

**PROFESSIONAL ENGINEERING SERVICES CONTRACT FOR  
SUBSURFACE UTILITY ENGINEERING  
VARIOUS PUBLIC WORKS PROJECTS**

**THIS Contract** made and entered into this 21<sup>st</sup> day of June, 2022, between CLARK COUNTY, NEVADA, a political subdivision of the State of Nevada, hereinafter referred to as “COUNTY”, and HORROCKS ENGINEERS, INC., a corporation authorized to do business under the laws of the State of Nevada, hereinafter referred to as “ENGINEER”. The COUNTY and ENGINEER may herein individually be referred as “Party” or collectively as “Parties.”

The initial addresses of the Parties, which one Party may change by giving notice to the respective other Party, are as follows:

COUNTY	ENGINEER
Denis Cederburg, Director Clark County Department of Public Works 500 South Grand Central Parkway, Suite 2066 Las Vegas, Nevada 89106 (702) 455-6020	Horrocks Engineers, Inc. Bud Swensen, P.E., Principal 1401 North Green Valley Parkway, Suite 160 Henderson, Nevada 89074 (702) 498-6309

**W I T N E S S E T H**

**WHEREAS**, the COUNTY desires to obtain quality professional engineering services in connection with the work hereinafter described; and,

**WHEREAS**, the ENGINEER desires to provide such services in exchange for the fees hereinafter specified.

**NOW, THEREFORE**, for and in consideration of the premises and mutual covenants herein contained, it is agreed as follows:

**ARTICLE I: DEFINITIONS**

As used in this Contract, the following terms shall have the meanings as set out below:

“County Surveyor” means the County Surveyor, or Deputy County Surveyor, for the County of Clark as designated by the Director to administer the Land Surveying aspects of this Contract.

“Director” means the Director of Public Works of the County of Clark and all persons designated by him, in a notice to the ENGINEER, to administer this Contract.

“Work Order” means written notification by the Director to the ENGINEER identifying the work to be performed, the location of work, a time period to complete, and the maximum fee to be paid by the COUNTY to the ENGINEER for such work as outlined in the Work Order. The Work Order may also specify the method of payment if different from Section 5.03 of Article V of this Agreement.

“Project Area” means the area within Clark County, Nevada.

“Project” means the work identified within each Work Order for Subsurface Utility Services for one or more those roadways identified within the latest Capital Improvements Program adopted by the Clark County Board of Commissioners and the rehabilitation of existing public roadways within the County as directed by the DIRECTOR.

“Subsurface Utility Engineering Services” (SUE) are those services as set forth in Section 2.02.

“Work Order” means written notification by the DIRECTOR to the ENGINEER identifying the work to be performed, the location of work, a time period to complete, and the maximum fee to be paid by the COUNTY to the ENGINEER for such work as outlined in the Work Order. The Work Order may also specify the method of payment if different from Section 5.03 of Article V of this Agreement.

## **ARTICLE II: SCOPE OF SERVICES**

### **2.01 In General**

The ENGINEER shall perform the Subsurface Utility Engineering Services specified in Section 2.02 hereof, as well as those requirements in Section 2.03 hereof that the Director authorizes the ENGINEER in writing, to perform.

If the ENGINEER recommends subcontract services, the recommendation shall also include the name(s) of the subcontractor(s) recommended by the ENGINEER and, if requested, a copy of the subcontract proposal(s).

#### **2.01.1 Engineer Assignment**

The ENGINEER shall assign Bud Swensen, P.E., as the Project Manager (“Project Manager”). All of the services specified by this Contract shall be performed by the Project Manager, or by the ENGINEER’s associates, employees and subconsultants under the personal supervision of the Project Manager. Should the Project Manager be unable to complete his or her responsibility for any reason, the ENGINEER shall notify the Director in writing, and within four calendar days thereafter, nominate a replacement for the Director approval, in its reasonable discretion, who has an equivalent amount of experience performing the same type of services as required for the Project. An approved replacement shall be assigned to the Project within ten calendar days.

### **2.01.2 Subconsultant Services**

With respect to any subconsultant services performed in connection with performance of the terms and obligations imposed under these Contract provisions, the ENGINEER agrees as follows:

- A. To pay the subconsultant if any when the ENGINEER is paid for the subconsultant's portion of the work by the COUNTY. The ENGINEER shall provide to the COUNTY lien releases from its subconsultants.
- B. The subconsultant does not have any contractual rights with the COUNTY.
- C. The Director has the right in its discretion to approve every subconsultant prior to such subconsultant's performance of any portion of the Project.
- D. The ENGINEER shall require that each subconsultant performing any portion of the Project:
  - Is duly formed, in good standing, and authorized to do business in the State of Nevada;
  - Is a duly licensed or registered architect, engineer, or other professional, as the case may be with the State of Nevada, and such license or certificate of registration is in full force and effect;
  - Has obtained any and all licenses, certificates and permits that are required to be obtained by subconsultant by the Nevada Revised Statutes and the Nevada Administrative Code, and by any other law, rule, regulation or ordinance applicable to subconsultant and to the performance of any part of the Project by subconsultant;
  - Is duly licensed and authorized to do business in the COUNTY, and such business license is in full force and effect; and
  - To comply with all laws, rules, regulations, and ordinances, as such may be amended, supplemented or modified from time to time, that are applicable to subconsultant and any portion of the Project performed by subconsultant.

### **2.02 Subsurface Utility Engineering Services**

Beginning on the date the DIRECTOR notifies the ENGINEER to begin performance of a Work Order, the ENGINEER shall begin and furnish all services requested in the Work Order by the COUNTY and necessary for the design of the Project. Without limiting the generality of the following, the Subsurface Utility Engineering Services shall follow the standards set forth in ASCE 38-02: Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data and include the following specific tasks:

**TASK A - Designating:** For the purpose of this section Designating shall mean the process of using geophysical methods to determine the presence of a subsurface utility and mark its location using acceptable survey standards. Subsurface Utility Engineering (SUE) services shall include:

- Conduct records research to identify utility owners that are within the Project limits. The sources of information may include but is not limited to the utility company records and as-built plans, contract plans, One-Call, Public Utilities offices, and County offices.
- When designation and or location activities are to take place outside of right-of-ways, the ENGINEER shall request written permission from the property owner prior to any entry on private property.
- Provide traffic control and traffic control maintenance necessary to perform work. This includes obtaining an encroachment permit from the appropriate jurisdiction and complying with all requirements imposed by said permit prior to initiating any field surveys. All traffic control plans must conform to the Manual on Uniform traffic Control Devices.
- Designate, field mark and record the approximate horizontal location of existing subsurface utilities using all of the following Quality Levels.

Quality Level D: information comes solely from existing utility as-built records.

Quality Level C: involves surveying visible aboveground utility facilities, such as manholes, valve boxes, posts, etc., and correlating this information with existing utility as-built records.

Quality Level B: involves the use of surface geophysical techniques to determine the existence and horizontal position of underground utilities. This activity is called "designating". Two-dimensional mapping information is obtained.

- Provide an AutoCAD file of the utility lines containing horizontal and vertical utility lines.
- Survey reports shall be signed and stamped by a P.L.S professional licensed land surveyor in the State of Nevada.
- SUE reports shall be stamped and signed by a Licensed Professional Engineer in the State of Nevada.
- The ENGINEER shall submit with the SUE report a letter certifying that the report was reviewed through the ENGINEERS quality control process and is complete, accurate and compliant with current engineering standards.

**Task B – Quality Level A:** involves the use of nondestructive digging equipment at critical points to determine the precise horizontal and vertical position of underground utilities, as well as the type, size, condition, material, and other characteristics. This activity is called "locating." It is the highest level presently available.

Locating: For the purpose of this section, Locating shall mean the process of exposing and recording the precise vertical and horizontal location of a utility by excavating a pothole using vacuum extraction or comparable nondestructive equipment. The COUNTY will provide an exhibit that includes Pothole locations. Potholes will be part of the Work Order and will require written authorization, from the DIRECTOR, prior to performing the work. The ENGINEER shall identify any potential utility conflicts upon field inspection and notify the PROJECT MANAGER if additional potholes are necessary. The ENGINEER shall:

- Mark locations requested and “Call Before You Dig” (LAW REQUIRES A MINIMUM OF 48 HOURS PRIOR TO ANY EXCAVATION).
- Provide all maintenance and control of traffic to perform work. This includes obtaining an Encroachment permit from the appropriate jurisdiction and complying with all requirements imposed by said permit prior to initiating any potholes or field surveys. All traffic control plans must conform to the Manual on Uniform Traffic Control Devices.
- Coordinate with utility companies for inspection as required.
- Neatly cut and remove existing paving. Excavate pothole in such a manner as to prevent any damage to wrappings, coatings, or other protective coverings of the utility facility.
- Where conduits are concrete encased, determine top and bottom of encasements in addition to both sides. Utilities over 48 inches in diameter (or 4 feet in width on RCB's) will require potholes at the centerline of the utility and both sides. Utilities shall also be potholed on each side of the proposed structure location, located transversely to any proposed structure with a width in excess of 6 feet.
- Where existing pavement exists, provide a restoration patch of pavement or concrete within the limits of the original cut at time of backfill, as required by the permitting agency. Such restoration and backfill procedures shall comply with the standards of the governmental authority that issued the applicable excavation permit. Whenever potholes are excavated outside of roadway pavement, these disturbed areas shall be restored, as nearly as possible, to the condition that existed prior to excavation.
- Furnish, install and color code per utility standards, a permanent above ground marker (i.e. P.K. nail, steel pin or hub) directly above the centerline of the structure (or by using offsets), and record the elevation of the marker. Prepare a sketch of each pothole, showing location of the existing utility in relation to the

hub. Survey the ground marker and determine elevation of utility and include in sketch.

- Contractor shall communicate to the Clark County Surveyor's Field Operation office (702-455-0640) when the reference monuments have been set so that actual elevations and locations of said monuments are obtained in a timely manner.
- Provide an AutoCAD sheet file of the potholes horizontal and vertical location as well as the individual detailed information of each hole.
- Provide the following pothole information in an excel spreadsheet:
  1. Pothole reference number and description of the utility.
  2. Elevation of top of utility.
  3. Horizontal location using the x y coordinates further translated to project stationing and offset.
  4. Identify the freeway, highway, route or city street on which the pothole is located.
  5. Outside diameter of pipe or width of duct banks and configuration of non-encased, multi-conduit systems.
  6. Identification of utility structure material composition, when possible.
  7. Identification of benchmarks used to determine elevations.
  8. Pavement thickness and type.
- Elevation data shall be accurate to within 0.05' +/- based on benchmarks shown by consultant and horizontal accuracy shall be within 0.5' +/- based on the projects horizontal control.
- Survey reports shall be signed and stamped by a P.L.S professional licensed land surveyor in the State of Nevada.
- SUE reports shall be stamped and signed by a Licensed Professional Engineer in the State of Nevada.
- The ENGINEER shall submit with the SUE report a letter certifying that the report was reviewed through the ENGINEERS quality control process and is complete, accurate and compliant with current engineering standards.

### **2.03 Other Requirements**

ENGINEERS must comply with the following requirements when performing this Contract.

- A. Vehicles used on a Project by the CONSULTANT's Project representative(s) and other personnel performing on-site observation shall be conspicuously marked so as to identify personnel of the CONSULTANT for the benefit of the public. Markings may be magnetic or otherwise removable but must be displayed while on a Project.
- B. The ENGINEER shall provide his on-site personnel a cellular telephone to facilitate communication with the COUNTY.

### **2.04 Coordination**

The ENGINEER shall coordinate with the county personnel.

### **2.05 Engineer's Responsibility for Accuracy**

The ENGINEER is responsible for the accuracy of test hole data and proposal furnished by the ENGINEER under this Contract.

## **ARTICLE III: DUTIES OF THE COUNTY**

### **3.01 Other Duties**

- A. Provide access to the ENGINEER for all data and allow the ENGINEER to make copies of documents in the possession and control of the COUNTY Public Works Department, or available to the COUNTY Public Works Department, which are requested by the ENGINEER to perform its engineering services under this Contract.
- B. Perform and provide to the ENGINEER, evaluations on the ENGINEER's performance of the work specified herein. Evaluations will be made after the COUNTY has awarded a bid for the construction of the Project.

## **ARTICLE IV: TIME OF PERFORMANCE**

### **4.01 Time of Performance**

Subject to Section 4.02 hereof, the ENGINEER shall complete the tasks specified in the Work Order on or before the date set forth in each Work Order.

The term of this Contract shall begin on the date of its approval and the end on December 31, 2023, unless the COUNTY amends such date.

#### **4.02 Time Extensions**

Upon written request of the ENGINEER, the Director may grant time extensions to the extent of any delays caused by the COUNTY or other agencies with whom the work must be coordinated and over whom the ENGINEER has no control, but only to the extent that the exercise of due diligence and care, on the part of the ENGINEER, within the scope of its work under this Contract could not have avoided such delays and to the extent of any delays caused by force majeure, as that term is defined in Section 9.12 hereof.

### **ARTICLE V: PAYMENT FOR SERVICES**

#### **5.01 Maximum Amount Payable**

The maximum amount payable by the COUNTY to the ENGINEER shall be a sum of money that does not exceed Six Hundred Fifty Thousand Dollars and 00/100 (\$650,000.00) for the SUE services, unless such sum is increased by the Clark County Board of commissioners, but only to the extent of such total sum is increased.

The ENGINEER is not authorized to perform any work outside the Scope of Services. Compensation will be only for work completed as authorized by the Scope of Services. Any changes to the Scope of Services must be approved by the Director in writing prior to the commencement of work as a supplement to this Contract. No additional compensation shall be paid to the ENGINEER for any additional work outside scope of services without the prior written authorization of the Director.

#### **5.02 Subsurface Utility Engineering**

Compensation for Subsurface Utility Engineering Services, summarized in Work Order, will be made in accordance with each individual Work Order and only upon COUNTY approval of the Work Order.

The ENGINEER shall invoice based on the completion of each individual Work Order identified in Section 2.02 in accordance with the time schedule set forth in Section 4.01, Time of Performance.

The Subsurface Utility Engineering Services fees shall not be paid to the ENGINEER unless the Director approves the purpose and the amount of such fees in writing.

In no event may the fees exceed the following Subsurface Utility Engineering Services fees shown below in purposes or amounts:



TASK

MAXIMUM AMOUNTS

Subsurface Utility Engineering Basic Services 2.02 Tasks A and B.....\$650,000.00

Grand Total Basic and Special Services .....\$650,000.00

**5.03 Method of Payment for Subsurface Utility Engineering Services Fees**

Unless otherwise specified in the Work Order, the ENGINEER will be paid on the basis of an invoice submitted at the completion of each individual Work Order, when satisfactorily performed as determined by the DIRECTOR in writing, and in accordance with the amounts identified in Section 5.02.

The ENGINEER shall submit an invoice after receipt of written acceptance and approval of Work Order Deliverable from the Director. The COUNTY will pay within sixty (60) days after receipt of an invoice submitted by the ENGINEER and approved by the Director unless the Director notifies the ENGINEER within such period of time that a payment or a portion thereof for the services rendered is in dispute. The COUNTY agrees that it will not-unreasonably delay or withhold payment or approval of any invoice submitted by the ENGINEER.

The Parties hereby agree that no penalty will be imposed upon the COUNTY for failure to pay the ENGINEER in a timely manner nor will the COUNTY require a discount for timely payment in accordance with the terms set forth in this Contract.

**ARTICLE VI: ENGINEERING CRITERIA; APPROVALS**

**6.01 Engineering Criteria**

An approval by the Director, or any other instrumentality of the COUNTY, of any part of the ENGINEER’s performance shall not be construed to waive compliance with this Contract or to establish a standard of performance other than that established by law unless such approval is in writing and expressly refers to:

- A. Specific items and the characteristics of such items subject to such a waiver; and,
- B. This Article VI, and in such event, such a waiver shall only be effective as to the specific items and the characteristics thereof identified in the writing.

The COUNTY’s approval herein shall not relieve the ENGINEER of its responsibility to correct errors by the ENGINEER under this Contract, and no payment to the ENGINEER will be made by the COUNTY for correction of such errors.

**ARTICLE VII: TERM AND TERMINATION**

**7.01 In General**

This Contract shall be in force and effect from and after the day on which the Director gives notice to the ENGINEER to begin work under this Contract under Section 2.02 above. This Contract shall remain in effect until one year from the date listed in Article 4.01. This section shall not be construed to relieve either Party of its obligations to perform under this Contract while the Contract is in effect. Termination of this Contract shall not release either Party from any of its continuing obligations hereunder. This section shall not be construed to change any disputes arising out of this Contract or in connection with the subject matter hereof, nor shall this section be construed to change the date or the time on which a cause of action arising out of this Contract, or the subject matter hereof, would otherwise accrue under the statutes of limitations or doctrines of law.

**7.02 Termination by the COUNTY**

The Director may terminate this Contract at any time by giving thirty (30) days notice in writing to the ENGINEER. Upon receipt of such notice, the ENGINEER shall, unless the notice directs otherwise, immediately discontinue all services in connection with this Contract and shall proceed to cancel promptly all existing orders and contracts insofar as such orders or contracts are chargeable to this Contract. As soon as practicable after receipt of notice of termination, the ENGINEER shall submit a statement showing in detail the services performed under this Contract to the date of termination. The COUNTY shall then promptly pay the ENGINEER that portion of the prescribed fee which the services actually performed under this Contract bear to the total services called for under this Contract, less such payment on account of the fee as had been previously made.

**ARTICLE VIII: INSURANCE**

**8.01 In General**

The ENGINEER shall obtain and maintain, for the duration of this Contract, insurance against claims for injuries to persons or damages to property or other losses which may arise from or in connection with the ENGINEER's negligence or fault in the performance of the work hereunder by the ENGINEER, the ENGINEER's agents, representatives, employees, or subcontractors of any tier.

**8.02 Insurance Coverages**

The ENGINEER will provide the COUNTY with certificates of insurance for coverage as listed below and endorsements establishing coverage required by this Contract within ten (10) calendar days after approval of this Contract by the Clark County Board of

Commissioners. The certificate of endorsement for each insurance policy is to be signed by a person authorized by that insurer and licensed by the State of Nevada and shall include the Project name on the certificate.

All deductibles and self-insured retention shall be fully disclosed in the certificate of insurance. No deductible or self-insured retention may exceed Twenty-Five Thousand and 00/100 Dollars (\$25,000.00) without written approval of the COUNTY. If aggregate limits are imposed on bodily injury and property damage and professional liability coverage, the amount of such a limit must not be less than twice the amount of the limits required herein. All aggregates must be fully disclosed, and the amount must be entered on the required certificate of insurance. Any notice given to the ENGINEER with respect to the exhaustion of limits of insurance shall also be sent to the COUNTY. Each insurance company's rating, as shown in the latest "Best's Key Rating Guide" shall be fully disclosed and entered on the required certificate of insurance. The adequacy of the insurance supplied by the ENGINEER, including the rating and financial health of each insurance company providing coverages, is subject to approval by the COUNTY.

The insurance coverages are in the following amounts:

- A. The ENGINEER will maintain general liability coverage at limits of no less than One Million and 00/100 Dollars (\$1,000,000.00) specified combined single limit per occurrence for bodily injury (including death), personal injury and property damages. Coverage shall be on an "occurrence" basis only and not on a "claims made" basis; and the coverage must be provided on ISO commercial liability or on ISO broad form comprehensive general liability forms with no exception to the coverage provided in such forms. The policies must include, but not be limited to, coverage for: bodily injury, personal injury, broad form property damages, premises operations, severability of interest, products and completed operations, contractual and independent contractors. Policies must contain a primary and non-contributory clause and must contain a waiver of subrogation endorsement. The COUNTY, its officers, its employees, and its volunteers must be expressly covered as "additional insureds."
- B. Maintain automobile coverage at limits of no less than One Million and 00/100 Dollars (\$1,000,000.00) combined single limit "per accident" for bodily injury and property damage for all owned automobiles, non-owned automobiles, hired automobiles, or any automobile. The COUNTY, its officers, its employees, and its designated volunteers must be expressly covered as "additional insureds."
- C. Maintain professional liability insurance at limits of no less than One Million and 00/100 Dollars (\$1,000,000.00) per occurrence and to insure against claims or losses arising out of the services provided by the ENGINEER, the ENGINEER's agents, representatives or employees pursuant to the ENGINEER's contract with the COUNTY. "Claims made" insurance coverage will continue for a period of three (3) years beyond the term of this Contract. Any retroactive date must coincide with or predate the date of this Contract and may not be advanced without the COUNTY's consent. The ENGINEER's professional liability

insurance must provide coverage for the ENGINEER's subcontractor if the subcontractor does not maintain professional liability insurance in the same amounts and manner as required for the ENGINEER.

### **8.03 Additional Coverage**

The ENGINEER's insurance shall be primary as respects to the COUNTY, its officers, its employees, and its volunteers. Any other coverage available to the COUNTY, its officers, its employees, and its volunteers shall be in excess over the insurance required of the ENGINEER. The insurance requirements specified herein do not relieve the ENGINEER of his responsibility or limit the amount of the ENGINEER's liability to the COUNTY or other persons, and the ENGINEER is encouraged to purchase such additional insurance as the ENGINEER deems necessary.

### **8.04 Notice of Cancellation**

The insurance certificates supplied by the ENGINEER must provide for a thirty (30) day notice to the COUNTY before implementation of a proposal to cancel required insurance coverage. This notice requirement does not waive the insurance requirements contained herein. In addition, the ENGINEER shall notify the COUNTY within thirty (30) days of any reduction in coverage or limits.

### **8.05 Special Conditions**

- A. ENGINEER agrees, as a condition precedent to the performance of any work under this Contract and as a precondition to any obligation of COUNTY to make any payment under this Contract, to provide COUNTY with a certificate issued by the Employer's Insurance Company of Nevada in accordance with NRS Section 616B.627. Prior to the expiration of such coverage, ENGINEER shall provide COUNTY with proof of continued coverage as a condition precedent to the continuation of work and payments under this Contract.
- B. ENGINEER agrees to maintain coverage for industrial insurance pursuant to the terms of NRS Chapter 616 throughout the term of this Contract. If ENGINEER does not maintain such coverage, or fails to provide proof of continued coverage, ENGINEER agrees that COUNTY may withhold payment, order the ENGINEER to stop work, suspend the Contract or terminate the Contract.

### **8.06 COUNTY's Remedies**

If the ENGINEER fails to maintain any of the insurance coverages required under this Contract, the COUNTY will have the option to:

- A. Terminate the Contract;
- B. Declare the ENGINEER in breach of Contract;

- C. Purchase replacement insurance; or
- D. Pay the premiums that are due on existing policies in order that the required coverage may be maintained.

The ENGINEER is responsible for any costs incurred by the COUNTY to maintain such insurance, and the COUNTY may collect the same from the ENGINEER or deduct the amount of costs incurred from any sums due the ENGINEER under this Contract.

## **ARTICLE IX: MISCELLANEOUS PROVISIONS**

### **9.01 Indemnification**

#### Professional Liability:

ENGINEER agrees to indemnify and hold harmless COUNTY and all the officers, employees and agents of the COUNTY, and each of them, from and against any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorneys' fees and costs, to the extent such liabilities, damages, losses, claims, actions or proceedings are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the ENGINEER, ENGINEER's employees and/or agents, in the performance of this Contract. If the ENGINEER is adjudicated to be liable by a trier of fact, the trier of fact shall award reasonable attorney's fees and costs to be paid to the COUNTY, as reimbursement for the attorney's fees and costs incurred by the COUNTY in defending the action, by the ENGINEER in an amount which is proportionate to the liability of the ENGINEER.

ENGINEER further agrees to defend, indemnify and hold harmless the COUNTY and all the officers, employees and agents of the COUNTY, and each of them, from and against any and all liabilities, damages, losses, claims, actions or proceedings caused by the negligence, errors, omissions, recklessness or intentional misconduct of the ENGINEER, and ENGINEER's employees and/or agents, in the performance of this Contract when said liabilities, negligence, errors, omissions, recklessness or intentional misconduct are not based upon or arising out of the professional services performed under this Contract.

ENGINEER will not be required to defend, indemnify or hold harmless the public body or the employees, officers or agents of the COUNTY from any liability, damage, loss, claim, action or proceeding caused by the negligence, errors, omissions, recklessness or intentional misconduct of the employees, officers or agents of the COUNTY.

#### General and Automobile Liability:

As to acts or omissions which do not arise directly out of the performance of the professional services, including but not limited to those acts or omissions normally covered by general and automobile liability insurance, ENGINEER agrees to indemnify, defend (at COUNTY's option), and hold harmless COUNTY, its officers, employees from and against any and all losses, damages, fines, liability, claims, demands, causes of

action, costs, expenses, judgments, including, but not limited to, reasonable costs of investigation, reasonable attorneys fees and expenses, reasonable consultants' fees and expenses, reasonable expert witnesses' fees and expenses and all court or arbitration or other alternative dispute resolution costs.

Furthermore, this entire Section 9.01 survives any termination or completion of this Contract.

#### **9.02 Non-Discrimination**

ENGINEER acknowledges that the COUNTY has an obligation to ensure that public funds are not used to subsidize private discrimination. ENGINEER recognizes that if they or their subcontractors are found guilty by an appropriate authority of refusing to hire or do business with an individual or company due to reasons of race, color, religion, sex, sexual orientation, gender identity or gender expression, age, disability, national origin, or any other protected status, the COUNTY may declare the ENGINEER in breach of the Contract, terminate the Contract, and designate the ENGINEER as non-responsible.

#### **9.03 Engineer's Responsibility for Services and Materials**

Until the COUNTY's acceptance of the services performed by the ENGINEER the ENGINEER shall have the charge and care of the services and of the materials to be used herein and shall bear the risk of injury, loss and/or damages to any part thereof by the action of the elements or from any other cause, whether arising from the execution or from the nonexecution of the services. The ENGINEER shall rebuild, repair, restore and make good all injuries, losses and/or damages to any portion of the services to be performed or the materials occasioned by any cause before its completion and acceptance and shall bear the expense thereof.

#### **9.04 Independent Contractor**

The relationship of the ENGINEER to the COUNTY shall be that of an independent contractor.

#### **9.05 Business Structure and Assignments**

The ENGINEER shall not assign this Contract or dispose of all or substantially all of its assets without the written consent of the Clark County Board of Commissioners.

#### **9.06 Subcontractors**

The ENGINEER shall not subcontract any part of its performance under this Contract without the written consent of the Director. Subcontractor shall carry insurance coverage equivalent to the ENGINEER.

#### **9.07 Parties and Interests**

This Contract shall not bestow any rights upon any third party, but rather shall bind and benefit the COUNTY and the ENGINEER only.

#### **9.08 Non-waiver**

Failure of either Party hereto to insist on the strict performance of any of the agreements herein or to exercise any rights or remedies accruing hereunder upon the fault or failure of performance, shall not be considered a waiver of the right to insist upon and to enforce by any appropriate remedy, strict compliance with any other obligation hereunder, or to exercise any right or remedy occurring as a result of any future default or failure of performance.

#### **9.09 Applicable Laws**

This Contract is subject to all the laws of the State of Nevada, the ordinances of the County of Clark, Nevada, the laws of the federal government of the United States of America, and all of the rules and regulations of any regulatory body or officer having jurisdiction.

#### **9.10 Notices**

All notices required or permitted hereunder shall be in writing and shall be deemed delivered three (3) days after deposit in a United States Postal Service Post Office receptacle with proper postage affixed (certified mail, return receipt requested) to the respective other Party at the address prescribed in the preamble to this Contract.

#### **9.11 Property: Copyrights**

The ENGINEER shall furnish to the COUNTY all field notes, reports, data, and electronic or magnetic media, and original tracings of all drawings and plans, maps, photographs, and other materials (including, if requested by the Director, design computations, design sketches and review drawings) prepared pursuant to this Contract (hereinafter collectively referred to as "Documents"). The originals of such Documents shall be and remain the property of the COUNTY.

All of such Documents shall be deemed to be "works made for hire" prepared for the COUNTY. The ownership of all copyrights and all rights embodied in the copyrights in or to such Documents shall rest in the COUNTY when any such is subject to copyright. The ENGINEER agrees that it, nor any of its employees, shall have any right to copyright any of such Documents. The ENGINEER further agrees that neither it nor any of its employees shall exercise any of the rights embodied in the copyrights in or to such Documents, unless authorized to do so by the Clark County Board of Commissioners. The ENGINEER shall place a conspicuous notation upon each such Document which indicates that the copyright thereto is owned by the COUNTY.

Should it be finally determined, by a court or other tribunal of competent jurisdiction, that any of such Documents is not a “works made for hire,” it is agreed that the provisions of this section shall be termed an assignment, sale, and transfer of the copyright in or to such Document to the COUNTY for the longest term allowed by law. Notwithstanding the foregoing, the ENGINEER may retain copies of such Documents and such copies shall remain the property of the ENGINEER. The ENGINEER shall have the right to use such copies as it may desire, but the ENGINEER may not sell, license, or otherwise market such Documents.

Documents, including drawings and specifications prepared by ENGINEER pursuant to this Contract, are not intended or represented to be suitable for reuse by COUNTY or others on extensions of the services provided for the Project or any other Project. Any use of completed Documents for other projects and/or any use of uncompleted Documents without specific written authorization from ENGINEER will be at the COUNTY’s sole risk and without liability or legal exposure to ENGINEER.

### **9.12 Force Majeure**

In the event either Party is rendered unable, wholly or in part by force majeure to carry out any of its obligations under this Contract, it is agreed that on such Party’s giving notice of the particulars of such force majeure in writing to the other Party as soon as possible after the occurrence of the cause relied upon, then the obligations of the Party giving such notice, to the extent it is affected by force majeure and to the extent that due diligence is being used to resume performance at the earliest practicable time, shall be suspended during the continuance of any inability so caused as to the extent provided, but for no longer period. Such cause shall, as far as possible, be remedied with all reasonable dispatch. In such an event, the ENGINEER shall provide an updated schedule satisfactory to the COUNTY for the completion of the remaining work called for under this Contract.

The term “force majeure” as used herein, shall include acts of God, acts of the public enemy, war, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, tornadoes, hurricanes, and restraints of government and people, explosions, breakage and not within the control of the Party claiming such inability, which by the exercise of due diligence and care such Party could not have avoided. The term “force majeure” as used herein, does not include strikes, lockouts, work slowdowns, and other labor disturbances.

### **9.13 Inspections and Audits**

The Director shall have the right to perform, or cause to be performed, audits of the books and records of the ENGINEER and inspections of all places where work is undertaken in connection with this Contract provided that the ENGINEER shall not be required to keep such books and records longer than three (3) years after the termination of this Contract.



**9.14 No Gratuities or Gifts**

The ENGINEER, or agent/representative of the ENGINEER, shall not offer or give any gratuities (in the form of entertainment, meals, gifts, or otherwise) to any officer or employee of the COUNTY with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending or making of any determinations with respect to the performance of this Contract.

**9.15 Entire Agreement**

This Contract contains all of the agreements of the Parties.

**9.16 Counterparts**

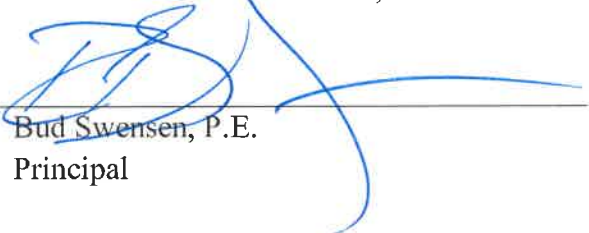
This Agreement may be executed in multiple counterparts, each of which shall be deemed an original Agreement and each of which shall constitute one and the same Agreement. The counterparts of this Agreement may be executed and delivered by facsimile or other electronic signature (including portable document format) by either of the Parties and the receiving Party may rely on the receipt of such document so executed and delivered electronically or by facsimile as if the original had been received.

**IN WITNESS WHEREOF**, the Parties have executed this Professional Engineering Services Contract as of the date herein above set forth.


CLARK COUNTY, NEVADA

HORROCKS ENGINEERS, INC.

\_\_\_\_\_  
Randall J. Tarr  
Deputy County Manager

  
\_\_\_\_\_  
Bud Swensen, P.E.  
Principal

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Laura C. Rehfeldt  
Deputy District Attorney

**EXHIBIT "A"**  
**SCHEDULE OF FEES-ENGINEER'S EMPLOYEES STANDARD RATES**

**TASK A - UTILITY DESIGNATION**

Utility Designating & Investigation Underground - Excludes Reimbursable Costs of MOT & Permitting <sup>1</sup>	\$1.40 per linear foot <sup>4</sup>
Utility Designating & Investigation Overhead - Excludes Reimbursable Costs of MOT & Permitting <sup>1</sup>	\$0.80 per linear foot <sup>5</sup>

**TASK B - UTILITY LOCATING**

Test Hole Underground Off Road, Includes Survey, Deliverable Preparation, & CLSM Slurry Backfill, Excludes Night Work Differential and Reimbursable Costs of MOT & Permits <sup>2</sup>	\$850.00 per hole
Test Hole Under Paving/Concrete, Includes Survey, Deliverable Preparation, & CLSM Slurry Backfill, Excludes Night Work Differential and Reimbursable Costs of MOT & Permits <sup>2</sup>	\$925.00 per hole
Differential for Test Holes Performed at Night	\$75.00 per hole
Test Hole Exceeding 6.99 feet in Depth	\$100.00 per foot

**HOURLY RATES**

Project Director QA/QC	\$245.00 per hour
Professional Land Surveyor	\$175.00 per hour
Senior Project Manager	\$165.00 per hour
Project Engineer	\$135.00 per hour
CADD Technician	\$110.00 per hour
Technical Support	\$80.00 per hour
SUE Manager <sup>3</sup>	\$135.00 per hour
SUE Supervisor <sup>3</sup>	\$125.00 per hour
SUE Designator <sup>3</sup>	\$105.00 per hour
Utility Designating 2 Man Crew (4 hr minimum)	\$190.00 per hour
Utility Designating 1 Man Crew (4 hr minimum)	\$95.00 per hour
Vacuum Truck & Crew (4 hour minimum)	\$390.00 per hour
Survey Truck & Crew (4 hour minimum)	\$235.00 per hour

## EXHIBIT A (Continued)

### REIMBURSABLE EXPENSES

Permits
Maintenance of Traffic Set-Up
MOT Lighting Tower
MOT Crash Truck
Hydrovac Subcontractor
Backhoe & Operator
Miscellaneous Expenses (i.e., imported backfill)
Mobilization: Designating Truck & Crew
Mobilization: Vac-Truck & Crew

1. Designating Unit Rates requests must be for a minimum of 10,000 lf, cumulative of all utilities, else hourly rates apply.
2. Locating Unit Rates requests must be requested in groups of 5 or more, else hourly rates apply.
3. Truck Rates Below to be used in conjunction with these rates  
Survey Truck & Equipment - \$45.00/hr. Designating  
Truck & Equipment - \$35.00/hr.  
Vacuum Excavating Truck & Equipment - \$195.00/hr.
4. Rate includes locating and mapping multiple conduits from the same utility company. When locating and mapping a conduit back from the same utility company, Horrocks Engineers will locate/map the outer two conduits in the duct to denote width and will also locate/map conduits that veer off the main duct in between manholes/pedestals.
5. Rate includes locating and mapping utility poles and overhead utility lines.

## DISCLOSURE OF OWNERSHIP/PRINCIPALS

<b>Business Entity Type (Please select one)</b>						
<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Partnership	<input type="checkbox"/> Limited Liability Company	<input checked="" type="checkbox"/> Corporation	<input type="checkbox"/> Trust	<input type="checkbox"/> Non-Profit Organization	<input type="checkbox"/> Other
<b>Business Designation Group (Please select all that apply)</b>						
<input type="checkbox"/> MBE	<input type="checkbox"/> WBE	<input type="checkbox"/> SBE	<input type="checkbox"/> PBE	<input type="checkbox"/> VET	<input type="checkbox"/> DVET	<input type="checkbox"/> ESB
Minority Business Enterprise	Women-Owned Business Enterprise	Small Business Enterprise	Physically Challenged Business Enterprise	Veteran Owned Business	Disabled Veteran Owned Business	Emerging Small Business
<b>Number of Clark County Nevada Residents Employed:</b>						
			65			
<b>Corporate/Business Entity Name:</b>		Horrocks Engineers, Inc.				
<b>(Include d.b.a., if applicable)</b>						
<b>Street Address:</b>		2162 West Grove Parkway		<b>Website:</b> www.horrocksengineers.com		
<b>City, State and Zip Code:</b>		Pleasant Grove, UT 84062-6728		<b>POC Name:</b> Wayne Horlacher, wayneh@horrocks.com		
<b>Telephone No:</b>		(801) 763-5100		<b>Fax No:</b> (801) 763-5101		
<b>Nevada Local Street Address: (If different from above)</b>		1401 N. Green Valley Parkway, Suite 160		<b>Website:</b> www.horrocksengineers.com		
<b>City, State and Zip Code:</b>		Henderson, Nevada 89074		<b>Local Fax No:</b>		
<b>Local Telephone No:</b>		(702) 966-4063		<b>Local POC Name:</b> Wayne Horlacher, wayneh@horrocks.com		
				<b>Email:</b>		

All entities, with the exception of publicly-traded and non-profit organizations, must list the names of individuals holding more than five percent (5%) ownership or financial interest in the business entity appearing before the Board.

Publicly-traded entities and non-profit organizations shall list all Corporate Officers and Directors in lieu of disclosing the names of individuals with ownership or financial interest. The disclosure requirement, as applied to land-use applications, extends to the applicant and the landowner(s).

Entities include all business associations organized under or governed by Title 7 of the Nevada Revised Statutes, including but not limited to private corporations, close corporations, foreign corporations, limited liability companies, partnerships, limited partnerships, and professional corporations.


Full Name	Title	% Owned (Not required for Publicly Traded Corporations/Non-profit organizations)
Russell Youd	President/CEO	11.6%
Brian Akinson	Secretary	5.8%
Bryan Foote	Vice President	5.8%

(see attached for additional names)

**This section is not required for publicly-traded corporations. Are you a publicly-traded corporation?**  Yes  No

- Are any individual members, partners, owners or principals, involved in the business entity, a Clark County, Department of Aviation, Clark County Detention Center or Clark County Water Reclamation District full-time employee(s), or appointed/elected official(s)?  
 Yes  No (If yes, please note that County employee(s), or appointed/elected official(s) may not perform any work on professional service contracts, or other contracts, which are not subject to competitive bid.)
- Do any individual members, partners, owners or principals have a spouse, registered domestic partner, child, parent, in-law or brother/sister, half-brother/half-sister, grandchild, grandparent, related to a Clark County, Department of Aviation, Clark County Detention Center or Clark County Water Reclamation District full-time employee(s), or appointed/elected official(s)?  
 Yes  No (If yes, please complete the Disclosure of Relationship form on Page 2. If no, please print N/A on Page 2.)

I certify under penalty of perjury, that all of the information provided herein is current, complete, and accurate. I also understand that the Board will not take action on land-use approvals, contract approvals, land sales, leases or exchanges without the completed disclosure form.

	Wayne Horlacher
Signature	Print Name
Principal/Senior Vice President	6/2/22
Title	Date

## DISCLOSURE OF RELATIONSHIP

List any disclosures below:  
(Mark N/A, if not applicable.)

NAME OF BUSINESS OWNER/PRINCIPAL	NAME OF COUNTY* EMPLOYEE/OFFICIAL AND JOB TITLE	RELATIONSHIP TO COUNTY* EMPLOYEE/OFFICIAL	COUNTY* EMPLOYEE'S/OFFICIAL'S DEPARTMENT
N/A	N/A	N/A	N/A

\* County employee means Clark County, Department of Aviation, Clark County Detention Center or Clark County Water Reclamation District.

“Consanguinity” is a relationship by blood. “Affinity” is a relationship by marriage.

“To the second degree of consanguinity” applies to the candidate’s first and second degree of blood relatives as follows:

- Spouse – Registered Domestic Partners – Children – Parents – In-laws (first degree)
- Brothers/Sisters – Half-Brothers/Half-Sisters – Grandchildren – Grandparents – In-laws (second degree)

**For County Use Only:**

If any Disclosure of Relationship is noted above, please complete the following:

- Yes  No Is the County employee(s) noted above involved in the contracting/selection process for this particular agenda item?
- Yes  No Is the County employee(s) noted above involved in any way with the business in performance of the contract?

Notes/Comments:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name  
Authorized Department Representative

### **Additional Individuals with 5% or greater Ownership**

<b>Full Name</b>	<b>Title</b>	<b>% Owner</b>
<b>Matt Horrocks</b>	<b>Vice President</b>	<b>5.8%</b>
<b>Ron Mortimer</b>	<b>Vice President</b>	<b>5.8%</b>