

Assessor's Parcel Number:  N/A

Date:  JUNE 5, 2018

Recording Requested By:

Name:  VALERIE COOK, PUBLIC WORKS   
 (JE)

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

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

Real Property Transfer Tax: \$  N/A



00074365201809150790100102

KAREN ELLISON, RECORDER

**CONTRACT #2018.099**

(Title of Document)

RECEIVED

MAY 22 2018

DOUGLAS COUNTY  
PUBLIC WORKS

**CONTRACT FOR SERVICES BY AN INDEPENDENT CONTRACTOR**

A CONTRACT BETWEEN

**DOUGLAS COUNTY, NEVADA**

AND

**LUMOS & ASSOCIATES, INC.**

DOUGLAS COUNTY  
CLERK  
2018 JUN -4 PM 2:54  
2018.099  
FILED

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 Lumos & Associates, Inc. ("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 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 by Friday, September 28, 2018.

**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:

Lumos & Associates, Inc. has entered into a contract with Douglas County to perform work through Friday, September 28, 2018 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  
Public Works Department  
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 Contractor will perform the following:

Perform construction surveying, inspection, materials and testing and project closeout for work associated with the reconstruction Tillman Lane from south of Kimmerling Road to south of Patricia Way. Exhibit A includes the detailed scope of work and rate schedule

**5. PAYMENT FOR SERVICES.** Contractor agrees to provide the services set forth in Paragraph 4 on a time and materials cost not to exceed Sixty Four Thousand Dollars (\$64,000.00) (the "Contract Price"). 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 maximum expected fee for the services and tasks set forth in Paragraph 4.

**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 a reasonable 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 mutually agreed to by the parties. 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.

**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 negligent 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: Public Works Director  
1120 Airport Road, F2  
Post Office Box 218  
Minden, Nevada 89423  
Telephone: (775) 782-6227

**To Contractor:** Lumos & Associates, Inc.  
308 North Curry Street, Suite 200  
Carson City, NV 89703  
Telephone: 775-883-7077

**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.

**Lumos & Associates, Inc.**

By: Michael Bennett 5/21/18  
Michael Bennett, P.E., Director of  
Engineering (Date)

**Douglas County Regional Transportation  
Commission**

By: Nancy McDermid 31 May 2018  
Nancy McDermid - Chair (Date)



April 26, 2017

Bob Spelberg, District Manager  
Gardnerville Ranchos General Improvement District  
931 Mitch Drive  
Gardnerville, Nevada 89460

***Subject: Tillman Lane Reconstruction  
Revised Proposal for Engineering Services***

Dear Bob:

Lumos & Associates, Inc. is pleased to provide you with this proposal for engineering and related services for the Tillman Lane Reconstruction Project being conducted as a joint effort between the Gardnerville Ranchos and Douglas County.

### **Project Understanding**

The proposed project is located on Tillman Lane south of the four way stop intersection at Kimmerling Road to Patricia Way within the Gardnerville Ranchos GID. More generally, the project is located entirely within Section 21, Township 12N, Range 20E M.D.B. & M. It is our understanding that the scope of work for this project is to reconstruct the entire road section which will include the replacement of failing curb, gutter, and sidewalk; the installation of bike lanes, upgraded ADA corner ramps, and new drainage improvements. We propose the following tasks to assist you with your project.

### **Project Scope**

#### **Task 1 – Civil Design, Drainage Report & Agency Permitting**

This task will include preparation of civil construction drawings for review by GRGID, Douglas County, and the Douglas County RTC for permitting of the project improvements. The drawings will be prepared on 24"x36" format sheets and at a standard engineering scale as required by Douglas County Community Development.

Included with Task 2, Lumos will prepare a technical drainage study in substantial conformance with Douglas County Standards. This work will include preparing a drainage study that determines the runoff impacts from the offsite areas draining into the Tillman Lane project area and will develop solutions for detaining/routing the storm water from both the offsite drainage areas and the roadway itself. The final product will include two bound reports to be included with the improvement plans submitted to Douglas County. Agency coordination and processing of requested revisions of the civil improvement plans will be completed under this task.

Our drawings for the onsite improvements will include the roadway improvements, grading, curb, gutter, sidewalks, striping, signage, and drainage improvements. Dimensions and grading will be provided as required for construction. The design of "dry" utilities (i.e., gas, electric, telephone, cable television) is not anticipated as part of this project and is therefore not included in this fee proposal.



The goal is to complete permitting of the project and be ready for bid per the schedule previously provided to Douglas County and GRGID.

**Task 2 – Bidding and Construction Assistance**

Lumos will be available to answer questions, coordinate contractor invoicing, process pay requests, review submittals, conduct a pre-construction meeting, bid the plans, conduct a pre-bid meeting, conduct periodic walkthroughs of the project during construction, respond to RFI's, modify plans, review submittals, and prepare record drawings. Bidding will commence once all permits are obtained.

**Task 3 – Street Center Survey Monuments**

Lumos & Associates will locate the existing Street Center Survey Monuments in Tillman Lane within the project area during the Topographic Survey phase of the project. During the construction phase of the project Lumos will mark the locations of the new survey wells for installation by the contractor. Lumos will resurvey and punch mark the survey monument after installation by the contractor.

**Task 4 – Construction Staking**

Lumos will conduct field staking of the improvements in coordination with the contractor. Additionally, we will define and coordinate with the contractor to install centerline monuments within the new roadway. Once the centerline monuments have been set a Record of Survey will be submitted to Douglas County. Construction Staking will be on a Time and Materials basis do to the variability with contractors and not having complete plans from which to generate a cost from.

**Task 5 – Construction Inspection and Testing**

Lumos will provide onsite inspection and site materials testing for the project. The testing scope will be in accordance with Orange Book Specifications for Public Works Construction. Testing and inspection services will be on a Time and Materials basis do to the variability in construction schedules. Every effort will be made to consolidate testing and inspection services to reduce costs for the project.

As part of the inspection and testing services a final inspection and testing package will be prepared for the District and per County requirements for the site improvement permit.

**Task 6 – Reimbursables**

Any fees or other associated project costs incurred by Lumos to obtain copies of previous plans or reports, additional mapping, permit fees paid by Lumos, or other unforeseen reimbursable expenses will be billed under this task at cost plus 15%. Additional production of plans and specifications as requested by the client will also be billed under this task on a time and materials basis in accordance with our current fee schedule.

It is anticipated that some potting holing will be required during the design process to identify utilities that could conflict with new drainage facilities. The cost to pothole is unknown at this time and is not included in the estimate. If potholing for existing utilities becomes necessary, Lumos will hire a contractor to perform potholing services under the Reimbursable Task.

**Assumptions / Exceptions**

Lumos has made the following assumptions in preparation of this proposal:

- Utility upgrades other than drainage improvements are not included in the scope of this proposal.
- This proposal does not include any FEMA or floodplain permitting/modeling as there is no anticipated work within a FEMA flood area.
- This proposal does not include acquiring any easements at this time. Should easements be required for the project the need for an adjustment to the scope of work shall be re-evaluated.

**Fees**

The tasks described in the Scope of Work will be completed for the following fees:

Task	Description	Fee
Task 1	Civil Design, Drainage Report & Agency Permitting	\$82,000
Task 2	Bidding and Construction Assistance	\$41,000
Task 3	Street Center Survey Monuments	\$4,000
Total:		\$127,000


Task 4	Construction Staking	(Estimate - \$12,000)	T/M
Task 5	Construction Inspection and Testing	(Estimate - \$50,000)	T/M
Task 6	Reimbursables	(Estimate - \$2,000)	T/M

Tasks 1 through 3 are time and materials not to exceed. Tasks 4 through 6 are budget estimates.

If this proposal is acceptable, please sign and return this proposal to proceed under the terms of Lumos existing contract with GRGID. Any additional services requested but not covered by this Scope of Work can be provided by an amendment to this proposal.

Thank you again for allowing Lumos & Associates to provide you with this proposal. Please do not hesitate to call me if you have questions.

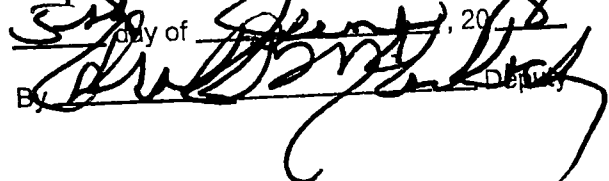
Sincerely,

  
 Michael D. Bennett, P.E.  
 District Engineer

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

By  Deputy  
 Day of                     , 20          

Approved:

Robert Spellberg, District Manager

Date