

Assessor's Parcel Number: N/A

Date: SEPTEMBER 14, 2017

Recording Requested By:

Name: JEANE COX, COMMUNITY DEVELOPMENT

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

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

Real Property Transfer Tax: \$ N/A



00061582201709040240100106

KAREN ELLISON, RECORDER

FIRST CONTRACT AMENDMENT #2017.176

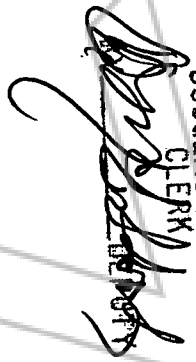
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**FIRST AMENDMENT**  
**CONTRACT FOR SERVICES BY AN INDEPENDENT CONTRACTOR**

A CONTRACT BETWEEN DOUGLAS COUNTY  
P O BOX 218  
MINDEN, NV 89423

AND

WELLS BARNETT ASSOCIATES, LLC  
P O BOX 10379  
ZEPHYR COVE NV 89448

FILED  
NO 2012226  
2017 SEP 14 AM 10:29  
DOUGLAS COUNTY  
CLERK  


This Contract for Services by an Independent Contractor (hereafter "Contract") is entered into by and between Douglas County, a political subdivision of the State of Nevada, (hereafter "County") through the Douglas County Manager and Wells Barnett Associates, LLC., a Nevada Domestic Limited Liability Company (hereafter "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 the company is duly qualified, equipped, staffed, ready, willing and able to perform and render the professional 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.** The Contract will become effective on the later date it is approved and signed by authorized representatives of the Parties and shall continue until June 30, 2018, unless terminated as set forth herein. Time is of the essence for performance of the professional services described herein.

**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 333.700 et. al., as necessarily adapted, to the Parties, including 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 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.** Contractor further agrees that prior to the commencement of any work and as a precondition to the to any obligation of the County to make any payment under the

Contract, the 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, prior to commencing any work under the Contract, Contractor will complete and to provide evidence to the County that Contractor has made the following written request to Contractor' insurer:

Wells Barnett Associates, LLC has entered into a contract with Douglas County to perform work from January 1, 2017 to June 30, 2018 and requests that the 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 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 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 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 at the sole discretion of the County.

**4. SERVICES TO BE PERFORMED.** The Parties agree the professional services to be performed are to provide revisions to the Douglas County South Shore and Tahoe Douglas Area Plans, including the tasks, deliverables and fees as set forth in Exhibit "A", Proposal for Douglas County South Shore and Tahoe Douglas Area Plans, dated December 15, 2016, attached and incorporated herein.

**5. PAYMENT FOR SERVICES.** Contractor agrees to provide the personal services set forth in Paragraph 4 at a total cost not to exceed \$8,000. 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 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 terminated without cause by either Party prior to the date set forth in Paragraph 1, provided the termination will not be effective until 30 days after a Party has served written notice upon the other Party. Contractor will be paid for amounts due and not previously paid to Contractor for work satisfactorily completed in accordance with the Contract. No amount will be allowed or paid for anticipated profit or costs on unperformed services or other unperformed work.

**7. NON-APPROPRIATION.** All payments under this 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 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 the necessary funding.

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 Contract. 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. 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 this 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 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 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 agrees that all documents ever submitted, filed, or deposited with the County by Contractor unless designated as confidential by a specific statute of

the State of Nevada, shall be treated as public records pursuant to Nev.Rev.Stat. ch. 239 and shall be available for inspection and copying by any person, as defined in Nev.Rev.Stat. § 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.** The Contract and attached Exhibit "A" constitute the entire Contract and understanding between the Parties and may only be modified by a written amendment signed by both 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 any applicable licensing or professional rules and 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: Director of Community Development  
Post Office Box 218  
Minden, Nevada 89423  
Telephone: (775) 782-6201

Physical: 1594 Esmeralda Ave  
Minden, NV 89423

**To Contractor:**

Wells Barnett Associates, LLC  
Attn: Lyn Barnett, AICP  
Post Office Box 10379  
Zephyr Cove, Nevada 89448  
Telephone: (775) 580-7478





EXHIBIT A



**WELLS BARNETT ASSOCIATES, LLC**

*Planning + Design*

December 15, 2016

Mimi Moss, AICP  
Director  
Douglas County Community Development Department  
P.O. Box 218  
Minden, NV 89423

RE: WBA Proposal for Douglas County South Shore and Tahoe Douglas Area Plans

Dear Mimi:

Wells Barnett Associates, LLC (WBA) is pleased to submit the enclosed proposal to prepare revisions to the Douglas County South Shore and Tahoe Douglas Area Plans.

Please contact me at (775) 580-7478 or at [Candace@wbaplanning.com](mailto:Candace@wbaplanning.com) if you have any questions about the proposal.

Sincerely,

Candace H. Stowell, AICP  
Senior Associate

cc: Lyn Barnett, AICP, Principal

Enclosure: WBA Proposal for Douglas County South Shore and Tahoe Area Plans



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## **UNDERSTANDING OF DOUGLAS COUNTY SOUTH SHORE AND TAHOE DOUGLAS AREA PLAN REVISIONS**

Douglas County is seeking to obtain Regional Plan Conformance approval from the Tahoe Regional Planning Agency (TRPA) for two community plans subject to TRPA authority: 1) the South Shore Area Plan; and 2) the Tahoe Douglas Area Plan. Under the updated 2012 TRPA Regional Plan, local jurisdictions are allowed to obtain additional permitting authority from TRPA upon approval of new "Area Plans" that are consistent with Chapter 13 of the TRPA Code of Ordinances.

The Douglas County South Shore Area Plan was the first "Area Plan" to be adopted by TRPA in conformance with Chapter 13 of the TRPA Code. In 2015, the Board of Commissioners approved amendments to the South Shore Area Plan so as to include a Greenhouse Gas Reduction Strategy and to expand the boundary of the Kingsbury Town Center to include the entire Kingsbury Manor Mobile Home Park. TRPA has provided comments to Douglas County on additional revisions that are required before the amended South Shore Area Plan can be submitted to TRPA for Regional Plan Conformance approval.

The Tahoe Douglas Area Plan covers the remaining area of Douglas County located under TRPA's jurisdiction. This Area Plan was adopted by the Board of Commissioners in January 2015 and reflected a proposed land use change for the former Kingsbury Middle School Site (KMS). Although the Area Plan states that the KMS site could generate 1,556 daily trips, the Initial Environmental Checklist (IEC) for this Area Plan anticipated only 286 additional daily trips. Before the Tahoe Douglas Area Plan can be submitted to TRPA for public hearings and adoption, a new IEC will be required to analyze the impact of a proposed affordable housing development with more than 400 dwelling units on the KMS site. The County is considering entering into a contract with Ascent Environmental to carry out the additional IEC work for the KMS Site. This updated IEC will cover both the South Shore and the Tahoe Douglas Area Plans.

## **PROPOSED TASKS**

### **TASK ONE – SOUTH SHORE AREA PLAN**

WBA will prepare a revised draft of the South Shore Area Plan for internal review by Douglas County and TRPA based on correspondence submitted to Douglas County from TRPA on September 23, 2016. The revised draft will include updated text, maps, and data and will be prepared as a separate document from the Douglas County Master Plan but still be considered a component of the County Master Plan. The revised version of the South Shore Area Plan will include an updated Regional Conformance Checklist - although TRPA will complete the coverage table on page 13. Following receipt of internal comments, WBA will prepare a revised draft for public review.





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#### **TASK TWO – TAHOE DOUGLAS AREA PLAN**

WBA will prepare a draft of the Tahoe Douglas Area Plan for internal review by Douglas County and TRPA based on correspondence submitted to Douglas County from TRPA on September 23, 2016. In addition, the draft Tahoe Douglas Area Plan will incorporate data from the revised IEC for the KMS site. The revised version of the Tahoe Douglas Area Plan will include an updated Regional Conformance Checklist - although TRPA will complete the coverage table on page 13. Following receipt of internal comments, WBA will prepare a revised draft for public review prior to a proposed workshop for residents who live near the KMS property.

#### **TASK THREE – DOUGLAS COUNTY DEVELOPMENT CODE AND ZONING MAP**

WBA will prepare the proposed minor amendments to the Tahoe Basin Regulations, Chapters 20.700 to 20.703 of the Douglas County Development Code, based on the TRPA correspondence dated September 23, 2016. WBA will work with Douglas County GIS to update the zoning for the South Shore and Tahoe Douglas Area Plans to reflect the new boundary for the Kingsbury Town Center. The zoning maps included in both area plans will be updated as well.

#### **TASK FOUR. PUBLIC PARTICIPATION PROCESS**

WBA will attend the neighborhood workshop for the proposed KMS Affordable Housing project as support to Douglas County staff. WBA will also attend five (5) public hearings before the Douglas County Planning Commission, Board of Commissioners, TRPA RPIC, TRPA APC, and TRPA Governing Board. At this time, it is understood that WBA is not required to prepare the staff reports for any of these public hearings.

#### **TASK FIVE. DELIVERABLES**

WBA will prepare internal drafts of the South Shore and Tahoe Douglas Area Plans, which will include the revised environmental analysis for the KMS site. Following Douglas County and TRPA review of the draft documents, WBA will post revised drafts of both documents on the Douglas County web site (updating the existing Master Plan/TRPA Area Plan web page).

WBA will not be responsible for reproduction of the draft Area Plans, but can assist with email notifications regarding the revised Area Plans, and can distribute electronic copies to public officials, if requested.

#### **OTHER ITEMS.**

It is understood that WBA would be able to work with Douglas County GIS to revise maps for both Area Plans, as necessary.

If this proposal is acceptable to Douglas County, WBA would like to request that the County provide Microsoft Word versions of the South Shore and Tahoe Douglas Area Plans.



**WELLS BARNETT ASSOCIATES, LLC**  
Planning - Design

## FEE PROPOSAL

The proposed fee for the preparation of revised versions of the South Shore and Tahoe Douglas Area Plans, based on Tasks 1-5, is \$8,000. The itemized cost for each task is listed below.

Task	Time Frame	Cost
<b>Task One.</b> <b>South Shore Area Plan</b>	January to March 2017	\$3,000
<b>Task Two.</b> <b>Tahoe Douglas Area Plan</b>	January to March 2017	\$2,500
<b>Task Three.</b> <b>Development Code and Zoning Map</b>	January to March 2017	\$750
<b>Task Four.</b> <b>Public Participation</b>	January to March 2017	\$750
<b>Task Five.</b> <b>Deliverables</b>	March to April 2017	\$1,000
<b>TOTAL</b>		<b>\$8,000</b>

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

14 day of April, 2017

By [Signature] Deputy