

Doc Number: **0836115**

12/30/2013 12:41 PM

OFFICIAL RECORDS

Requested By
DC/PUBLIC WORKS

DOUGLAS COUNTY RECORDERS
Karen Ellison - Recorder

Page: 1 Of 11 Fee: \$ 0.00

Bk: 1213 Pg: 5262



Deputy: sg

Assessor's Parcel Number: N/A

Date: DECEMBER 30, 2013

Recording Requested By:

Name: ELLEEN CHURCH, PUBLIC WORKS
(JF)

Address: _____

City/State/Zip: _____

Real Property Transfer Tax: \$ N/A

CONTRACT #2013.281

(Title of Document)

FILED

2013.281

2013 DEC 30 AM 11:40

CONTRACT FOR SERVICES BY AN INDEPENDENT CONTRACTOR

A CONTRACT BETWEEN

DOUGLAS COUNTY

AND

PEZONELLA ASSOCIATES, INC.

TED THUAN
CLERK
BY *[Signature]* DEPUTY

This Contract for Services by an Independent Contractor (the "Contract") is entered into by and between Douglas County, a political subdivision of the State of Nevada, through the Board of County Commissioners (the "County"), and Pezonella Associates, Incorporated, a Nevada corporation ("Contractor"). The County and Contractor are at times collectively referred to hereinafter as the "Parties" or individually as the "Party."

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 Contractor is duly qualified, equipped, staffed, ready, willing and able to perform and render the services hereinafter described.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein made, the County and Contractor mutually agree as follows:

1. TERM AND EFFECTIVE DATE OF CONTRACT. The Contract will become effective on the date it is approved and signed by representatives of both Parties. Time is of essence for performance of the professional services described herein and all tasks must be completed within two (2) weeks of the effective date of the Contract.

2. INDEPENDENT CONTRACTOR STATUS. The Parties agree Contractor will have the status of an independent contractor and that the Contract, by explicit agreement of the Parties, incorporates and applies the provisions of NRS 333.700, as necessarily adapted to the Parties, including the express understanding that Contractor is not an employee of the County 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 Contractor or the County to the public employee's retirement system;
- (5) Accumulation of vacation leave or sick leave; and
- (6) Unemployment compensation coverage provided by the County if the requirements of NRS 612.085 for independent contractors are met.

3. INDUSTRIAL INSURANCE.

Contractor further agrees that, prior to the commencement of any work and as a precondition to any obligation of the County to make any payment under the Contract, Contractor will 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 that, prior to commencing any work under the Contract, Contractor will complete and provide evidence to the County that Contractor has made the following written request to Contractor's insurer:

Pezonella Associates, Incorporated has entered into a contract with Douglas County to perform work from October 1, 2013 to March 1, 2014 and requests that an authorized insurer 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 all required workers' compensation coverage throughout the entire term of the Contract. If Contractor does not maintain the required coverage throughout the entire term of the Contract, Contractor agrees that the 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 at the sole discretion of the County. 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, insurance 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 the County may order the Contractor to stop work, suspend the Contract, or terminate the Contract at the sole discretion of the County.

4. SERVICES TO BE PERFORMED. The Parties agree that the personal services to be performed are as follows:

See attached Scope of Services for the Tillman Sidewalk Improvements.

5. PAYMENT FOR SERVICES. Contractor agrees to provide the services set forth in Paragraph 4 at a cost not to exceed Sixteen thousand three hundred seventy-five Dollars (\$16,375) (the "Contract Price"). In addition, the County does agree to reimburse Contractor for travel expenses but not per diem allowances. Unless Contractor has received a written exemption from the County, Contractor shall submit monthly requests for payment for services performed under this Contract. Requests for payment by Contractor may only be made for reimbursement of actual cash disbursed by Contractor. 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. Either Party may terminate the Contract if either Party fails to correct any breach of the terms of the Contract within 30 days after receiving notice of such breach and having been given an opportunity to cure the breach.

7. NONAPPROPRIATION. All payments required pursuant to the Contract are contingent upon the availability of County funds. In accordance with NRS 354.626 and any other applicable provision of law, the financial obligations between the Parties will not exceed those monies appropriated and approved by the County for the Contract for the then current fiscal year under the Local Government Budget Act. The Contract will terminate and the County's obligations will be extinguished if the County fails to appropriate the necessary funding.

Nothing in the Contract will be construed to provide Contractor with a right of payment from any entity other than the County. Any funds budgeted by the County pursuant to the terms of the Contract that are not paid to Contractor will automatically revert to the County's discretionary control upon the completion, termination, or cancellation of the Contract. The County will not have any obligation to re-award or to provide, in any manner, the unexpended funds to Contractor. Contractor will have no claim of any sort to the unexpended funds.

8. CONSTRUCTION OF CONTRACT. The Contract will be construed and interpreted according to the laws of the State of Nevada. There will be no presumption for or against the drafter in interpreting or enforcing the Contract. In the event a dispute arises between the Parties, the Parties promise and agree to first meet and confer to resolve any dispute. If such meeting does not resolve the dispute, then the Parties agree to mediate any dispute arising from or relating to the Contract before an independent mediator. The fee, rate or charge of the mediator will be shared equally by the Parties, who will otherwise be responsible for their own attorney's fees and costs. If mediation is unsuccessful, litigation may only proceed before a department of the Ninth Judicial Court of the State of Nevada in and for the County of Douglas that was not involved in the mediation process and attorney's fees and costs will be awarded to the prevailing party at the discretion of the court. The mediator and court will recognize any offers of judgment made by a Party pursuant to Nevada law.

9. COMPLIANCE WITH APPLICABLE LAWS. Contractor promises and agrees to 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 the Contract, including, but not limited to, all federal, state, and local accounting procedures and requirements, all hazardous materials regulations, and all immigration and naturalization laws.

10. ASSIGNMENT. Contractor will neither assign, transfer nor delegate any rights, obligations or duties under the 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 the Contract will 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 the Contract (the "Materials") will be the exclusive property of the County and all such materials will be remitted and delivered, at Contractor's expense, to the County by Contractor upon the completion, termination or cancellation of the contract. Alternatively, if the County provides its written approval to Contractor, the Materials must be retained by Contractor for a minimum of six years after Contractor's receipt of the final payment from County 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 will promptly remit and deliver the materials, at Contractor's expense, to the County. Unless the County has requested the remittance and delivery by Contractor of the Materials, Contractor will not use, willingly allow or cause to have such Materials used for any purpose other than the performance of Contractor's obligations under the terms of the Contract without the prior written consent of the County.

13. PUBLIC RECORDS LAW. Contractor expressly understands and agrees that all documents submitted, filed, or deposited with the County by Contractor, unless designated as confidential by a specific statute of the State of Nevada, will be treated as public records pursuant to NRS chapter 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, defend, and save and hold the County, its agents and employees harmless from any and all claims, causes of action or liability arising from or related to Contractor's performance pursuant to the terms of the Contract by Contractor or Contractor's agents or employees.

15. MODIFICATION OF CONTRACT. The Contract and the attached exhibits constitute the entire agreement and understanding between the Parties and may only be modified by a written amendment signed by both of the Parties.

16. AUTHORITY. The Parties represent and warrant that they have the authority to enter into this agreement.

17. STANDARD OF CARE. Contractor will perform all services in a manner consistent with that level of care and skill ordinarily exercised by other members of Contractor's profession currently practicing in the same locality under similar conditions.

18. WAIVER OF LIEN. Contractor understands and agrees that the services it will render to the County are not intended for the improvement of real property or to otherwise grant any rights to Contractor pursuant to NRS chapter 108.

19. THIRD PARTY BENEFICIARY. Nothing contained in this Agreement is intended to convey any rights or to create a contractual relationship with any third party or to otherwise allow a third party to assert a cause of action against either Contractor or County.

20. NOTICES. All notices, requests, demands and other communications hereunder must be in writing and will be deemed delivered when sent via certified mail, return receipt requested or by commercial courier, provided the courier's regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following the courier's receipt from the sender, addressed as follows (or any other address that the Party to be notified may have designated to the sender by like notice):

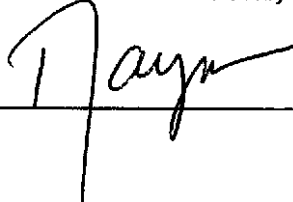
To County: Douglas County
Attn: Jeff Foltz, Senior Civil Engineer
1120 Airport Road, F2
Post Office Box 218
Minden, Nevada 89423
Telephone: (775) 782-6227

To Contractor: Pezonella Associates, Inc.
520 Edison Way
Reno, NV 89502

21. CONFLICT OF INTEREST. By signing the Contract, Contractor agrees that any information obtained from Douglas County, in whatever form, will not be divulged to other competing interests without the permission of the County Manager. In the event of a breach of this provision, Douglas County may immediately withdraw, without penalty or any payment, from the Contract. Contractor must notify Douglas County of any other contracts or projects Contractor is working on that may impact Douglas County.

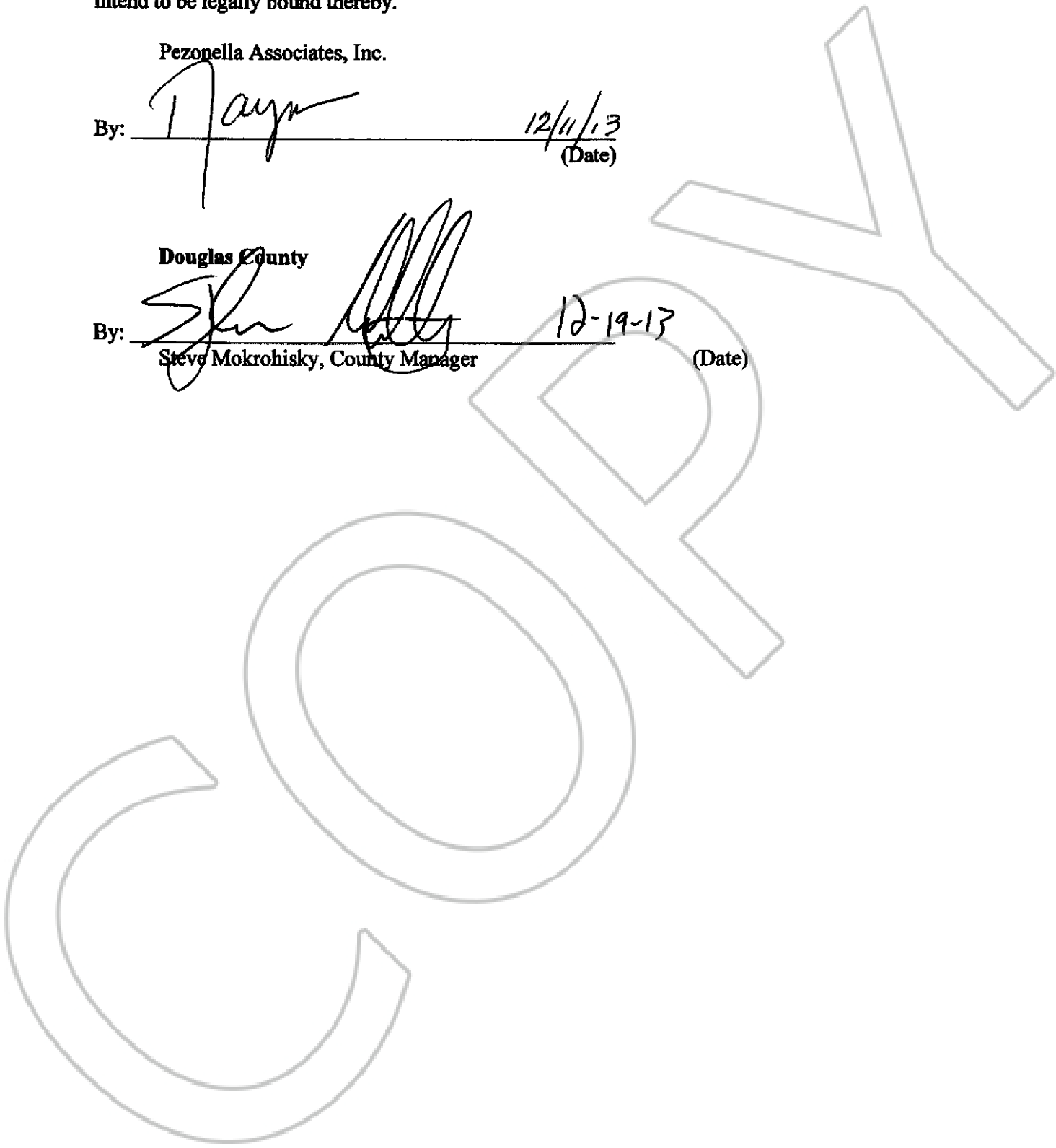
IN WITNESS WHEREOF, the Parties hereto have caused the Contract to be signed and intend to be legally bound thereby.

Pezonella Associates, Inc.

By:  12/11/13
(Date)

Douglas County

By:  12-19-13
Steve Mokrohisky, County Manager (Date)



SCOPE OF SERVICES for TILLMAN SIDEWALK IMPROVEMENTS

CONSTRUCTION MANAGEMENT

PreConstruction Phase Services

Pre-Construction Conference -Organize, schedule and attend and record the Pre-construction meeting prior to the beginning of work. Aid County forces in bidding and obtaining a contract.

Construction Phase Services

Reports - Prepare any reports that may be required during the construction phase. Prepare monthly reports to the County.

Permits, Bonds, and Insurance- CM shall verify that the required permits, Bonds, and insurance have been obtained. Such action by the CM shall not relieve the Contractor of its responsibility to comply with the provisions of the Contract Documents.

Review of Requests for Information, Shop Drawings, Samples & Other Submittals - The CM shall review the Contractor's request for information, shop drawings, samples, and other submittals to determine the anticipated effect on compliance with the Project requirements, the Project and Construction Budget, and the Master Schedule. CM shall forward to the Design Professional for review the requests, shop drawings, and other submittals along with CM's comments. The CM's comments shall not relate to the design considerations, but rather to matters of constructability, cost, sequencing, scheduling and time of construction. The CM shall receive from the Design Professional and transmit to the Contractor all information so received.

Work Change Directives and Change Order Preparation, Negotiation and Processing - Establish , implement and coordinate systems for processing all contract work change directives and change orders. Prepare independent cost estimate for all contract work change directives and change orders. Negotiate all contract work change directives and change orders with Contractor. Prepare contract work change directives and change order documents for execution by Contractor and County.

Minor Variations in the Work - The CM may authorize minor variations in the work from the contract Documents that do not involve an adjustment in the contract price or the contract time and which are consistent with the over all intent of the Contract Documents.

Contractors Construction Schedule - The CM shall review each Contractor's Construction Schedule and shall verify that the schedule is prepared in accordance with the requirements of the Contract Documents and that it establishes completion dates that comply with the requirements of the Master Schedule.

Progress Payments – The CM shall review the payment applications submitted by the Contractor and determine whether the amount requested reflects the progress of the Contractor’s work. The CM shall make appropriate adjustments to each pay application and shall forward to the County the Pay Application.

Certified Payroll Review – CM shall review Contractor’s certified payroll submittals for compliance with the prevailing wage requirements.

Quality Review – The CM shall monitor the quality of the construction so as to guard the County against defects and deficiency in the Work of the Contractor. The CM shall reject Work and transmit to the County and Contractor a notice of nonconforming Work when in the opinion of the CM, County, or the Design Professional that the work does not conform to the requirements of the Contract Documents. Communications between CM and the Contractor with regard to Quality Review shall not in any way be construed as binding County or CM as releasing the Contractor from the fulfillment of any terms of the Contract Documents. The CM will not be responsible nor does CM control the means or methods of construction for the Project. It is understood that CM’s action in providing Quality Review as stated herein is a service to the County and by performing as provided herein, CM is not acting in a manner so as to assume responsibility or liability for any part of the construction work for the Project. No action taken by the CM shall relieve the Contractor from their obligation to perform their work in strict conformity with the Contract Documents, and all other applicable laws, rules and regulations.

Photographs and Videos – Provide videotape and photographic documentation of the project site prior to and during construction.

Maintain “As-Built” Drawings – Maintain one set of contract documents with up to date information regarding all addendum, substitutions, clarifications and change orders; these Red-lined documents will be forwarded to Design Professional to be incorporated into the final As-Builts.

Manage Testing, Special Inspections, and Laboratory Services – The CM will schedule and coordinate all testing, inspection and lab services so as to insure contract compliance.

Contractor’s Safety Program – The CM shall require each Contractor that will perform Work at the site to prepare and submit to the CM for general review a safety program as required by the Contract Documents. The CM shall not be responsible for the implementation, adequacy or completeness of any Contractor’s safety program, procedures or precautions.

Traffic Control and Public Safety – The CM shall review and monitor all traffic control and public safety plans for compliance with all safety laws and regulations. Review all detour, lane closures, temporary access, signing, delineation and traffic control plans; report deficiencies to contractor.

FINAL ACCEPTANCE/CLOSE OUT SERVICES.

Meetings – Conduct and coordinate meetings with County and Contractor related to project completion.

Final Inspection and Punch List – Provide final inspection and prepare list of project construction deficiencies for resolution by Contractor.

Construction Approval/Acceptance – Make recommendation to owner regarding final project approval and acceptance.

Final Payment – Make recommendations to County regarding Contractor's final project payment request and prepare final progress payment report to be submitted to the County.

Final Report – Provide the County with a project final report that includes the following:

A financial summary of the construction contracts, change orders, and professional services.

A summary of project change orders

A construction summary and schedule review.

A summary of final acceptance.

A copy of daily reports and copies of project photos.

Tillman Lane Sidewalk Improvements
 Project Schedule 2013--2014

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan
Review Plans & bid Docs										1			
Pre-Con											10		
Construction												90	
Wrap up													10
Total hours										1	10	90	10

TOTAL HOURS PER MONTH
 Construction Mgr. \$125.00/hr \$125.00 \$1,250.00 \$11,250.00 \$1,250.00 \$1,250.00 \$13,875.00
 Construction Inspector.
 Special Services
 Truck rate 0.50/mi measured none
 Clerical hours
 Clerical cost at \$50.00/hour
GRAND TOTAL FOR CONSTRUCTION MANAGEMENT \$16,375.00



Douglas County State of Nevada

CERTIFIED COPY

I certify that the document to which this certificate is attached is a full and correct copy of the original record on file in the Clerk-Treasurer's Office on this

30th day of Dec, 2013
 By *[Signature]* Deputy