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FILED
NO. 99-114

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR 029 A9:14

A CONTRACT BETWEEN DOUGLAS COUNTY

AND

Lumos & Associates, Inc.

BARBARA REED
CLERK
BY *[Signature]* DEPUTY

NAME AND TITLE OF INDEPENDENT CONTRACTOR

800 E. Graves Lane, Carson City, NV 89706

ADDRESS OF INDEPENDENT CONTRACTOR

WHEREAS, Douglas County, a political subdivision of the State of Nevada, from time to time requires the services of independent contractors; and

WHEREAS, it is deemed that the services of Contractor herein specified are both necessary and desirable and in the best interests of Douglas County; and

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

NOW, THEREFORE, in consideration of the agreements herein made, the parties mutually agree as follows:

1. EFFECTIVE DATE OF CONTRACT. This contract shall not become effective until and unless approved by the Douglas County Board of County Commissioners.

2. INDEPENDENT CONTRACTOR STATUS. The parties agree that Contractor shall have the status of an independent contractor and that this contract, by explicit agreement of the parties, incorporates and applies the provisions of NRS 284.713, as necessarily adapted, to the parties, including that Contractor is not a County employee and that there shall be no:

- (1) Withholding of income taxes by the County;
- (2) Industrial insurance coverage provided by the County;
- (3) Participation in group insurance plans which may be available to employees of the County;
- (4) Participation or contributions by either the independent contractor or the County to the public employees retirement system;
- (5) Accumulation of vacation leave or sick leave;
- (6) Unemployment compensation coverage provided by the County if the requirements of NRS 612.085 for independent contractors are met.

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3. INDUSTRIAL INSURANCE. If applicable, Contractor further agrees, as a precondition to the performance of any work under this contract and as a precondition to any obligation of the County to make any payment under this contract, to provide the County with a work certificate and/or a certificate issued by the State Industrial Insurance System (SIIS) in accordance with NRS § 616.280. Contractor also agrees, prior to commencing any work under the contract, to complete and to provide the following written request to SIIS:

(Company Name) has entered into a contract with Douglas County to perform work from (starting date) to (ending date) and requests that the State Industrial Insurance System provide to Douglas County 1) a certificate of coverage issued pursuant to NRS § 616.280 and 2) notice of any lapse in coverage or nonpayment of coverage that the contractor is required to maintain. The certificate and notice should be mailed to:

Douglas County Manager
Post Office Box 218
Minden, Nevada 89423

Contractor agrees to maintain required workers compensation coverage throughout the entire term on the contract. If Contractor does not maintain coverage throughout the entire term on the contract, Contractor agrees that County may, at any time the coverage is not maintained by Contractor, order the Contractor to stop work, suspend the contract, or terminate the contract. For each six month period this contract is in effect, Contractor agrees, prior to the expiration of the six month period, to provide another written request to SIIS for the provision of a certificate and notice of lapse in or nonpayment of coverage. If Contractor does not make the request or does not provide the certificate before the expiration of the six month period, Contractor agrees that County may order the Contractor to stop work, suspend the contract, or terminate the contract.

4. SERVICES TO BE PERFORMED. The parties agree that the services to be performed are as follows: **See attached Scope of Services.**

5. PAYMENT FOR SERVICES. Contractor agrees to provide the services set forth in Paragraph (4) at a cost of **\$19,830**. Unless Contractor has received a written exemption from the County, Contractor shall submit monthly requests for payment for services performed under this agreement. Requests for payment by Contractor may only be made for reimbursement of actual cash disbursed. Requests for payment shall be submitted no later than fifteen (15) days after the end of a month and must include a detailed summary of the expenditures reported in a form that supports the approved budget. Specifically, Contractor agrees to provide with each request for payment a schedule of actual expenditures for the period, cumulative total expenditures for the entire contract, and a comparison of cumulative total expenditures to the approved budget. County agrees to pay Contractor installments as follows:

Contract for Services
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Revised 4/23/97

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6. TERMINATION OF CONTRACT. This contract may be revoked without cause by either party, provided that a revocation shall not be effective until ten days after a party has served written notice upon the other party.

7. NONAPPROPRIATION. All payments under this contract are contingent upon the availability to the County of the necessary funds. In accordance with NRS § 354.626, NRS § 244.320, and any other applicable provision of law, the financial obligations under this contract between the parties shall not exceed those monies appropriated and approved by the County for this contract for the then current fiscal year under the Local Government Budget Act. This contract shall terminate and the County's obligations under it shall be extinguished at the end of any fiscal year in which the County fails to appropriate monies for the ensuing fiscal year sufficient for the performance of this contract.

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

8. PAYMENT FOR SERVICES. Unless the Contractor has received a written exemption from the County, Contractor shall submit quarterly reports or other deliverables within ten (10) days after the end of each quarter. The quarterly report shall include a narrative description of all verifications and audits conducted, technical assistance provided during the quarter, all other reports required by this agreement, and a description of all agreement-related training programs attended by Contractor personnel.

9. PENALTIES AND RETENTIONS. No payments will be made by the County until any required reports or deliverables have been submitted to and approved by the County. Late submission of any report or other deliverable may, at the sole election of the County, result in a 10% penalty on the total contract amount for each week or portion of a week that such reports or deliverables are late. Any assessed penalty may, at the County's election, be withheld by the County or be billed to Contractor. Contractor agrees to pay any penalty assessment billed to Contractor by the County within 30 days of the mailing of the bill by the County. Any fund obligated by the County under this agreement that are not expended by Contractor shall automatically revert back to the County upon the completion, termination or cancellation of the agreement. The County shall not have any obligation to re-award or to provide, in any manner, the unexpended funds to Contractor. Contractor shall have no claim of any sort to the unexpended funds. In addition, the County may, in its sole discretion, retain an amount

of up to 10% from each payment made under ¶ 5 until the contract is completed to the County's satisfaction and finally accepted by the County.

10. CONSTRUCTION OF CONTRACT. This contract shall be construed and interpreted according to the laws of the State of Nevada.

11. COMPLIANCE WITH APPLICABLE LAWS. Contractor shall fully and completely comply with all applicable local state and federal laws, regulations, orders, or requirements of any sort in carrying out the obligations of this contract, including, but not limited to, all federal, state, and local accounting procedures and requirements and all immigration and naturalization laws.

12. ASSIGNMENT. Contractor shall neither assign, transfer nor delegate any rights, obligations or duties under this contract without the prior written consent of the County.

13. COUNTY INSPECTION. The books, records, documents and accounting procedures and practices of Contractor related to this contract shall be subject to inspection, examination and audit by the County, including, but not limited to, the contracting agency, the County Manager, the District Attorney, and, if applicable, the Comptroller General of the United States, or any authorized representative of those entities.

14. DISPOSITION OF CONTRACT MATERIALS. Any books, reports, studies, photographs, negatives or other documents, data, drawings or other materials prepared by or supplied to Contractor in the performance of its obligations under this contract shall be the exclusive property of the County and all such materials shall be remitted and delivered, at Contractor's expense, by Contractor to the County upon completion, termination or cancellation of this contract. Alternatively, if the county provides its written approval to Contractor, any books, reports, studies, photographs, negatives or other documents, data, drawings or other materials prepared by or supplied to Contractor in the performance of its obligations under this contract must be retained by Contractor for a minimum of six years after final payment is made and all other pending matters are closed. If at any time during the retention period, the County, in writing, requests any or all of the materials, then Contractor shall promptly remit and deliver the materials, at Contractor's expense, to the County. Contractor shall not use, willingly allow or cause to have such materials used for any purpose other than the performance of Contractor's obligations under this contract without the prior written consent of the County.

15. PUBLIC RECORDS LAW. Contractor expressly agrees that all documents ever submitted, filed, or deposited with the County by Contractor (including those remitted to the County by Contractor pursuant to ¶ 15), unless designated as confidential by a specific statute of the State of Nevada, shall be treated as public records pursuant to NRS ch. 239 and shall be available for inspection and copying by

any person, as defined in NRS § 0.039, or any governmental entity. Contractor expressly and indefinitely waives all of its rights to bring, including but not limited to, by way of complaint, interpleader, intervention, or any third party practice, any claims, demands, suits, actions, judgments, or executions, for damages or any other relief, in any administrative or judicial forum, against the County or any of its officers or employees, in either their official or individual capacity, for violations of or infringement of the copyright laws of the United States or of any other nation.

16. INDEMNIFICATION. Contractor agrees to indemnify and save and hold the County, its agents and employees harmless from any and all claims, causes of action or liability arising from the performance of this contract by Contractor or Contractor's agents or employees.

17. MODIFICATION OF CONTRACT. This contract constitutes the entire contract between the parties and may only be modified by a written amendment signed by the parties and approved by the Board of County Commissioners.

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

Ray A. Lopez
Signature (Date)

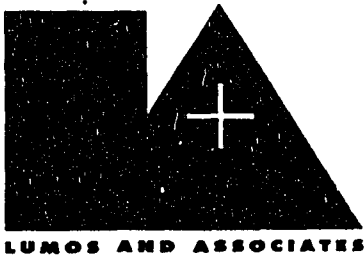
Jaques Etcheberry 7/1/89
BOARD OF COUNTY COMMISSIONERS (Date)

Approved as to form by:

Robert J. Maris
Deputy District Attorney

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RECEIVED
JUN 18 1999
DOUGLAS COUNTY
COMMUNITY DEVELOPMENT

SCOPE OF WORK
1999 Road Seal Project
Douglas County, Nevada
"Engineering Services Estimate"
June 16, 1999

Lumos & Associates, Inc. appreciates the opportunity to submit this proposal to furnish Construction Materials Testing and Inspection on the above noted project.

I have reviewed the received project documents and based on the data contained therein, I have prepared a Cost Estimate to furnish the aforementioned services during the term of the project.

In preparing the Cost Estimate, I made some assumptions concerning the Scope of Work:

- A) A minimum of two samples of the A.C. mix would be tested to check the mix properties.
Estimated Cost \$ 986.00
- B) Coring would be necessary on both lifts at a minimum of two (2) locations to determine the density and in-place voids.
Estimated Cost \$2,188.00
- C) Backscatter testing with a thin lift nuclear gauge would be utilized to determine the compaction on the remainder of the Asphalt Concrete.
Estimated Cost \$1,350.00
- D) Full time inspection of the modified chip seal and part time inspection of the fog seal and patching operations which would consist of confirming that the street surface is clean, the application rate complies with the specifications, and the rolling operations and clean up is performed as per specified. In addition Lumos & Associates would check the traffic control on a daily basis to confirm compliance with the approved traffic control plan.
Estimated Cost \$8,996.00
- E) Sampling and performing laboratory tests on the chip seal aggregate, which would consist of a sieve analysis at approximately 500 ton intervals.
Estimated Cost \$ 450.00
- F) Sample and have laboratory tests performed on the asphalt emulsion. On the PASS - GR Asphalt. The cost to perform the quality control test on the emulsion and the residue are \$399.00 and \$1,197.00, respectively plus 15%. Lumos & Associates recommends three (3) series of the aforementioned test be performed throughout the term of the project.

On the SS-1H it was recommended that the following test be performed; Viscosity at 77° and Cement test. The cost of the two test are \$80.00 and \$53.00 respectively plus 15%. Also, we were informed that the tests are only applicable if the asphalt is undiluted. Lumos & Associates recommends one (1) set of tests.

Estimated Cost \$5,660.00

In performing the inspection on the project, Lumos & Associates proposes to furnish qualified and experienced personnel who would perform the aforementioned tasks. In addition the inspector would inform you, on a daily basis, of the items completed, the approximate quantities placed, and problems encountered, if any, and how resolved.

If the Scope of Work is substantially altered and the fees related thereto commence to exceed the estimated inspection/testing cost, Lumos & Associates, Inc. would appreciate the opportunity to re-negotiate the same.

I am confident that Lumos & Associates can assist you in constructing a quality product and in a cost efficient manner.

I have attached a more detailed breakdown of the proposed Scope of Work and the cost related thereto for your review.

If you have any questions or require any additional information, please contact me.

Sincerely,



William Rice, P.L.S.
Quality Control Manager
Lumos & Associates, Inc.

WR:jc
cc: File



PROJECT: DOUGLAS COUNTY STREET MAINTENANCE
CLIENT: DOUGLAS COUNTY

REVISED - JUNE 16, 1999

CONSTRUCTION MANAGEMENT

Lab Manager
Engineering Technician
Secretary

ESTIMATED TOTAL \$200.00

FIELD TESTING

A.C. Coring (est. 6 site visits)
A.C. Backscatters (est. 12 hr)

ESTIMATED TOTAL \$3,066.00

FIELD INSPECTION

Chip Seal/Fog Seal Inspection (est. 102 hr)
A.C. Patching Inspection (est. 42 hr)
Sample Pick Up (2 ea)

ESTIMATED TOTAL \$8,996.00

LABORATORY TESTING

A.C. Testing
(2 Samples)
A.C. Core Testing
(8 sets of 2)
Chip Seal Aggregate Testing
(6 samples)

ESTIMATED TOTAL \$1,908.00

LABORATORY TEST

(PASS-GR)
Emulsion (3 ea)
Residue (3 ea)
SS-1H-1 ea; Viscosity at 77° and Cement

ESTIMATED TOTAL \$5,660.00

TOTAL FEES \$19,830.00



COPY

REQUESTED BY
DOUGLAS COUNTY
IN OFFICIAL RECORDS OF
DOUGLAS CO., NEVADA

'99 JUL 29 P2:29

LINDA SLATER
RECORDER 0473397

\$ 0 PAID BY DEPUTY

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CERTIFIED COPY

The document to which this certificate is attached is a full, true and correct copy of the original on file and on record in my office.

DATE: July 29 1999
B. REED Clerk of the Judicial District Court
of the State of Nevada, In and for the County of Douglas.

By Carol Mallock Deputy

SEAL