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**Eureka County - NV**

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0213189

## **CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR**

A Contract Between Eureka County (County)  
Acting By and Through Its

Board of Eureka County Commissioners (Board)  
P.O. Box 677, Eureka, NV 89316  
(775) 237-5262

and

JBR Environmental Consultants, Inc. (Contractor)  
5355 Kietzke Ln., Suite 100, Reno, NV 89511  
(775) 747-5777

WHEREAS, NRS 244.320 authorizes the Board of Eureka County Commissioners ("Board") to engage the services of persons as independent contractors; and

WHEREAS, it is deemed that the service of JBR Environmental Consultants, Inc. ("Contractor") is both necessary and in the best interests of the County of Eureka;

NOW, THEREFORE, in consideration of the aforesaid premises, the parties mutually agree as follows:

1. REQUIRED APPROVAL. This Contract shall not become effective until and unless approved by the Board.
2. DEFINITIONS. "County" means the County of Eureka and its officers, employees and immune contractors as defined in NRS §41.0307. "Independent Contractor" means a person or entity that performs services and/or provides goods for the County under the terms and conditions set forth in this Contract.
3. CONTRACT TERM. This Contract shall be effective from February 20, 2009 to February 20, 2010, unless sooner terminated by either party as specified in paragraph (10).

4. NOTICE. Unless otherwise specified, termination shall not be effective until 30 calendar days after a party has served written notice of default, or without cause upon the other party. All notices or other communications required or permitted to be given under this Contract shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by telephonic facsimile with simultaneous regular mail, or mailed certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address specified above.

5. INCORPORATED DOCUMENTS. The parties agree that the scope of work shall be specifically described; this Contract incorporates the following attachments in descending order of constructive precedence; a Contractor's Attachment shall not contradict or supersede any County specifications, terms or conditions without written evidence of mutual assent to such change appearing in this Contract:

ATTACHMENT A: SCOPE OF SERVICES  
ATTACHMENT B: FEE SCHEDULE

6. CONSIDERATION. The parties agree that Contractor will provide the services specified in paragraph (5) at a cost not to exceed \$25,077.00 with installments payable by invoice each month. The County does not agree to reimburse Contractor for expenses unless otherwise specified in the incorporated attachments.

7. ASSENT. The parties agree that the terms and conditions listed on incorporated attachments of this Contract are also specifically a part of this Contract and are limited only by their respective order of precedence and any limitations specified.

8. TIMELINESS OF BILLING SUBMISSION. The parties agree that timeliness of billing is of the essence to the contract.

9. INSPECTION & AUDIT.

a. Books and Records. Contractor agrees to keep and maintain under general accepted accounting principles (GAAP) full, true and complete records, contracts, books, and documents as are necessary to fully disclose to the County, State of Nevada or United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with all state and federal regulations and statutes.

b. Inspection & Audit. Contractor agrees that the relevant books, records (written, electronic, computer related or otherwise), including, without limitation, relevant accounting procedures and practices of Contractor or its subcontractors, financial statements and supporting documentation, and documentation related to the work product shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location of Contractor where such records may be found, with or without notice by the County, the State Auditor, the relevant state agency or its contracted examiners, the Department of Administration, Budget Division, the Nevada State Attorney General's Office or its Fraud Control Units, the State Legislative Auditor, and with regard to any federal funding, the relevant federal agency, the Comptroller General, the

General Accounting Office, the Office of the Inspector General, or any of their authorized representatives. All subcontracts shall reflect requirements of this paragraph.

c. Period of Retention. All books, records, reports, and statements relevant to this Contract must be retained a minimum three years and for five years if any federal funds are used in the Contract. The retention period runs from the date of payment for the relevant goods or services by the County, or from the date of termination of the Contract, whichever is later. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative and judicial litigation which may ensue.

#### 10. CONTRACT TERMINATION.

a. Termination Without Cause. Any discretionary or vested right of renewal notwithstanding, this Contract may be terminated upon written notice by mutual consent of both parties or unilaterally by either party without cause.

b. County Termination for Nonappropriation. The continuation of this Contract beyond the current biennium is subject to and contingent upon sufficient funds being appropriated, budgeted, and otherwise made available by the County and/or federal sources. The County may terminate this Contract, and Contractor waives any and all claim(s) for damages, effective immediately upon receipt of written notice (on any date specified therein) if for any reason the Contracting Agency's funding from County and/or federal sources is not appropriated or is withdrawn, limited, or impaired.

c. Cause Termination for Default or Breach. A default or breach may be declared with or without termination. This Contract may be terminated by either party upon written notice of default or breach to the other party as follows:

- i. If Contractor fails to provide or satisfactorily perform any of the conditions, work, deliverables, goods, or services called for by this Contract within the time requirements specified in this Contract or within any granted extension of those time requirements; or
- ii. If any state, county, city or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Contractor to provide the goods or services required by this Contract is for any reason denied, revoked, debarred, excluded, terminated, suspended, lapsed, or not renewed; or
- iii. If Contractor becomes insolvent, subject to receivership, or becomes voluntarily or involuntarily subject to the jurisdiction of the bankruptcy court; or
- iv. If the County materially breaches any material duty under this Contract and any such breach impairs Contractor's ability to perform; or
- v. If it is found by the County that any quid pro quo or gratuities in the form of money, services, entertainment, gifts, or otherwise were offered or given by Contractor, or any agent or representative of Contractor, to any officer or employee of the County with a view toward securing a contract or securing favorable treatment with respect to awarding, extending, amending, or making any determination with respect to the performing of such contract; or
- vi. If it is found by the County that Contractor has failed to disclose any material conflict of interest relative to the performance of this Contract.



d. Time to Correct. Termination upon a declared default or breach may be exercised only after service of formal written notice as specified in paragraph (4), and the subsequent failure of the defaulting party within 15 calendar days of receipt of that notice to provide evidence, satisfactory to the aggrieved party, showing that the declared default or breach has been corrected.

e. Winding Up Affairs Upon Termination. In the event of termination of this Contract for any reason, the parties agree that the provisions of this paragraph survive termination:

- i. The parties shall account for and properly present to each other all claims for fees and expenses and pay those which are undisputed and otherwise not subject to set off under this Contract. Neither party may withhold performance of winding up provisions solely based on nonpayment of fees or expenses accrued up to the time of termination;
- ii. Contractor shall satisfactorily complete work in progress at the agreed rate (or a pro rata basis if necessary) if so requested by the County;
- iii. Contractor shall execute any documents and take any actions necessary to effectuate an assignment of this Contract if so requested by the County;
- iv. Contractor shall preserve, protect and promptly deliver into County possession all proprietary information in accordance with paragraph (21).

11. REMEDIES. Except as otherwise provided for by law or this Contract, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including, without limitation, actual damages, and to a prevailing party reasonable attorneys' fees and costs. It is specifically agreed that reasonable attorneys' fees shall include without limitation \$125 per hour for County-employed attorneys.

12. LIMITED LIABILITY. The County will not waive and intends to assert available NRS chapter 41 liability limitations in all cases. Contract liability of both parties shall not be subject to punitive damages. Liquidated damages shall not apply unless otherwise specified in the incorporated attachments. Damages for any County breach shall never exceed the amount of funds appropriated for payment under this Contract, but not yet paid to Contractor. Damages for any Contractor breach shall not exceed 150% of the contract maximum "not to exceed" value. Contractor's tort liability shall not be limited.

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

14. INDEMNIFICATION. To the fullest extent permitted by law, Contractor shall indemnify, hold harmless and defend, not excluding the County's right to participate, the County from and against all liability, claims, actions, damages, losses, and expenses, including, without limitation, reasonable attorneys' fees and costs, arising out of any alleged negligent or willful acts or omissions of Contractor, its officers, employees and agents.



15. INDEPENDENT CONTRACTOR. Contractor is associated with the County only for the purposes and to the extent specified in this Contract, and in respect to performance of the contracted services pursuant to this Contract, Contractor is and shall be an independent contractor and, subject only to the terms of this Contract, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract. Nothing contained in this Contract shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for the County whatsoever with respect to the indebtedness, liabilities, and obligations of Contractor or any other party. Contractor shall be solely responsible for, and the County shall have no obligation with respect to: (1) withholding of income taxes, FICA or any other taxes or fees; (2) industrial insurance coverage; (3) participation in any group insurance plans available to employees of the County; (4) participation or contributions by either Contractor or the County to the Public Employees Retirement System; (5) accumulation of vacation leave or sick leave; or (6) unemployment compensation coverage provided by the County. Contractor shall indemnify and hold County harmless from, and defend County against, any and all losses, damages, claims, costs, penalties, liabilities, and expenses arising or incurred because of, incident to, or otherwise with respect to any such taxes or fees. Neither Contractor nor its employees, agents, or representatives shall be considered employees, agents, or representatives of the County. The County and Contractor shall evaluate the nature of services and term negotiated in order to determine "independent contractor" status and shall monitor the work relationship throughout the term of the Contract to ensure that the independent contractor relationship remains as such. To assist in determining the appropriate status (employee or independent contractor), Contractor represents as follows:

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**Contractor's Initials**

**YES      NO**

- |  |       |              |
|--|-------|--------------|
| 1. Does the County have the right to require control of when, where and how the independent contractor is to work?   | _____ | <u>✓</u> RJB |
| 2. Will the County be providing training to the independent contractor?  | _____ | <u>✓</u> RJB |
| 3. Will the County be furnishing the independent contractor with worker's space, equipment, tools, supplies or travel expenses?  | _____ | <u>✓</u> RJB |
| 4. Are any of the workers who assist the independent contractor in performance of his/her duties employees of the County?  | _____ | <u>✓</u> RJB |
| 5. Does the arrangement with the independent contractor contemplate continuing or recurring work (even if the services are seasonal, part-time, or of short duration)? | _____ | <u>✓</u> RJB |
| 6. Will the County incur an employment liability if the independent contractor is terminated for failure to perform?   | _____ | <u>✓</u> RJB |
| 7. Is the independent contractor restricted from offering his/her services to the general public while engaged in this work relationship with the County?              | _____ | <u>✓</u> RJB |

16. INSURANCE SCHEDULE. Unless expressly waived in writing by the County, Contractor, as an independent contractor and not an employee of the County, must carry policies of insurance in amounts specified in this Insurance Schedule and pay all taxes and fees incident hereunto. The County shall have no liability except as specifically provided in the Contract. The Contractor shall not commence work before:

- 1) Contractor has provided the required evidence of insurance to the Contracting Agency of the County, and
- 2) The County has approved the insurance policies provided by the Contractor.

Prior approval of the insurance policies by the County shall be a condition precedent to any payment of consideration under this Contract and the County's approval of any changes to

insurance coverage during the course of performance shall constitute an ongoing condition subsequent this Contract. Any failure of the County to timely approve shall not constitute a waiver of the condition.

**PROOF OF INSURANCE IS HEREBY WAIVED BY COUNTY**

**Insurance Coverage:** The Contractor shall, at the Contractor's sole expense, procure, maintain and keep in force for the duration of the Contract the following insurance conforming to the minimum requirements specified below. Unless specifically specified herein or otherwise agreed to by the County, the required insurance shall be in effect prior to the commencement of work by the Contractor and shall continue in force as appropriate until the latter of:

1. Final acceptance by the County of the completion of this Contract; or
2. Such time as the insurance is no longer required by the County under the terms of this Contract.

Any insurance or self-insurance available to the County shall be excess of and non-contributing with any insurance required from Contractor. Contractor's insurance policies shall apply on a primary basis. Until such time as the insurance is no longer required by the County, Contractor shall provide the County with renewal or replacement evidence of insurance no less than thirty (30) days before the expiration or replacement of the required insurance. If at any time during the period when insurance is required by the Contract, an insurer or surety shall fail to comply with the requirements of this Contract, as soon as Contractor has knowledge of any such failure, Contractor shall immediately notify the County and immediately replace such insurance or bond with an insurer meeting the requirements.

**Workers' Compensation and Employer's Liability Insurance**

- 1) Contractor shall provide proof of worker's compensation insurance as required of Nevada Revised Statutes Chapters 616A through 616D inclusive.
- 2) Employer's Liability insurance with a minimum limit of \$500,000 each employee per accident for bodily injury by accident or disease.  
If this contract is for temporary or leased employees, an *Alternate Employer* endorsement must be attached to the Contractor's workers' compensation insurance policy.
- 3) If the Contractor qualifies as a sole proprietor as defined in NRS Chapter 616A.310, and has elected to not purchase industrial insurance for himself/herself, the sole proprietor must submit to the County a fully executed "Affidavit of Rejection of Coverage Under NRS 616B.627 and NRS 617.210" form.

**Commercial General Liability Insurance**

- 1) Minimum Limits required:  
\$ \_\_\_\_\_ General Aggregate  
\$ \_\_\_\_\_ Products & Completed Operations Aggregate

\$ \_\_\_\_\_ Personal and Advertising Injury  
\$ \_\_\_\_\_ Each Occurrence

- 2) Coverage shall be on an occurrence basis and shall be at least as broad as ISO 1996 form CG 00 01 (or a substitute form providing equivalent coverage); and shall cover liability arising from premises, operations, independent contractors, completed operations, personal injury, products, civil lawsuits, Title VII actions and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

**Business Automobile Liability Insurance**

- 1) Minimum Limit required: \$ \_\_\_\_\_ Each Occurrence for bodily injury and property damage.
- 2) Coverage shall be for "any auto" (including owned, non-owned and hired vehicles). The policy shall be written on ISO form CA 00 01 or a substitute providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

**Professional Liability Insurance**

- 1) Minimum Limit required: \$ \_\_\_\_\_ Each Claim
- 2) Retroactive date: Prior to commencement of the performance of the contract.
- 3) Discovery period: Three (3) years after termination date of contract.
- 4) A certified copy of this policy may be required.

**Umbrella or Excess Liability Insurance**

- 1) May be used to achieve the above minimum liability limits.
- 2) Shall be endorsed to state it is "As Broad as Primary Policy"

**Commercial Crime Insurance**

Minimum Limit required: \$ \_\_\_\_\_ Per Loss for Employee Dishonesty

This insurance shall be underwritten on a blanket form amending the definition of "employee" to include all employees of the Vendor regardless of position or category.

**Performance Security**

Amount required: \$ \_\_\_\_\_

- 1) Security may be in the form of surety bond, Certificate of Deposit or Treasury Note payable to the County, only.
- 2) The security shall be deposited with the County no later than ten (10) working days following award of the Contract to Contractor.
- 3) Upon successful Contract completion, the security and all interest earned, if any, shall be returned to the Contractor.



**General Requirements:**

- a. Additional Insured: By endorsement to the general liability insurance policy evidenced by Contractor, *The County, its officers, employees and immune contractors* as defined in NRS 41.0307 shall be named as additional insureds for all liability arising from the Contract.
- b. Waiver of Subrogation: Each liability insurance policy shall provide for a waiver of subrogation as to additional insureds.
- c. Cross-Liability: All required liability policies shall provide cross-liability coverage as would be achieved under the standard ISO separation of insureds clause.
- d. Deductibles and Self-Insured Retentions: Insurance maintained by Contractor shall apply on a first dollar basis without application of a deductible or self-insured retention unless otherwise specifically agreed to by the County. Such approval shall not relieve Contractor from the obligation to pay any deductible or self-insured retention. Any deductible or self-insured retention shall not exceed \$5,000 per occurrence, unless otherwise approved by the Risk Management Division.
- e. Policy Cancellation: Except for ten days notice for non-payment of premium, each insurance policy shall be endorsed to state that without thirty (30) days prior written notice to the County, the policy shall not be canceled, non-renewed or coverage and /or limits reduced or materially altered, and shall provide that notices required by this paragraph shall be sent by certified mailed to the address shown below.
- f. Approved Insurer: Each insurance policy shall be:
  - 1) Issued by insurance companies authorized to do business in the State of Nevada or eligible surplus lines insurers acceptable to the County and the State and having agents in Nevada upon whom service of process may be made, and
  - 2) Currently rated by A.M. Best as "A- VII" or better.

**Evidence of Insurance:**

Prior to the start of any Work, Contractor must provide the following documents to the County:

- 1) Certificate of Insurance: The Acord 25 Certificate of Insurance form or a form substantially similar must be submitted to the County to evidence the insurance policies and coverages required of Contractor.
- 2) Additional Insured Endorsement: An Additional Insured Endorsement (CG20 10 or C20 26) , signed by an authorized insurance company representative, **must** be submitted to the County to evidence the endorsement of the County as an additional insured per General Requirements, Subsection a above.
- 3) Schedule of Underlying Insurance Policies: If Umbrella or Excess policy is evidenced to comply with minimum limits, a copy of the Underlyer Schedule from the Umbrella or Excess insurance policy may be required.

Review and Approval: Documents specified above must be submitted for review and approval by the County prior to the commencement of work by Contractor. Neither approval by the

County nor failure to disapprove the insurance furnished by Contractor shall relieve Contractor of Contractor's full responsibility to provide the insurance required by this Contract. Compliance with the insurance requirements of this Contract shall not limit the liability of Contractor or its sub-contractors, employees or agents to the County or others, and shall be in addition to and not in lieu of any other remedy available to the County under this Contract or otherwise. The County reserves the right to request and review a copy of any required insurance policy or endorsement to assure compliance with these requirements.

**Mail all required insurance documents to the Contracting Agency identified on page one of the contract.**

**PROOF OF INSURANCE IS HEREBY WAIVED BY COUNTY**

17. COMPLIANCE WITH LEGAL OBLIGATIONS. Contractor shall procure and maintain for the duration of this Contract any state, county, city or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Contractor to provide the goods or services required by this Contract. Contractor will be responsible to pay all taxes, assessments, fees, premiums, permits, and licenses required by law. Real property and personal property taxes are the responsibility of Contractor in accordance with NRS 361.157 and 361.159. Contractor agrees to be responsible for payment of any such government obligations not paid by its subcontractors during performance of this Contract.

18. WAIVER OF BREACH. Failure to declare a breach or the actual waiver of any particular breach of the Contract or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.

19. SEVERABILITY. If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract shall be construed as if such provision did not exist and the nonenforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.

20. ASSIGNMENT/DELEGATION. To the extent that any assignment of any right under this Contract changes the duty of either party, increases the burden or risk involved, impairs the chances of obtaining the performance of this Contract, attempts to operate as a novation, or includes a waiver or abrogation of any defense to payment by County, such offending portion of the assignment shall be void, and shall be a breach of this Contract. Contractor shall neither assign, transfer nor delegate any rights, obligations or duties under this Contract without the prior written consent of the County.

21. COUNTY OWNERSHIP OF PROPRIETARY INFORMATION. Any reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer code (which is intended to be consideration under the Contract), or any other documents or drawings, prepared or in the course of preparation by Contractor (or its subcontractors) in performance of its obligations under this Contract shall be the exclusive property of the County and all such materials shall be delivered into County possession by



Contractor upon completion, termination, or cancellation of this Contract. Contractor shall not use, willingly allow, or cause to have such materials used for any purpose other than performance of Contractor's obligations under this Contract without the prior written consent of the County. Notwithstanding the foregoing, the County shall have no proprietary interest in any materials licensed for use by the County that are subject to patent, trademark or copyright protection.

22. PUBLIC RECORDS. Pursuant to NRS 239.010, information or documents received from Contractor may be open to public inspection and copying. The County will have the duty to disclose unless a particular record is made confidential by law or a common law balancing of interests. Contractor may label specific parts of an individual document as a "trade secret" or "confidential" in accordance with NRS 333.333, provided that Contractor thereby agrees to indemnify and defend the County for honoring such a designation. The failure to so label any document that is released by the County shall constitute a complete waiver of any and all claims for damages caused by any release of the records.

23. CONFIDENTIALITY. Contractor shall keep confidential all information, in whatever form, produced, prepared, observed or received by Contractor to the extent that such information is confidential by law or otherwise required by this Contract.

24. FEDERAL FUNDING. In the event federal funds are used for payment of all or part of this Contract:

a. Contractor certifies, by signing this Contract, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. This certification is made pursuant to the regulations implementing Executive Order 12549, Debarment and Suspension, 28 C.F.R. pt. 67, § 67.510, as published as pt. VII of the May 26, 1988, Federal Register (pp. 19160-19211), and any relevant program-specific regulations. This provision shall be required of every subcontractor receiving any payment in whole or in part from federal funds.

b. Contractor and its subcontractors shall comply with all terms, conditions, and requirements of the Americans with Disabilities Act of 1990 (P.L. 101-136), 42 U.S.C. 12101, as amended, and regulations adopted thereunder contained in 28 C.F.R. 26.101-36.999, inclusive, and any relevant program-specific regulations.

c. Contractor and its subcontractors shall comply with the requirements of the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, P.L. 93-112, as amended, and any relevant program-specific regulations, and shall not discriminate against any employee or offeror for employment because of race, national origin, creed, color, sex, religion, age, disability or handicap condition (including AIDS and AIDS-related conditions.)

25. LOBBYING The parties agree, whether expressly prohibited by federal, State or local law, or otherwise, that no funding associated with this contract will be used for any purpose associated with or related to lobbying or influencing or attempting to lobby or influence for any purpose the following:



- a. Any federal, state, county or local agency, legislature, commission, counsel or board;
- b. Any federal, state, county or local legislator, commission member, counsel member, board member, or other elected official; or
- c. Any officer or employee of any federal, state, county or local agency; legislature, commission, counsel or board.

26. WARRANTIES.

a. General Warranty. Contractor warrants that all services, deliverables, and/or work product under this Contract shall be completed in a workmanlike manner consistent with standards in the trade, profession, or industry; shall conform to or exceed the specifications set forth in the incorporated attachments; and shall be fit for ordinary use, of good quality, with no material defects.

b. System Compliance. Contractor warrants that any information system application(s) shall not experience abnormally ending and/or invalid and/or incorrect results from the application(s) in the operating and testing of the business of the County.

27. PROPER AUTHORITY. The parties hereto represent and warrant that the person executing this Contract on behalf of each party has full power and authority to enter into this Contract. Contractor acknowledges that as required by statute or regulation this Contract is effective only after approval by the Board and only for the period of time specified in the Contract. Any services performed by Contractor before this Contract is effective or after it ceases to be effective are performed at the sole risk of Contractor.

28. GOVERNING LAW; JURISDICTION. This Contract and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada, without giving effect to any principle of conflict-of-law that would require the application of the law of any other jurisdiction. Contractor consents to the jurisdiction of the Nevada district courts for enforcement of this Contract.

29. ENTIRE CONTRACT AND MODIFICATION. This Contract and its integrated attachment(s) constitute the entire agreement of the parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Contract specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language between any such attachment and this Contract shall be construed consistent with the terms of this Contract. Unless otherwise expressly authorized by the terms of this Contract, no modification or amendment to this Contract shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto.

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

*Robert Bay* 03/06/09  
Independent Contractor's Signature Date

PRESIDENT  
Independent's Contractor's Title

*[Signature]*  
Signature – Chairman of the Board

APPROVED BY BOARD

Approved as to form by:

On MARCH 20, 2009  
(Date)

*[Signature]*  
Eureka County District Attorney  
Attorney for the Board

On 20 MAR 2009  
(Date)

ATTEST: *Jackie Berg*  
Clerk of the Board

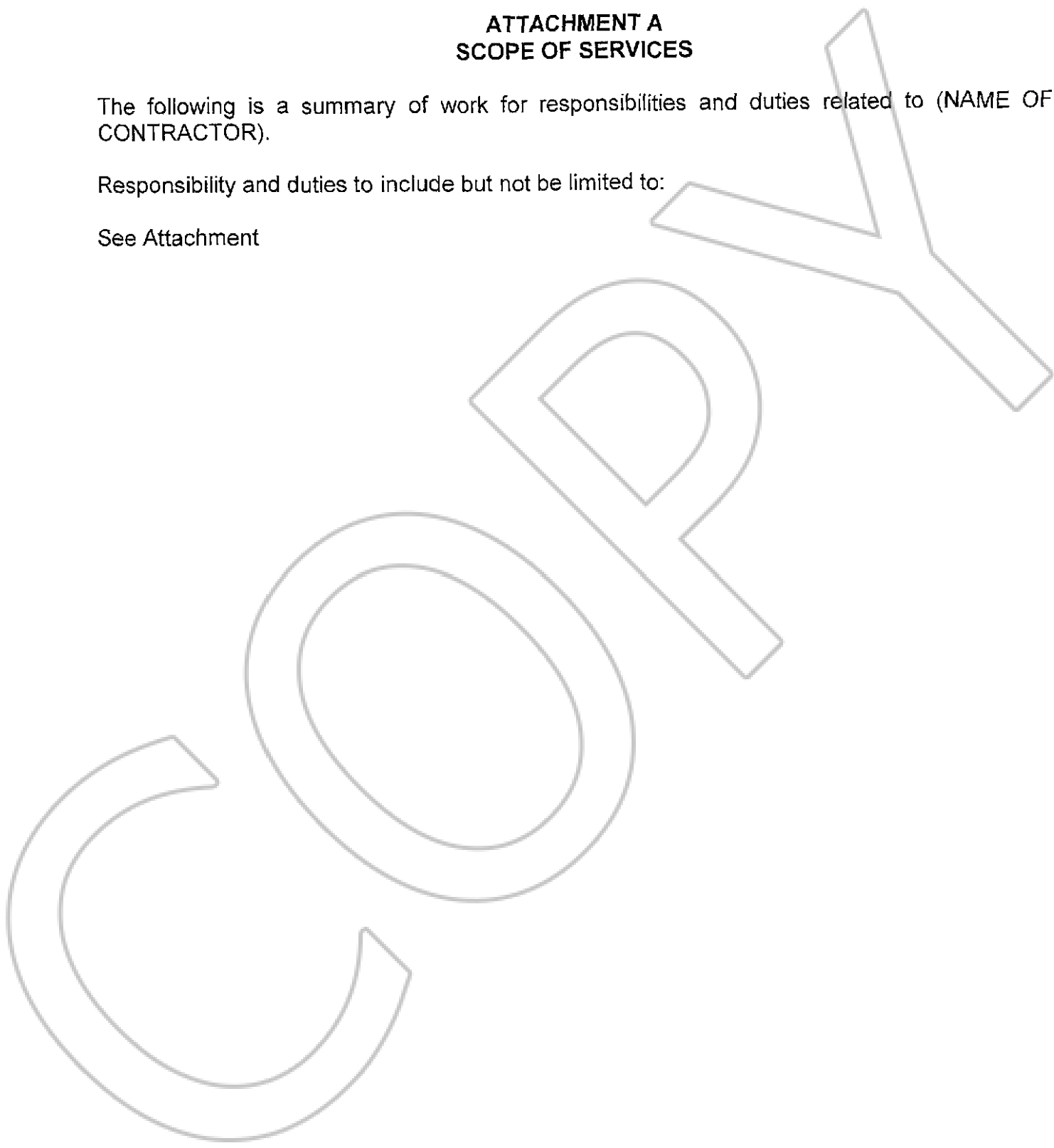
On March 20, 2009  
(Date)

**ATTACHMENT A  
SCOPE OF SERVICES**

The following is a summary of work for responsibilities and duties related to (NAME OF CONTRACTOR).

Responsibility and duties to include but not be limited to:

See Attachment



**EUREKA COUNTY PUBLIC WORKS DEPARTMENT  
EUREKA WATER DISTRIBUTION PROJECT  
PROPOSAL TO PREPARE AN ENVIRONMENTAL ASSESSMENT**

*Prepared for:*

**Eureka County Public Works Department**  
P.O. Box 714  
Eureka, Nevada 89316

Contact: Mr. Ronald Damele

*Prepared by:*



environmental consultants, inc.  
5355 Kietzke Lane, Suite 100  
Reno, Nevada 89511

Contact: Catherine Clark  
(775) 747-5777

February 13, 2009



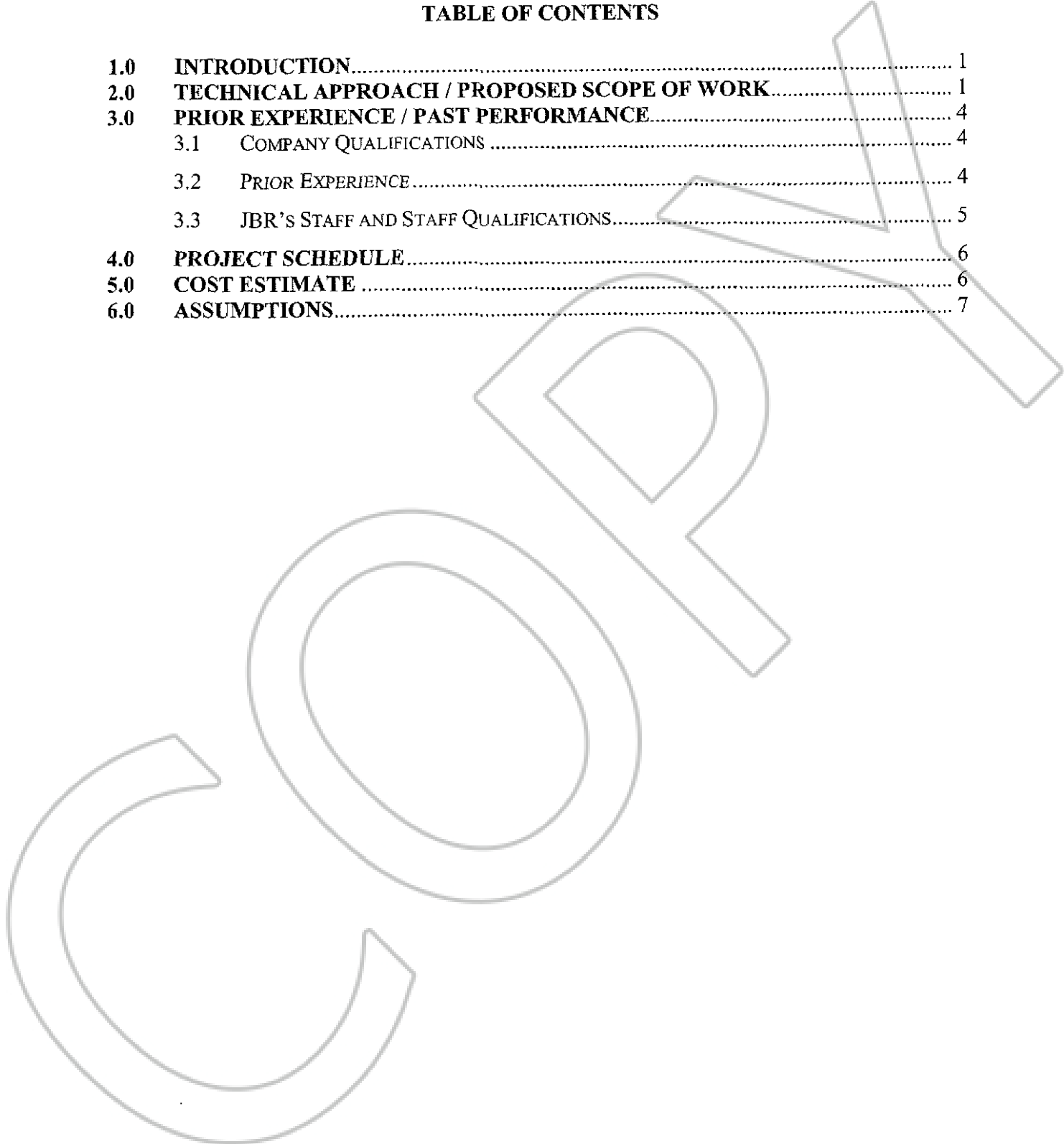
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**EUREKA COUNTY PUBLIC WORKS DEPARTMENT  
EUREKA WATER DISTRIBUTION PROJECT  
PROPOSAL TO PREPARE AN ENVIRONMENTAL ASSESSMENT**

**1.0 INTRODUCTION**

JBR Environmental Consultants, Inc. (JBR) is pleased to submit this scope of work and cost estimate to prepare an Environmental Assessment (EA) for the Eureka Water Distribution Project. JBR understands that Eureka County has submitted Rights of Way (ROW) applications to the Bureau of Land Management (BLM) for new and amended ROWs associated with the project.

JBR understands that the BLM has determined that an EA will be required for the booster station and pipeline component of the proposed action. Angelica Ordaz of the Battle Mountain BLM advised JBR that the other components of the ROW applications can be addressed by categorical exclusions with a cultural resource survey to be completed on the entire area. JBR will complete the EA for this project and arrange for the completion of the cultural resource survey in the steps described below. Based upon a review of the application packages, JBR has assumed that a maximum of 250 acres will need to be surveyed for cultural resources. JBR proposes that Kautz Environmental Consultants complete the necessary Class III cultural resource survey for this project.

The following sections present JBR's technical approach and detailed scope of work, JBR's qualifications and past performance, project schedule, and cost estimate to prepare the EA and perform the cultural survey. The scope of work and cost estimate is based upon a discussion with Angelica Ordaz at the BLM and JBR's experience in preparing hundreds of similar NEPA EA documents for the Nevada BLM.

**2.0 TECHNICAL APPROACH / PROPOSED SCOPE OF WORK**

The following sections detail the EA process and present JBR's technical approach and proposed scope of work. All tasks with the exception of Task #3 are associated only with the booster station and pipeline. Task #3 includes all costs associated with the springs.

**Task 1: Initial Project Meeting with BLM and Site Visit**

Upon receiving authorization to proceed and a signed contract from Eureka County, JBR will hold an initial project kick-off meeting with the BLM. To minimize costs, JBR assumes that the meeting can be held via conference call so that travel to Battle Mountain is not required. The purpose of this meeting is for all participants to gain a good understanding of the project, discuss the availability of planning documents and other relevant information to be used in the EA,



discuss the public scoping process for the EA (if needed), discuss potential environmental issues and concerns that will require analysis in the EA, identify BLM's expectations and requirements with regard to format and content of the EA, and establish a reasonable schedule for the EA.

Preparation of EA documents normally requires some level of public scoping (e.g., newspaper public notice, public meeting, and/or dear interested public letter). JBR assumes that the BLM will handle all public scoping requirements for this project.

A project site visit will be performed by JBR's Senior Biologist. Purpose of the site visit is to assess actual site conditions and evaluate existing vegetation and wildlife habitat for inclusion in the EA analysis.

**Task 2: Cultural Resource Survey**

Per BLM requirements, JBR's scope of work includes performing a cultural resource survey for the entire project area. JBR will utilize Kautz Environmental Consultants, a local archaeologist, to perform such survey. The project site will need to be free of snow cover in order to perform the cultural survey. For the purpose of this cost estimate, the cost to perform the survey in the spring areas has been broken out in task 3. The information from the survey report will be used in the EA for the booster station and pipeline and by the BLM for the Categorical Exclusion process on the remaining areas.

**Task 3: Cultural Resource Survey – Springs**

The BLM has determined that the areas associated with the springs in the ROW applications will not require an EA. The BLM will complete the Categorical Exclusion process and will require the completion of cultural resource surveys in these areas. Kautz Environmental Consultants will survey the entire area at the same time and produce one report.

**Task 4: Data Collection & Review**

JBR will collect all available and necessary information regarding the proposed project for review. Information reviewed will include the existing permit application, BLM Resource Management Plan, BLM Visual Resource Management Classifications, BLM Master Title Plats, land use and zoning information, FEMA floodplain maps, existing rights-of-way or easements, soil maps, water well locations, and information on biological resources and livestock grazing as applicable for the project area.

**Task 5: Informal Agency Consultation**

Per requirements of the BLM, JBR will also initiate informal consultation with the U.S. Fish and Wildlife Service (USFWS), Nevada Department of Wildlife (NDOW), and the Nevada Natural Heritage Program (NNHP) regarding the potential for threatened and endangered species in the area. All information gathered would be incorporated into the EA.



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**Task 6: Prepare Draft Environmental Assessment**

JBR will initiate preparation of the EA as soon as initial coordination has been completed. JBR will prepare the EA based on current BLM guidance and for compliance with other environmental requirements and Executive Orders as appropriate and based on coordination with BLM staff. At a minimum, the EA will analyze potential impacts to cultural resources, waters, soils, vegetation, invasive and non-native species (weeds), wildlife, and Native American religious concerns. If necessary, appropriate mitigation measures will be recommended based upon the predicted environmental effects for the various resources.

Based on BLM guidance, the EA will include an analysis of cumulative effects from the proposed project and from past, present, and other reasonably foreseeable future projects in the area.

Based on experience with previous BLM EAs, JBR assumes that BLM will complete the required consultation with Native American tribes in the project vicinity. The results of the consultation will be incorporated into the EA. If additional Native American consultation or ethnographic studies are required, these would be completed as an out of scope task.

JBR will submit the internal Draft EA to the BLM for a 30-day review and comment. JBR assumes that we will submit the EA to the BLM in PDF format with minimal paper copies produced.

**Task 7: Nevada State Clearinghouse Review**

Submittal of the Draft EA to the Nevada State Clearinghouse for review may or may not be required. It would be determined by the BLM when they review the internal Draft EA. Whether the Nevada State Clearinghouse reviews the Draft EA is largely based upon the complexity of the EA and the sensitivity of resource issues identified. JBR's scope of work and cost estimate assumes that the EA will not be reviewed by the State Clearinghouse.

**Task 8: Prepare Final Environmental Assessment**

Upon receiving BLM's comments on the Draft EA, JBR will incorporate all BLM comments and produce the Final EA. For cost-estimating purposes, JBR has assumed we will prepare 10 copies of the Final EA for distribution to the BLM. JBR assumes that minimal comments are received from the BLM.

**Task 9: Coordinate Decision Record & FONSI**

JBR's scope of work assumes that BLM will proceed to a Decision Record and Finding of No Significant Impact (FONSI). JBR will coordinate with the BLM regarding its approval of the EA and the issuance of a Decision Record and FONSI. JBR will respond to any comments and additional concerns that the BLM may have, provide a summary of appropriate mitigation measures to be incorporated into the Decision Record, and provide any further assistance required to the BLM to produce a Decision Record and FONSI.

### 3.0 PRIOR EXPERIENCE / PAST PERFORMANCE

#### 3.1 COMPANY QUALIFICATIONS

JBR is an environmental consulting firm with an established record of excellence in providing National Environmental Policy Act (NEPA) documentation/EA preparation, biological studies, wetland delineations and studies, Section 404 permitting, environmental permitting, environmental and regulatory compliance monitoring, and a wide range of other environmental services to federal, state, and local agencies and to the private sector throughout Nevada and the western United States. JBR staff includes more than 110 professionals of diverse talents, training, skills, and education operating from eight offices located throughout the western United States. JBR has local offices in Reno and Elko, Nevada.

Cumulatively, JBR has prepared hundreds of NEPA documents for projects throughout the western United States, the majority for the Nevada BLM. Our extensive baseline studies experience enables us to evaluate baseline information to provide our clients with highly reliable interpretations presented in NEPA documents in a clear manner that optimizes their value to the agencies, proponent, and general public.

#### 3.2 PRIOR EXPERIENCE

JBR has a tremendous amount of experience working on Nevada projects. JBR's experience includes performing pre-project biological baseline surveys, state and federal permitting, and preparation of EA and EIS documents. A few of JBR's most recent clients include:

- Eureka County
- Washoe County
- City of Reno
- City of Fernley
- Baker Hughes
- Barrick Gold - North American Operations
- BH Minerals USA
- Carico Lake Mining Co.
- Coeur Rochester Inc.
- Cortez Gold Mines
- Cyanco Winnemucca
- Florida Canyon Mine
- General Moly, Mt. Hope Mine
- Golden Predator Mines, Inc.
- Kinross Gold/Echo Bay
- Newmont Gold Company
- Royal Standard Minerals
- Round Mountain Gold
- Sierra Pacific Power Company / NV Energy

### 3.3 JBR'S STAFF AND STAFF QUALIFICATIONS

The JBR Project Team qualifications are summarized below. The project will be managed by Ms. Debbie Lassiter with assistance from Ms. Catherine Clark.

#### **Catherine Clark Division Manager**

Ms. Clark has a B.A. in Geography and an M.S. in Environmental Resource Management, and over 20 years of professional experience in environmental impact analysis and compliance with the National Environmental Policy Act (NEPA). Her areas of expertise include environmental permitting and regulatory compliance at the federal, state, and local levels. Ms. Clark's experience includes contribution to and generation of over 100 environmental impact statements and EAs involving a variety of projects located throughout the western United States; the majority of these involve mining projects for the Nevada BLM. In addition to her mining-related project experience, Ms. Clark has an exceptional understanding of the NEPA process. She is a guest lecturer on an annual basis to the University of Nevada Reno Environmental Law Class on the NEPA process and preparation of EAs and EIS documents. In addition, Ms. Clark has been involved with project coordination, assisting with the initial design phase through the permitting and approvals stage, through final construction. Project coordination has included the appropriation of water rights, wetland delineation and Section 404 permitting, acquisition of rights-of-ways through Federal lands, wildlife biological assessments, and field surveys for sensitive and endangered plant species. Ms. Clark will assist with the Project Management for this project.

#### **Ms. Debbie Lassiter Senior Scientist, Project Manager**

Ms. Lassiter has over 17 years of professional experience in state, federal, and local environmental compliance and permitting, the majority of which is associated with the mining industry. Her permitting and compliance expertise are in the areas of NEPA, Clean Air Act, Nevada air quality regulations, National Pollution Discharge Elimination System (NPDES), Resource Conservation and Recovery Act (RCRA), Toxic Release Inventory (TRI), Clean Water Act Section 404, and hardrock and aggregate mining reclamation. Ms. Lassiter has routinely prepared and contributed to the completion of environmental impact statements, EAs, mining reclamation bond cost estimates and reclamation plan documents, mining plans of operation, mineral exploration plans and notices, Section 404 Waters of the U.S. delineations, and Title V and Class II Air Quality applications. In addition, Ms. Lassiter has been involved with project coordination in the permitting of new mining and exploration operations, NEPA and Clean Water Act Section 404 mitigation plan implementation, mining reclamation, wetland construction, International Cyanide Code program development and implementation, internal auditing, and the operational implementation of new regulatory environmental programs. Ms. Lassiter will serve as Project Manager for this project.

Ms. Clark and Ms. Lassiter will be assisted by Dave Worley, Senior Biologist.



#### 4.0 PROJECT SCHEDULE

JBR can initiate work on this EA immediately upon receiving authorization to proceed and a contract with Eureka County being executed. Preparation of the EA and the NEPA process for projects with a similar size to the proposed project generally takes 3 to 6 months. The project's schedule is dependent upon how quickly JBR can receive authorization to proceed, proper site conditions for the cultural resource survey, and how quickly the BLM can process the EA. The project site will need to be free of snow cover in order to perform a cultural resource survey.

Following completion of the site visit and cultural resource survey and report, the Draft EA can likely be prepared and submitted to the BLM within 30 days. Review and final approval by the BLM will likely take an additional 60 days.

The above schedule assumes that all baseline data have been collected, that no sensitive species surveys need to be performed, the site remains free of snow cover to facilitate the cultural survey, and that the project is not controversial.

#### 5.0 COST ESTIMATE

JBR's total estimated cost to prepare the EA and complete the cultural resource surveys is \$25,077. The cost to complete the cultural resource survey for the springs is \$7,542 and is included in the total cost. This cost estimate is a "time and materials" basis using JBR's current rate schedule. Should less time be required to complete this project, then JBR's overall cost to complete the project will be less. The cost estimate is based on JBR's understanding of the project as described in Section 1.0, our detailed scope of work presented in Section 2.0, and our experience preparing EAs for the Nevada BLM. It is JBR's objective to complete the EA at or below budget and within a schedule that is acceptable to both Eureka County and the BLM.

Although JBR's cost estimate represents our best good-faith estimate of total project costs, it must be recognized that this cost estimate is based upon a project with minimal issues. Any additional issues and/or concerns that are identified during the BLM's project kick-off meeting, during project scoping, and/or during the analysis could result in higher costs. JBR reserves the right to adjust the scope of work and project costs if significant issues are raised in NEPA process.

Based upon JBR's experience, an EA for a similar project of this size could range from \$20,000 to \$30,000 depending on the issues revealed during the NEPA process, including cultural resources, and the time necessary to adequately address them in the document. Because costs have several variables that are outside of JBR's control, JBR costs are presented on a time and materials basis.



## 6.0 ASSUMPTIONS

JBR's scope of work and cost estimate assumes the following:

- BLM will address all Native American issues and consultation.
- BLM will address all public scoping requirements.
- BLM will not require submittal to the Nevada State Clearinghouse.
- Initial project kick off meeting can be performed via conference call with BLM. Subsequent meetings will be held via conference call.
- Additional species-specific biological or wetland field surveys will not be required.
- Cultural surveys will not be required on an area greater than 250 acres and only one significant site is found.

DRAFT



JBR Environmental Consultants, Inc. - Cost Estimate

Client: Eureka County  
 Project: Eureka Water Distribution Project  
 February 13, 2009

Task	Professional Time (hours)										Subtotal		
	Clark	Lassiter	Worley	Duncan	Graphics	Admin W/P	Kautz Cultural	Travel	Equip.	Reprod. Shipping Misc.			
Task 1: BLM Initial Kick-Off Mtg / Conference Call (1) & Site Visit	1	2	10	2	2	1		\$400	\$100			\$2,307	
Task 2: Cultural Resource Survey (2)	0	0	0	0	0	0	\$2,258	\$0	\$0			\$2,258	
Task 3: Spring Area Costs		1	5	4	4	0	\$7,542	\$0	\$0	\$50		\$7,542	
Task 4: Data Collection & Review	2	20	24	4	10	4	\$0			\$100		\$1,384	
Task 5: Informal Agency Consultation USFWS, NDOW, NNHP										\$200		\$908	
Task 6: Prepare Draft Environmental Assessment												\$6,710	
Task 7: Nevada State Clearinghouse Review (3)		16	8	0	4	4				\$200		\$0	
Task 8: Prepare Final Environmental Assessment		4										\$3,480	
Task 9: Coordinate Decision Record & FONSI												\$488	
Subtotal (hours)	3	43	54	14	16	9	\$9,800	\$400	\$100	\$550		\$25,077	
Rate	\$151	\$122	\$101	\$101	\$70	\$60							
Subtotal (costs)	\$453	\$5,246	\$5,454	\$1,414	\$1,120	\$540	\$9,800	\$400	\$100	\$550		\$25,077	

## ATTACHMENT B

### JBR Environmental Consultants, Inc. Fee Schedule

(1) Assumes Project Kick Off meeting can be performed via conference call with BLM. Assumes JBR does not have to meet with BLM in person for Project Kick Off meeting.  
 (2) Includes cultural on all areas except the springs.  
 (3) Submittal of EA to Nevada State Clearinghouse by BLM may or may not be required. If submittal of EA to Nevada State Clearinghouse is required, then additional charges and fees (e.g., \$2500) could be incurred.