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CONTRACT #2004.090

(Title of Document)

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Approved 7-15-04

FILED

CONTRACT FOR PROFESSIONAL SERVICES
OF
INDEPENDENT CONTRACTOR

NO. 2004.090

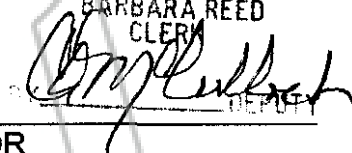
2004 APR 21 AM 9:37

A CONTRACT BETWEEN DOUGLAS COUNTY

AND

Douglas County Historical Society

BARBARA REED
CLERK



NAME AND TITLE OF INDEPENDENT CONTRACTOR

1477 Hwy 395 N. Gardnerville, NV 89410

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 professional 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 or Purchasing and Contracts Administrator; whichever is required.

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 284.173, 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.

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 a qualified insurer in accordance with NRS § 616B.627. Contractor also agrees, prior to commencing any work under the contract, to complete and to provide the following written request to the insurer:

(Company Name) has entered into a contract with Douglas County to perform work from (starting date) to (ending date) and requests that the insurer 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 of 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 the insurer 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: Photos from the Dangberg Home Ranch shall be processed as follows:
- a. All photos will be catalogued into a data base that meets national museum standards. This will include identification of the content of the photos by contract curator and community members and a sorting ability on several parameters for each photo.
 - b. All photos will be scanned onto DC discs.
 - c. All photos will be stored in acid-free sleeves and by subject matter in acid-free file folders in a vertical file.
 - d. Accessibility to images and database will be available to researchers, exhibit designers, authors, etc. Nevada State Parks and Douglas County may access and use all images. The Douglas County Historical Society may charge museum patrons for making a print. Prints made for Douglas County or State Parks will be provided at cost.
 - e. The contract provides for the processing of up to 840 photos.
 - f. Services will be provided by the Director of Museums, contract Curator, and Office Assistant. Community experts may be used for photo content identification.

5. PAYMENT FOR SERVICES. Contractor agrees to provide the services set forth in Paragraph (4) at a cost not to exceed \$60,000 for all services and related expenses. Unless Contractor has received a written exemption from the County, Contractor shall submit bi-weekly 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. Payment requests will be processed by the County through their normal process, with payments generally made within two weeks following the County acceptance of the pay request.

6. TERMINATION OF CONTRACT. Either party may revoke this contract without cause, provided that a revocation shall not be effective until 30 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. 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.

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

10. 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.

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

12. 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.

13. DISPOSITION OF CONTRACT MATERIALS. Any books, reports, studies, photographs, negatives or other documents, data, drawings or other materials 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.

14. 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.

15. 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.

16. 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.

17. PLANS, DRAWINGS, SPECIFICATIONS, MAPS, REPORTS and OTHER INSTRUMENTS OF SERVICE.

A. The actual photos or other documents will remain in the ownership of the Dangberg museum or private party as provided for in previous agreements unless other agreements are made. The Douglas County Historical Society will

retain the archived materials. State Parks and Douglas County will have access to these materials and may have copies made at cost. Researchers, authors or other designated users by the Historical Society may have free access and use of the materials. All other use or copies will be provided by the Historical Society at a retail price.

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

Daniel C. Holler

Signature

4-15-04

(Date)

Marshall G. Feiler

Signature

4-19-04

(Date)

Daniel C. Holler County Manager
Douglas County

(Date)

PRESIDENT

Douglas County Historical Society
Independent Contractor

4-19-04

(Date)

Approved as to form by:

David W. Rege
Deputy District Attorney

SEAL

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: April 21, 2004

B. Reed Clerk of the Judicial District Court
of the State of Nevada, in and for the County of Douglas.

4 By Carl M. [Signature] Deputy

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