

OFFICIAL RECORD

Requested By:  
DC/MANAGERS OFFICE

Assessor's Parcel Number: N/A

Date: SEPTEMBER 28, 2009

Recording Requested By:

Douglas County - NV  
Karen Ellison - Recorder  
Page: 1 Of 7 Fee: 0.00  
BK-0909 PG- 5902 RPTT: 0.00



Name: COUNTY MANAGER'S OFFICE

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Real Property Transfer Tax: \$ N/A

CONTRACT #2009.271  
(Title of Document)

FILED

NO. 2009.271

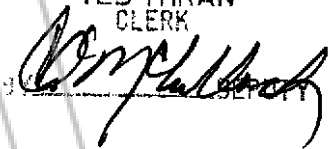
CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTORS 2009 SEP 28 AM 10:31

A CONTRACT BETWEEN DOUGLAS COUNTY

AND

SOMACH SIMMONS & DUNN  
813 6<sup>TH</sup> STREET, THIRD FLOOR  
SACRAMENTO, CA 95814

TED THIRAN  
CLERK



(RELOCATING TO 500 CAPITOL MALL, SUITE 1000, SACRAMENTO, CA 95814,  
ON OR ABOUT AUGUST 24, 2009)

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 personal services of Contractor herein specified are both necessary and desirable and in the best interests of Douglas County; and

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

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

**1. EFFECTIVE DATE AND TERM OF CONTRACT. JULY 1, 2009 – JUNE 30, 2010**

This contract shall not become effective until and unless approved by the Douglas County Board of County Commissioners. Unless amended in writing, the total amount to be paid to Contractor during the term of this contract shall not exceed \$50,000.

**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 here 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.**

**A.** Unless the Contractor complies with ¶ B below, 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:

Somach Simmons & Dunn has entered into a contract with Douglas County to perform work from July 1, 2009 to June 30, 2010 and requests that the State Industrial Insurance System provide to Douglas County 1) a certificate of coverage issued pursuant to NRS § 616B.627 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  
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 of 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.

**B.** Contractor may, in lieu of furnishing a certificate of an insurer, provide an affidavit indicating that he is a sole proprietor and that:

1. In accordance with the provisions of NRS 616B.659, has not elected to be included within the terms, conditions and provisions of chapters 616A to 616D, inclusive, of NRS; and
2. Is otherwise in compliance with those terms, conditions and provisions.

4. **SERVICES TO BE PERFORMED.** The parties agree that the personal services to be performed are outlined in the attached " Scope of Work."

5. **PAYMENT FOR SERVICES.** Contractor agrees to provide the professional services set forth in ¶ 4 in exchange for compensation billed by the one-tenth of the hour and at rates set forth in the attached Scope of Work. 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.

6. **TERMINATION OF CONTRACT.** This contract may be revoked without cause by either party after the first year, provided that a revocation shall not be effective until 60 days after a party has served written notice upon the other party.

7. **NON APPROPRIATION.** All payments under this contract are contingent upon the availability to the County of the necessary funds. In accordance with NRS § 354.626 and any other applicable provision of law, the financial obligations under this 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 if the County fails to appropriate monies.

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. **CONSTRUCTION OF CONTRACT.** This contract shall be construed and interpreted according to the laws of the State of Nevada, to the extent consistent with Contractor's ethical obligations under California law and Rules of Professional Conduct.

9. **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.

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

11. **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.

12. **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, unless the County has requested remittance and delivery by Contractor of the items. 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.

13. **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 § 16), 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 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.

14. **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.

15. **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.

*Nicholas A. Jacobs*  
\_\_\_\_\_  
Somach Simmons & Dunn, Nicholas A. Jacobs  
*July 30, 2009*  
\_\_\_\_\_  
(Date)

*T. Michael Brown*  
\_\_\_\_\_  
Douglas County, County Manager T. Michael Brown  
*August 5, 2009*  
\_\_\_\_\_  
(Date)

Attest:

By: *Ted Thran*  
\_\_\_\_\_  
Ted Thran, Douglas County Clerk-Treasurer  
*Sept 25, 2009*  
\_\_\_\_\_  
(Date)

**SCOPE OF WORK**

Somach Simmons & Dunn (SSD) is being hired to represent Douglas County in matters relating to proposed revisions to Flood Insurance Rate Maps (FIRM) for the eastern Carson Valley. SSD's work is anticipated to include: research regarding the FIRM process; coordination of technical consultants necessary to review and comment on the scientific and engineering qualities of the FIRM; administrative negotiations and appeals of an adverse FIRM determination; and, if necessary, federal court litigation challenging a flawed FIRM.

Nicholas A. Jacobs, who is a shareholder attorney with SSD, will lead representation of Douglas County. Mr. Jacobs may be assisted by other SSD attorneys. Mr. Jacobs' hourly rate, which is a discounted rate offered to public agency clients, is \$240. Associate attorneys who may assist Mr. Jacobs bill at hourly rates ranging from \$180 to \$215. Other shareholder level and "of counsel" attorneys bill at hourly rates ranging from \$235 to \$390.

COPY

**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: Sept 28, 2009

TTAN Clerk of the 924 Judicial District Court of the State of Nevada, in and for the County of Douglas.

By Carol W. Hullock Deputy