information or made in the interest or on behalf of any person not herein named, and that the officer signing this proposal has not in any manner, by collusion, or otherwise, attempted to secure for himself an impressive advantage over another Responder.

##### **4.5 Disqualification of Responses**

Responses received after the Response Submission Deadline, as recorded by the Nye County Purchasing Department on the date, at the time and place of submission outlined in Section 2.1 will not be considered. Respondents are

solely responsible for ensuring that Responses are delivered as required. Delays caused by any delivery service, including US Postal Service, will not be grounds for an extension of the Response Submission Deadline. Faxed transmissions, e-mails, telegrams or other forms of unscaled Responses will not be considered.

#### 4.6 The County's Right to Reject

Nye County at its discretion may select any one Response; or reject any or all or part of any or all Responses. Nye County reserves the right to negotiate with any or all Respondents. All costs incurred in the preparation, presentation or submission of Response shall be the responsibility of the Respondent.

#### 4.7 No Adjustments to Responses

No unilateral adjustments by Respondents to submitted Responses will be permitted. Respondents may withdraw their Response prior to the closing date and time for submission of Responses by notifying the Nye County Purchasing Department in writing.

Respondents who have withdrawn a Response may submit a new Response, which must be received by the County prior to the deadline for submission to the Nye County Purchasing Department. After the closing date and time, the Response is irrevocable and binding on the Respondent. If the County requires clarification of a Respondent's Response, that Respondent will provide a written response to a request for clarification, which shall then form part of the Respondent's Response.

#### 4.8 Communication

The Respondent is requested to identify one senior individual by name, address, e mail address and telephone and fax numbers, who will act as the Respondent's primary liaison/contact with the County for both pre-and post-submission communication and on-going consultation with regard to this Response and contract that may come from it.

#### 4.9 Conflicts and Omission

If the Respondent observes any apparent error or omission, he shall bring to the notice of the Nye County Purchasing Department immediately. In no circumstances the Respondent shall take advantage of any apparent error or omission in the RFQ, but the County shall be permitted to make such corrections and interpretation as may be necessary for the fulfilment of the intent of the RFQ.

#### 4.10 Addenda

Any revisions prior to closing date shall be included in Addenda to the RFQ distributed to all the Respondents. When an Addendum is issued, the date for

submitting Responses may be changed by the County if in its opinion more time is necessary to enable the Respondents to revise their Responses. The Addendum shall state any changes to the Response Submission Date. All Respondents must acknowledge receipt of the RFQ documents and all Addenda in their Response.

#### 4.11 Period of Validity of Responses and Agreement

Subject to Section 4.7 above, Responses submitted shall be irrevocable and binding on Respondents from the date of Response Submission to the date the successful Respondent is selected by the selection team and the successful Respondent executes an Agreement with the County.

The successful Respondent will be required to enter into a Professional Services Agreement satisfactory to the County immediately upon presentation for execution.

#### 4.12 No Assignment

The successful Respondent shall not assign any part of the project, which may be awarded to it under the Professional Services Agreement without the prior written consent of the County.

However, such written consent shall not under any circumstances relieve the successful Respondent of its liabilities and obligations under this RFQ and the Professional Services Agreement.

#### 4.13 Failure or Default of Respondent

If the Respondent for any reason whatsoever fails or defaults in respect of any matter or thing, which is an obligation of the Respondent under the terms of the RFQ, the County may disqualify the Respondent. Disqualification will be from this RFQ and/or from competing for future tenders or RFQs issued by the County. In addition, the County may at its opinion either:

(a) Consider that the Respondent has withdrawn any offer made or abandoned the Agreement if the offer has been accepted, whereupon the acceptance, if any, of the County shall be null and void; or;

(b) Require the Respondent to pay the County, the difference between its Response and any other Response which the County accepts, if the latter is for a greater amount and, in addition, to pay to the County any cost which the County may incur by reason of the Respondent's failure or default. Further, the Respondent will indemnify and save harmless the County, their officers, employees and agents from all loss, damage, liability, cost, charge and expense whatever which it, they or any of them may suffer, incur or be put to by reason of such default or failure of Respondent.

#### 4.14 Resource Commitments

The Respondent must make available appropriately skilled staff, equipment, or sub-Consultants, as the case may be, and the Respondent must be able to provide the necessary materials and supplies to carry out the project. These resources must be available on a dedicated basis as required to carry out the project with due care, skill and efficiency.

#### 4.15 Waiver of Rights in Response and Indemnity

Each Respondent acknowledges and agrees that the County is likely to receive, and be required to deal with, several Responses, all of which may contain or disclose information considered by their Respondents to be of special, unique, secret or proprietary nature, and that such information and the manner in which the County may use it may be entitled or subject to protection under any of the State's intellectual property laws and any the applicable State law relating to unfair competition.

The County cannot accept any Response that is subject to a reservation by the Respondent of any such rights and each Respondent, by virtue of filing a Response pursuant to this RFQ expressly waives any and all protection to which the Respondent might otherwise be entitled in respect of that Response under all of the foregoing laws and expressly releases the County and their staff and consultants, if any, as well as the successful Respondent from any claims, actions, suits and proceedings whatsoever for the infringement of any intellectual property right or for the use of any secret or proprietary information.

Each Respondent shall indemnify and save harmless the County and their staff and consultants, if any, against all claims, actions, suits, and proceedings, including all costs incurred by the County in connection herewith brought by any person in respect of the infringement or alleged infringement of any patent, copyright, trademark or industrial design or the use or misuse in connection with their Response.

### 5.0 PROVISIONS

The selected contract will be awarded partially with Federal Funding. Federal agencies are permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy:

5.1 Administrative, contractual, or legal remedies in instances where Consultants violate or breach contract terms and provide for such sanctions and penalties as may be appropriate. (Contracts more than the simplified acquisition threshold.)

5.2 Termination for cause and for convenience by the Grantee or subgrantee including the manner by which it will be affected and the basis for settlement. (All contracts in excess of \$10,000.)

5.3 Notice of awarding agency requirements and regulations pertaining to reporting.

5.4 Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed during or under such contract.

5.5 Awarding agency requirements and regulations pertaining to copyrights and rights in data.

5.6 Access by the Grantee, the subgrantee, the Federal Grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the Consultant which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

5.7 Retention of all required records for three years after Grantees or subgrantees make final payments and all other pending matters are closed.

5.8 Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000.)

5.9 Mandatory standards and policies relating to energy efficiency which are contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94–163, 89 Stat. 871).

5.10 Make positive efforts to use disadvantaged businesses, including small businesses, minority-owned firms, women's business enterprises, and firms in labor surplus areas, whenever possible (40 CFR 31.36(e)).

5.11 Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award must not be made to parties listed on the government wide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180.

5.12 Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352.

## 6.0 SELECTION PROCESS

Each Response must be submitted in a sealed envelope. Each response will be reviewed and evaluated by members of Nye County Staff and/or Officials. The selected RFQ will be recommended to the Board of County Commissioners (BoCC), the final selection/decision is to be made by the BoCC.

The selection team will review the Responses based on the Evaluation Criteria Table listed below:

**Table 1: Response Evaluation Criteria**

EVALUATION CRITERIA	MAXIMUM PERCENTAGE TO BE AWARDED	RESPONDENT'S SCORE
1. Demonstrated understanding of the scope of work and the RFQ goals, objectives and requirements.	20	
2. Professional qualifications and experience of team members.	25	
3. Proposed methodology and approach to performing the work.	20	
4. Completeness of Offered Services.	20	
5. Familiarity with Nye County, geographically and previous history with Nye County	10	
6. Minority-Owned Business Enterprise (MBE)/Woman-Owned Business Enterprise (WBE) firm.	5	
<b>TOTAL</b>	<b>100</b>	

The Response shall contain the following general information in the sequence listed herein duly tabbed for easy location and evaluation:

### 6.1 Understanding of Project

The Respondent's understanding of the RFQ shall be based on their analysis and familiarity with the issues and objectives. This should include an indication of the nature of the work involved and any anticipated conflicts or problems.

### 6.2 Analysis of Project Requirements

Based on the available information the Respondent may receive prior to closing of the RFQ, the Response should include the Respondent's understanding of the project. In preparing the Response, the Respondent is expected to notify the Nye County Purchasing Department immediately of major errors, omissions and discrepancies in the information included in the RFQ.

### 6.3 Qualifications of Respondent and Project Team

A brief general description of the qualifications of the firm(s) must be provided.

### 6.4 Similar Project Experience

(a) Brief documentation on projects of a similar scope carried out by the firm.



(b) Brief documentation of experience on projects of similar type and scope carried out by project team members.

6.5 Assigned Project Manager, related experience, and qualifications:

Respondent shall identify one senior individual by name, address, and telephone number and fax number who will act as the Respondent's primary liaison/contact with regard to each response. The Project Manager must have a minimum 5 years of demonstrated experience in projects of the same type being proposed.

6.6 Assigned staff, related experience, and qualifications

(a) The respective roles and responsibilities of team members, including a project team list.

## PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between Nye County (hereinafter “County”) and \_\_\_\_\_ (hereinafter “Consultant”).

WHEREAS, the County desires to contract with a professional firm to provide Services to \_\_\_\_\_; and

WHEREAS, Consultant represents that it is duly qualified, equipped, staffed, ready, willing and able to perform and render the professional services hereinafter described; and

NOW, THEREFORE, it is hereby agreed by and between the parties as follows:

**1. EFFECTIVE DATE AND TERMS OF AGREEMENT**

This Agreement shall not become effective until and unless approved by the County. This Agreement may be executed in counterparts, each of which shall be fully effective as an original, and all of which together shall constitute one and the same instrument.

**2. ADMINISTERING OF PROFESSIONAL SERVICES AGREEMENT**

The Manager and \_\_\_\_\_, Project Manager/Vice President of Consultant will cooperate for purposes of administering this Professional Services Agreement (hereinafter “Agreement”).

**3. PROJECT MANAGER (if applicable)**

The parties agree that \_\_\_\_\_ will be the Project Manager for the Services performed under this Agreement. The Project Manager may assign other employees or agents of the Consultant to carry out some or all of the Services under this Agreement, but in such case, the Project Manager will be responsible for the supervision and predominance of those employees and agents.

**4. SCOPE OF SERVICES**

Consultant shall perform professional services as stated in Exhibit A.

**5. TERM AND EXTENSIONS**

Except as hereafter provided, the Consultant shall commence performance of this Agreement on \_\_\_\_\_, 20\_\_\_\_, and shall complete the Services, to the satisfaction of the County by \_\_\_\_\_, 20\_\_\_\_, unless a written extension is granted by the County.

**6. PAYMENT FOR SERVICES**

As and for compensation for the performance of the Services, the Consultant shall receive from the County an amount on time and material basis, not to exceed of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_.00) including disbursements, which amount shall be the “upset” limit with potential to be less.

Consultant shall submit a monthly invoice package to the County which:

- a. Includes an expense reimbursement request that complies with Exhibit “B” and includes a report on progress made during the invoice period;
- b. Complies with all other procedures regularly required by the County.

The County will make a good faith effort to process the claim in a timely and expeditious manner within forty-five (45) calendar days upon receipt of invoice.

The Consultant agrees that, upon receipt of monies from the County based upon a claim against the County for payment under this Agreement, monies due and owing to Consultant’s employees, sub-consultants, and others under that claim will be paid to those employees, sub-consultants, and others forthwith. Failure to do so constitutes a material breach of this Agreement. The County reserves the right to make out reimbursement checks with Consultant and its sub-consultants as joint payees if the County determines that it is in its best interests to do so. Pursuant to NRS 2424.250, any claim for reimbursement not submitted by Consultant within six months from the time such claim became due or payable shall not be allowed or paid.

**7. COOPERATION BY COUNTY**

County shall assist Consultant by providing information and recommendations, as follows:

- a. The County will provide to Consultant all information reasonably within County control of accessible to County and which may be helpful to Consultant in the performance of its Services of this Agreement, provided that the transmission of such information to Consultant is not precluded because the requested information is confidential or privileged; and
- b. The County will provide to Consultant any recommendations and/or directions relating to the Services to be provided under this Agreement which are material to the successful completion of the Services.

**8. INDEPENDENT CONTRACTOR/CONSULTANT STATUS**

The parties agree that Consultant, including any of Consultant’s employees, agents, subcontractors, or sub-consultants, is an independent contractor and that Consultant is not a County employee or agent of the County, and, further, by explicit agreement of the parties, that there shall be no:

- a. Withholding of income taxes by the County;
- b. Industrial insurance coverage provided by the County;
- c. Participation in group insurance plans which may be available to employees of the County;

- d. Participation or contributions by either the Consultant or the County to the public employees' retirement system on behalf of the Consultant or its employees, agents, subcontractors, or subconsultants;
- e. Accumulation of vacation or sick leave;
- f. Unemployment compensation coverage provided by the County if the requirements of NRS 612.085 for independent contractors are met.; or
- g. Worker's compensation coverage provided by the County.

**9. ASSIGNMENT AND DELEGATION**

The parties agree that this Agreement is a personal services agreement, dependent upon the unique qualifications and abilities of Consultant. Consultant shall neither assign, transfer nor delegate any rights, obligations or duties under this Agreement without the prior written consent of the County. No assignment of rights or delegation of duties of the Agreement shall be effective until the Assignee assumes in writing the obligations of the assigning party and delivers such written assumption to the other original party to this Agreement. Use of sub-consultants by the Consultant or subsidiary or affiliate firms of the Consultant or technical or professional services shall not be considered an assignment of a portion of this Agreement. Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than the County and Consultant.

**10. INDEMNIFICATION**

- a. Consultant agrees to indemnify County from any loss, costs, reasonable attorney's fees, other expenses or final judgment by third parties in a court of competent jurisdiction, or through arbitration if the parties so agree, for property damage and bodily injury, including death, or any other damage to the proximate extent caused by the negligence or willful misconduct of Consultant, his agents, employees or affiliates in connection with the project.
- b. Consultant agrees to fully exonerate, indemnify and save the County harmless from and against all claims or actions, based upon or arising out of damage or injury (including death) to persons or property caused by and/or sustained in connection with Consultant's performance under this Agreement or by conditions created thereby; and further agrees, if requested by the County, to assume without expense to the County, the defense of any such claims or actions, unless such damage or injury was caused by the County's actions.

**11. INSURANCE/PROOF OF INSURANCE**

- a. Consultant shall secure and maintain throughout the term of this Agreement general liability insurance in the amount of at least One Million/Two Million Dollars (\$1,000,000.00/2,000,000.00) per occurrence/aggregate, combined single limit.

- b. Consultant shall secure and maintain throughout the term of this Agreement professional liability insurance in the amount of at least One Million Dollars (\$5,000,000.00).
- c. Consultant shall secure and maintain throughout the term of this Agreement vehicle liability insurance in an amount of at least Five Hundred Thousand/One Million Dollars (\$500,000.00/\$1,000,000.00) single person/occurrence for each vehicle used to carry out this Agreement and vehicle insurance on each vehicle used in the carrying out of this Agreement, with coverage of not less than Five Hundred Thousand Dollars (\$500,000) per person and One Million Dollars (\$1,000,000) per occurrence for bodily injury and Three Hundred Thousand (\$300,000) property damage.
- d. Consultant shall secure and maintain throughout the term of this Agreement workers' compensation insurance in the amount required by Nevada for each employee who performs work under this Agreement. The Consultant acknowledges protection by the Worker's Compensation Insurance or Employer's Liability Insurance, and by Public Liability Insurance for bodily injury and property damage and will furnish certificates thereof upon request. The Consultant will maintain in effect, for the terms of this Professional Services Agreement, employers' liability insurance and workers' compensation, at not less than the statutorily required minimums, for any employees who may or will do any work under the provisions of this Agreement.
- e. Consultant shall furnish to the County, upon execution of this Agreement and before commencing work, certificates of insurance verifying Consultant's compliance with the insurance requirements of this Section.
- f. Consultant shall notify the County if Consultant's insurance lapses during the term of this Agreement. Lapse of Consultant's insurance during the term of this Agreement shall constitute a substantial breach of this Agreement by Consultant. The Consultant assumes the risk of damage to its own supplies and equipment.

**12. COMPLIANCE WITH APPLICABLE LAW AND REGULATIONS**

During the term of this Agreement and while performing the scope of work, or otherwise acting on behalf of the County, Consultant agrees to perform all terms and conditions of this Agreement in a lawful manner and in conformity with all applicable laws and codes of the United States and of the State of Nevada, and all ordinances, rules, and regulations of Nye County and of any and all other competent public authority applicable to the performance of Consultant's duties. Failure by Consultant to comply with any applicable laws, codes, ordinances, rules and/or regulations constitutes a material breach of this Agreement.

**13. STANDARD OF CARE**

Consultant shall perform its services to the standard of care of a reasonable Consultant that is performing the same or similar work, at the same time and locality and under the same or similar conditions faced by Consultant.

**14. TECHNICAL CAPABILITIES AND LEVEL OF EFFORT**

The Consultant commits to provide such professional capabilities as will be required to perform in a competent and professional manner under this Agreement.

**15. CONFLICT OF INTEREST/ORGANIZATIONAL**

Consultant agrees to:

- a. Refuse to solicit or perform any work for any other party or supply any information or analysis currently maintained by the Consultant to any other party that could reasonably be expected to be used against the County.
- b. Refuse to seek to perform work, and to not actually perform work for others that would be contrary, or could reasonably be construed to be contrary, to the County's best interests.
- c. The County may grant a waiver to the Consultant to perform certain tasks for other clients, as requested by the Consultant, when these tasks may, in the County's opinion, present a conflict of interest under this Agreement, when said waiver is approved in written form by the County and incorporated into this Agreement as an addendum.
- d. The Consultant agrees that if he discovers an organizational conflict of interest with respect to this Agreement, an immediate and full disclosure shall be made in writing to the County, which shall include a description of the action, which the Consultant has taken, or proposes to take, to avoid or mitigate such conflict. If such an organizational conflict is discovered, the County reserves the right to terminate the Agreement, without prejudice, for convenience if it deems such termination to be in the best interests of the County.
- e. For breach of any of the above restrictions or for nondisclosure or for misrepresentation of relevant facts required to be disclosed concerning this Agreement, the County may terminate the Agreement for default, disqualify the Consultant for subsequent related work for the County and pursue such remedies as may be permitted by law.

**16. CONFLICT OF INTEREST/FINANCIAL**

Consultant agrees not to accept any employment or representation during the term of this Agreement, which is or may likely make Consultant "financially interested" in any decision made by the County on any matter in connection with which Consultant has been retained pursuant to this Agreement.

**17. INSPECTION**

The books, records, documents and accounting procedures and practices of Consultant related to this Agreement shall 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.

**18. OWNERSHIP OF DOCUMENTS AND WORK PRODUCT**

All books, reports, studies, photographs, negatives or other documents, data, drawings or other materials prepared by or supplied to the Consultant in the performance of its obligations under this Agreement are instruments of service, which shall be deemed the property of the County.

Consultant acknowledges and agrees that all instruments of service prepared by Consultant pursuant to this Agreement shall be used exclusively on behalf of the County and shall not be used for any other work or client without the written consent of the County.

In the event that the County consents to the reuse of such instruments of service, the County shall require the party using them to indemnify and hold harmless the County regarding such reuse or other use.

If Consultant prepares any document on a computer, Consultant shall prepare such document in a database or word processing format acceptable to the County; and Consultant shall provide said document to the County in both printed and computer diskette form. Consultant shall have full access to such documents during the term of this Agreement.

**19. COPYRIGHTS AND LICENSE**

If the Services performed by Consultant pursuant to this Agreement result in a book, software application, customized templates or other copyrightable or licensable material, the Consultant may copyright or license the work and turn the copyright or licensing rights over to the County, the party ultimately receiving the copyright or licensing rights to the material to be determined at the end of the project. The County reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others, use, all technical information or data, and all copyrighted material resulting from the Services.

Consultant 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.

**20. DISCOVERY OR INVENTION**

If any discovery or invention arises out of or is developed in the course of, or is aided by these Services, it shall be promptly and fully reported to the County,

including full and complete technical information, for determination as to whether patent protection on such invention or discovery shall be sought and how the rights to the invention or discovery, including rights under any patent issued thereon, shall be disposed of and administered to protect the public interest. The County reserves the entire right, title, interest, and a royalty-free, non-exclusive and irrevocable license to utilize and to authorize others to utilize any discovery or invention, which can be or is patented that results from the Services.

**21. DISPOSITION OF CONTRACT MATERIALS**

Any books, reports, studies, photographs, negatives or other documents, data, drawings or other materials prepared by or supplied to the Consultant in the performance of its obligations under this Agreement shall be the exclusive property of the County and all such materials shall be remitted and delivered, at Consultant's expense, by Consultant to the County upon completion, termination, or cancellation of this Agreement. Alternatively, if the County provides its written approval to Consultant, any books, reports, studies, photographs, negatives or other documents, data, drawings or other materials prepared by or supplied to Consultant in the performance of its obligations under this Agreement must be retained by Consultant for a minimum of six years after final payment is made 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 Consultant shall promptly remit and deliver the materials, at Consultant's expense, to the County, unless the County has requested remittance and delivery by Consultant of the items. Consultant shall not use, willingly allow or cause to have such materials used for any purpose other than the performance of Consultant's obligations under this Agreement without prior written consent of the County.

**22. CONFIDENTIALITY OF INFORMATION**

All information, data, analysis, developed software or reports generated by Consultant under the scope of this Agreement shall be considered records of the County. The disclosure of all information, data, analysis, developed software or reports shall be subject to the provisions of Nevada Revised Statutes, Chapter 239 and other applicable law.

**23. RECORDS**

The Consultant shall maintain such records and accounts, including property, personnel, and financial records, as are deemed necessary by the County to assure a proper accounting for all project funds.

The Consultant will retain these records for least four (4) years after the expiration of this Agreement or after all other pending matters surrounding this Agreement are closed, whichever is longer.

The Consultant shall permit and shall require its sub-consultants to permit the County to inspect all work, materials, payrolls, and other data and records with regard to the Services until the four (4) year period expires.

The Consultant shall collect and submit or otherwise make available to the County, at such times as it may require, such financial statements, data, records,



contracts, and other documents related to the Services as may be deemed necessary by the County until the (4) year period expires.

The Consultant shall permit the County, or its authorized representative, to inspect all work, materials, payrolls, and other data and records with regard to the Services until the four (4) year period expires.

**24. PROHIBITED USE OF FUNDS**

The Consultant shall not seek funds from the County to be used either directly or indirectly to pay for bad debts; contingencies; contributions and donations; entertainment; fines and penalties; interest and other financial costs; unrecoverable costs under grant agreements; prosecution of claims against the Federal Government; or taxes which the County is not legally required to pay.

**25. TERMINATION**

a. **TERMINATION OF AGREEMENT WITH CAUSE**

This Agreement may be terminated by either party upon ten (10) calendar days written notice should the other party fail to perform in accordance with the terms of this Agreement through no fault of the other.

In the event of termination with cause, the Consultant shall be paid in full for all services previously authorized and satisfactorily performed up to the termination date.

b. **TERMINATION OF AGREEMENT WITHOUT CAUSE**

Either party to this Agreement has the right to terminate the Agreement without cause by giving not less than thirty (30) calendar days written notice to the other party by U.S. Postal Service Certified Mail to the addresses listed in Section 34 of this Agreement or by hand delivery of such notice to the other party.

i. In the event of termination without cause by County, Consultant shall be compensated for all Services rendered and expenses incurred up to the termination date pursuant to the provisions of this Agreement.

**26. BANKRUPTCY**

Under no circumstances shall this Agreement, or any of Consultant's rights hereunder, constitute an asset of the estate of Consultant or any company in which Consultant holds an ownership interest, in bankruptcy or similar proceedings involving the insolvency of Consultant or such company.

a. It is agreed that:

i. The filing of a petition in bankruptcy by Consultant or any company in which Consultant holds an ownership interest; or

- ii. The adjudication that Consultant or any company in which Consultant holds and ownership interest is bankrupt in involuntary proceeding; or
- iii. An assignment for the benefit of creditors by Consultant or any company in which Consultant holds an ownership interest; or
- iv. The levy of any execution against the interest of Consultant or any company in which Consultant holds an ownership interest in this Agreement, to enforce or satisfy any judgment against Consultant or any company in which Consultant holds an ownership interest, which is not stayed within thirty (30) days by an appeal bond or similarly appropriate remedy shall constitute grounds for County to cancel and terminate this Agreement, and that Consultant shall thereupon forfeit all of Consultant's rights to this Agreement.

b. Under no circumstances shall this Agreement, or any of Consultant's rights hereunder, constitute an asset of the estate of Consultant or any company in which Consultant holds an ownership interest, in bankruptcy or similar proceedings involving the insolvency of Consultant or such company.

**27. NO THIRD-PARTY BENEFICIARIES**

This Agreement does not give any rights or benefits to anyone other than Consultant and County and has no third-party beneficiaries

**28. NON-APPROPRIATION (Not applicable to grants, and other exceptions under NRS 354.626 2.a through k)**

All payments under this Agreement are contingent upon the availability to the County of the necessary funds. In accordance with NRS 354.626 and any other applicable provision of law, the financial obligations under this Agreement between the parties shall not exceed those monies appropriated and approved by the County for this Agreement for the then current fiscal year under the Local Government Budget Act. This Agreement shall terminate and the County's obligations under it shall be extinguished if the County fails to appropriate monies.

Nothing in this Agreement shall be construed to provide Contractor with a right of payment over any other entity. Any funds obligated by the County under this Agreement that are not paid to Contractor shall automatically revert to the County's discretionary control upon the completion, termination, or cancellation of the agreement. The County shall not have any obligation to re-award or to provide, in any manner, the unexpended funds to Contractor. Contractor shall have no claim of any sort to the unexpended funds.

**29. SEVERABILITY**

If any provision of this Agreement is held to be invalid, such invalidity shall not affect the validity of any other provisions of this Agreement which can be given effect without the invalid provision, and to this end the provisions of this Agreement declared to be severable.

**30. FORCE MAJEURE**

Neither the County nor the Consultant shall hold the other responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents, or other events beyond the control of the other or the other's employees and agents.

**31. MODIFICATION OF AGREEMENT**

This Agreement cannot be varied or modified orally and may only be modified by a written instrument duly executed by the parties.

**32. ENTIRE AGREEMENT**

This Agreement constitutes the final and entire agreement between the parties. The rights and obligations of the parties shall be determined solely from the terms of this Agreement, and any prior or contemporaneous oral agreements are superseded by and merged into this Agreement.

**33. GOVERNING LAW, VENUE AND COSTS**

This Agreement shall be governed, construed and interpreted by, through and under the laws of the State of Nevada. The parties hereby agree that venue for any and all disputes related to this Agreement shall be in the Fifth Judicial District Court of the State of Nevada, in and for the County of Nye. The parties further agree that, should it become necessary for either party hereto to take legal action to enforce any rights and/or obligations outlined herein, that the prevailing party shall be entitled to recover their costs to the extent provided for by law, with each party to bear their own attorneys' fees unless otherwise provided for by law.

**34. NOTICES**

Any notice permitted or required to be given under any provision of this Agreement shall be made to the other party by U.S. Postal Service certified mail to the addresses listed below or by hand delivery of such notice to the other party.

COUNTY:

CONTRACTOR:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DATED: \_\_\_\_\_

NYE COUNTY

By: \_\_\_\_\_  
\_\_\_\_\_, County Manager

DATED: \_\_\_\_\_

CONSULTANT

By: \_\_\_\_\_

\_\_\_\_\_

Its: \_\_\_\_\_

**EXHIBIT “A”  
Scope of Services**

The successful candidate will be available to Nye County to provide IDIQ On-Call Professional Civil Engineering Services.

Including but are not limited to, technical and professional assistance to county departments, tasks as outlined in the Pahrump Phase I Risk Map Project – MAS No. 2021-09-Nye, research, analysis, visioning, conceptual planning, web support, infrastructure design, strategic development, database development, grant development and management, construction management, presentations and public meetings to stakeholders, review of storm water management reports and plans, prepare and review of drainage studies and reports, FEMA mapping studies, CLOMR/LOMR/LOMA development and review, development, review, update and recommendations related to master drainage plans and flood control documents, general engineering review services (QA/QC), flood hazard response plans, outreach product development, and GIS products related to drainage and flood control for select watersheds in Nye County. Extensive experience with both one-and two-dimensional modeling is required.

**Exhibit B**  
**SCHEDULE OF REIMBURSABLE EXPENSES FOR TRAVEL, LODGING, MEALS,**  
**RENTAL VEHICLES, AND OTHER COSTS**

Nye County shall reimburse the Consultant for expenses as follows:

1. Lodging: The actual and reasonable expense for lodging when performance of the Consultant's duties under this Professional Services Agreement requires overnight travel. Reimbursement is based upon the applicable per diem rate for lodging as shown on the US General Services Administrative web site ([www.gsa.gov](http://www.gsa.gov)).
2. Flight: The actual and reasonable expense for traveling by air at coach fare or equivalent (company plane) when performance of the Consultant's duties under this Professional Services Agreement requires travel away from the Consultant's office which more expediently and/or economically may be completed by air than by land vehicle.
3. Rental Vehicles: The actual and reasonable expense of renting a vehicle plus the cost of fuel for that vehicle, but only when the Consultant's duty under this Professional Services Agreement requires travel by air.
4. Mileage: Reimbursement for mileage (other than when travel is by air/rental vehicle) shall be at the rate of the IRS allowed mileage rate in effect January 1 of each year for all miles traveled away from the Consultant's office and pursuant to this Professional Services Agreement. No receipts for gas, oil or other vehicle expenses will be required or accepted if per-mile reimbursement is sought.
5. Meals: Reimbursement for meals during travel or when otherwise required as part of the Consultant's duties under this Professional Services Agreement shall be reimbursed based upon the applicable per diem rate for meals and expenses as shown on the US General Services Administrative web site ([www.gsa.gov](http://www.gsa.gov)). Nye County is considered a standard Continental United States (CONUS). Nye County does not allow reimbursement for incidentals.
6. Other Extraordinary Expenses: Nye County shall reimburse Consultant for other actual, reasonable, necessary, and extraordinary expenses, including but not limited to: Long-distance telephone charges; postage, Fed-Ex or other rapid delivery charges, document reproduction; and online and other data retrieval.
7. Nye County will not reimburse the Consultant for office or work supplies or equipment or other expenses which is/are purchased, acquired, and used generally in Consultant's business and are not peculiarly necessary to the fulfillment of this Professional Services Agreement. Such supplies/equipment/ expenses are considered a part of the Consultant's overhead and are deemed a part of Consultant's hourly fee.
8. Claims for reimbursement of expenses which are not stipulated amounts must be accompanied by photocopies of the original receipts, bills, or other substantiating documentation of the costs incurred and paid, or the expense will not be reimbursed.
9. Nye County reserves the right to reject claims for reimbursement which it believes are not "reasonable".