

**Recorder's Office Cover Sheet**

**Recording Requested By:**

**Name:** Courtney Walker

**Department:** Public Works



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KAREN ELLISON, RECORDER

**Type of Document: (please select one)**

- Agreement
- Contract
- Grant
- Change Order
- Easement
- Other

**specify:** \_\_\_\_\_

**CONTRACT FOR PROFESSIONAL SERVICES BY AN INDEPENDENT CONSULTANT**

A CONTRACT BETWEEN

**DOUGLAS COUNTY, NEVADA**

AND

**LUMOS & ASSOCIATES, INC.**

**FILED**

**NO. 2022.022**

**2-8-2022**  
DATE

**DOUGLAS COUNTY CLERK  
MINDEN, NV**

BY **MP** DEPUTY

This Contract for Professional Services (hereafter "Contract") is entered into by and between Douglas County, a political subdivision of the State of Nevada, (hereafter "County") through the County Manager and Lumos & Associates, Inc. a Nevada Corporation (hereafter "Consultant"). County and Consultant 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 professional services provided by independent consultants; and

**WHEREAS**, Douglas County has determined that the services of Consultant herein specified are both necessary and desirable and in the best interests of Douglas County; and

**WHEREAS**, Consultant represents that Consultant 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 Consultant mutually agree as follows:

**1. EFFECTIVE DATE AND TERM OF CONTRACT.** The Contract will become effective on January 1, 2022. Time is of the essence in this contract and all work required in Paragraph 4 of this Contract shall be finally completed by no later than June 30, 2022. Unless earlier terminated as set forth in Paragraph 6, below, this Contract shall remain in effect until final completion of the work required in Paragraph 4.

**2. INDEPENDENT CONSULTANT STATUS.** The Parties agree that Consultant shall have the status of an independent consultant 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 Consultant 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 consultant or the County to the public employees 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 consultants are met.

Additionally, the Consultant is not in the classified or unclassified service of the County and has none of the rights or privileges available to officers, employees or other appointees of the County.

**3. INDUSTRIAL INSURANCE.** Consultant 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, the Consultant will provide the County with a work certificate and/or a certificate issued by a qualified insurer in accordance with NRS 616B.627. Consultant also agrees, prior to commencing any work under the Contract, Consultant will complete and provide evidence to the County that the Consultant has made the following written request to Consultant's insurer:

Lumos & Associates has entered into a contract with Douglas County to perform work from January 1, 2022 to June 30, 2022 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 Consultant is required to maintain.

The certificate and notice should be mailed to:

Douglas County  
Public Works Department  
Post Office Box 218  
Minden, Nevada 89423

Consultant agrees to maintain required workers compensation coverage throughout the entire term of this Contract. If Consultant does not maintain coverage throughout the entire term of the Contract, Consultant agrees that the County may, at any time the coverage is not maintained by Consultant, order the Consultant 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, Consultant 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 Consultant does not make the request or does not provide the certificate before the expiration of the six-month period, Consultant agrees that the County may order the Consultant 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 services to be performed include the Engineering Design for the following: proposed 25-year detention basins in the Johnson Lane Area of Douglas County:

- a. Chowbuck,
- b. Skyline,

- c. Stephanie, and
- d. Romero

at the locations and in the manner more particularly described in Exhibit "A." The general location of the basins is roughly depicted for reference in Exhibit "C."

**5. PAYMENT FOR SERVICES.** Consultant agrees to provide the services set forth in Paragraph 4 at a "Lump Sum" cost not to exceed Ninety-Five Thousand Five Hundred Dollars (\$95,500). Contractor agrees that no additional funds will be needed to complete the scope set forth in Tasks 1, 2 and 3 of Exhibit A. To the extent that Exhibit A refers to "Task 4" being billed on a time and materials basis, the services provided under this task shall not exceed a total cost of Five Thousand Dollars (\$5,000), for a total combined contract price not to exceed One Hundred Thousand, and Five Hundred Dollars (\$100,500).

Additional services may be incorporated into the scope of work by change order signed by both parties. The additional services will be billed on a time and materials basis at rates as set forth in Exhibit "B," hereto, or as otherwise negotiated and defined in the change order. County does not agree to reimburse for per diem or other allowances or expenses. Unless Consultant has received a written exemption from the County, Consultant shall submit requests for payment for services performed under this Contract. Requests for payment must include a detailed summary of the expenditures reported in a form that supports the approved budget. Specifically, Consultant 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 the other 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. Provided, however, that except as otherwise set forth in this Contract, early termination will not relieve a Party of any obligation that became due prior to the date of termination.

**7. NONAPPROPRIATION.** 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 Consultant with a right of payment over any other entity. Any funds obligated by the County under this Contract that are not paid to Consultant shall automatically revert to the County's discretionary control upon the completion, termination, or cancellation of this Contract. The County shall not have any obligation to re-award or to provide, in any manner, the unexpended funds to Consultant. Consultant shall have no claim of any sort to the unexpended funds.

**8. CONSTRUCTION OF CONTRACT & DISPUTE RESOLUTION.** 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. The Contract Documents shall include this document and Exhibits A, B and C hereto. The Contract Documents are intended to be complimentary to one another and shall be so construed. To the extent that there is an irreconcilable difference between the Contract Documents, the order of precedence shall be: first, this document, thereafter Exhibit A, thereafter Exhibit B, and finally Exhibit C.

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.** Consultant 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.** Consultant 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 Consultant 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.** All professional and technical information developed under this Contract and all work sheets, reports, and related data shall remain the property of the Consultant, provided that County shall receive a non-exclusive license to use and reuse the professional and technical information. Consultant further agrees to deliver reproducible copies of such documents to County on completion of the services hereunder. The County agrees to indemnify and hold Consultant harmless from any claim arising out of reuse of the information for uses other than this project.

**13. PUBLIC RECORDS LAW.** Consultant expressly agrees that all documents ever submitted, filed, or deposited with the County by Consultant shall 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. If Consultant wishes to designate any document as confidential, then Contract must properly mark each affected page as confidential and indicate the applicable statute under which the document is defined as confidential.

Consultant 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.

**14. INDEMNIFICATION.** Consultant 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 Consultant or Consultant's agents or employees.

**15. MODIFICATION OF CONTRACT.** This Contract and the attached Exhibit "A", Exhibit "B", and Exhibit "C" constitute the entire Contract and understanding between the Parties and may only be modified by a written amendment or change order signed by both Parties.

**16. AUTHORITY.** The Parties represent and warrant that they have the authority to enter into this agreement. Each signatory individually warrants that he or she is authorized to sign on behalf of the party for whom he or she is signing.

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

**18. WAIVER OF LIEN.** Consultant 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 Consultant 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 Consultant 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: Stormwater Program Manager  
1120 Airport Road Building F-2  
Post Office Box 218  
Minden, Nevada 89423  
Telephone: (775) 782-6215



**To Consultant:** Tim Russell  
Lumos and Associates  
308 N. Curry Street, Suite 200  
Carson City, NV 89703

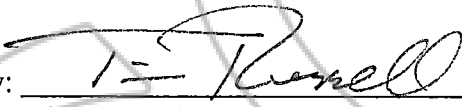
**21. CONFLICT OF INTEREST.** By signing the Contract, Consultant agrees that any information obtained from Douglas County, in whatever form, will not be divulged to other competing interests without the permission of the County Manager. In the event of a breach of this provision, Douglas County may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

**22. LICENSING.** Consultant agrees to maintain any required licenses to perform any services for County. The failure to maintain any required license will result in immediate termination of this Contract.

**23. GENERAL LIABILITY INSURANCE.** Douglas County's liability coverage will not extend to the Consultant and Consultant is required to acquire and maintain general liability insurance in the minimum amount of \$1,000,000 during the term of this Contract at Consultant's sole expense. Proof of insurance must be sent to the Douglas County Manager. Such proof of insurance must be provided at least annually throughout the term of this Contract and Douglas County must be notified at least 30 days in advance of any cancellation or nonrenewal of such insurance.

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

**LUMOS AND ASSOCIATES**

By:  1/5/22  
Tim Russell (Date)  
Lumos and Associates

**DOUGLAS COUNTY, NEVADA**

By:  2/3/22  
Patrick Cates (Date)  
Douglas County Manager  
As Authorized by the Board of County Commissioners in a Public Meeting on 2/3/22



**Carson City**  
308 N. Curry Street, Suite 200  
Carson City, Nevada 89703  
775.883.7077

January 4, 2022

LA 21.A55

Courtney Walker, CFM  
Stormwater Program Manager  
Douglas County Public Works  
1594 Esmeralda Avenue  
P.O. Box 218  
Minden, NV 89423  
Via Email: CWalker@douglasnv.us

*Exhibit A*

***Subject: Chowbuck, Stephanie, Romero, and Skyline Basins - Proposal for Engineering Services***

Dear Ms. Walker:

Lumos and Associates, Inc. (Lumos) is pleased to provide you with this proposal for engineering and related services for the design for the proposed Chowbuck, Stephanie, Romero, and Skyline Drainage Basins.

### **Project Understanding**

With the completion of the Johnson Lane Area Drainage Master Plan in 2018, it is our understanding that the County desires to move ahead with the design and construction the 25-year storm event improvements for the Chowbuck, Stephanie, Romero, and Skyline Drainage Basins.

The County has requested a new proposal from Lumos to provide engineering services associated with the design of these facilities. The following scope of services has been developed to assist the County with the project:

### **Scope of Services**

#### **Task 1: Topographic Survey**

Lumos will prepare a Topographic Survey Map at 1" = 20' scale with 1 foot contour interval accuracy in accordance to National Map Accuracy Standards for subject property. The area to be surveyed will be 100' outside the proposed design areas. All existing surface improvements, visible evidence of utilities with inverts, and trees defined by species and diameter will be located. No boundary will be established and no monuments will be set as a part of this survey. Control for the project will be referenced to the Nevada Coordinate System, West Zone, NAD83, modified to ground, and the vertical datum for the project will be referenced to NAVD88. We can perform this work within 8 weeks of a signed agreement, weather depending.



## **Task 2 – Geotechnical Investigation**

For the Geotechnical scope of work, we will complete a field investigation that will consist of twelve (12) subsurface test pits, three (3) at each of the proposed sites. Exploration depths will be from 10 to 15 feet below ground surface, or practical refusal, whichever comes first. Samples will be collected from the surface and at each soil layer encountered below ground surface. We will also perform percolation tests in two (2) of the test pits, one (1) at each site. Lumos & Associates, Inc. will provide the excavation services and the USA dig clearance.

Lumos & Associates, Inc. herein proposes to provide sampling of each exploration, classify the encountered soils in accordance with the Unified Soil Classification System (USCS), and conduct laboratory testing on the samples collected. Additionally, we propose to perform engineering analyses and calculations and develop a Geotechnical Investigation report that will discuss the geologic setting, seismic considerations, exploration and site condition, field and laboratory test data, and our conclusions and recommendations from a Geotechnical perspective. Our Geotechnical Investigation will be prepared by a Registered Nevada Civil Engineer and will specifically include the following services:

Field Investigation will include:

- USA Dig Clearance
- Location of Exploration Test Pits
- Logging of all Soil Profiles Based on USCS
- Water Table Measurement, if Encountered
- Percolation Tests

Laboratory analysis may include:

- Atterberg Limits (ASTM D-4318)
- Grain Size Analysis (including fines content) (ASTM C-136)
- Moisture Density Curve (ASTM D-1557)
- pH, Soluble Sulfate and Resistivity
- Direct Shear (ASTM D-3080)

Report, Recommendations, and Conclusions:

- Table of Contents
- Introduction
- Exploration Logs and Field Investigations
- Soil Types and Classification
- Laboratory Test Results and Summary
- Seismic Considerations
- Geotechnical Discussion
- Shear Strength Parameters of Site Soils
- Coefficient of Friction of Site Soils
- Grading Recommendations
- Portland Cement Concrete Recommendations
- Groundwater Level, if encountered

This work will be done at the same time for all four basins and will be combined into a single geotechnical report.

### **Task 3: Improvement Plans and Specifications**

Lumos will prepare civil construction drawings and specifications for the four proposed detention basins. The drawings will be prepared on 24"x36" format sheets at a standard engineering scale. Design review submittals will be provided to the County at specific levels of completion with the 100% review containing the following sheets:

- Title sheet with notes, locations, and vicinity maps;
- Site plan indicating location of improvements;
- Plan and section views of proposed basins (including outlet structures and piping);
- Grading plan with quantities;
- Site BMPs
- Detail sheets with construction details;

Drawing deliverables will be provided at the 60%, 90% and 100% design levels. Specifications and cost estimates will be included at the 60%, 90% and 100% levels. It is assumed that County comments will be incorporated with each subsequent deliverable. This task includes one review meeting with the County at the 60% and one meeting at the 90%.

It is assumed that Douglas County will provide the Division 00 contract specifications with Lumos generating all other specifications. Douglas County and Lumos will coordinate on the creation of the bid schedule.

Included with this task is permit coordination with Douglas County Community Development. This will include submittal of permits and response to comments from the County.

### **Task 4: Direct Expenses / Reimbursables**

Any fees or other associated project costs incurred by Lumos for submittal plan, and document reproduction, 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 County will also be billed under this task on a time and materials basis in accordance with our current fee schedule.

### **Assumptions / Exceptions**

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

- BLM permitting will be coordinated and completed by Douglas County
- No acquisition of easements is included
- No downstream design from the basin outlets is included at this time, should this be desired at a later time, Lumos can provide an amendment to this proposal.
- No bidding, construction assistance, construction testing, inspection, or staking is included at this time due to the unknown time frame for construction. A proposal for those services can be provided at a later time.

**Fees**

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

Task	Description	Fee
Task 1	Topographic Survey	\$16,000
Task 2	Geotechnical Report	\$24,100
Task 3	Improvement Plans and Specifications	\$55,400
	Total:	\$95,500
Task 4	Direct Expenses / Reimbursables	T&M

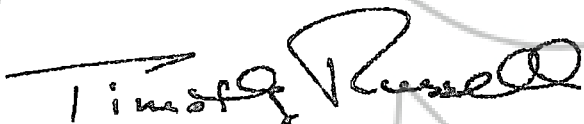
Tasks 1 through 3 are Lump Sum and Task 4 is T&M.

Lumos will be happy to amend this proposal as necessary to include services not included or to amend the proposed services to better match the scope of services required.

If this proposal is acceptable, please provide your Contract for execution. Lumos will send monthly progress billings on this project. The amount of these billings will be based upon the percentage of work completed. The terms are 'Due Upon Receipt' and accounts are past due after 30 days. Accounts over 30 days old will be subject to interest at the rate of 1 ½% per month and such collection action as may be necessary to collect the account. In addition, a "Stop Work Order" may be issued on past due accounts. In this case, no further work will be performed until the account is brought current.

Thank you again for allowing Lumos to provide you with this proposal. Please do not hesitate to call me if you have questions or concerns as we would happy to discuss them with you.

Sincerely,



Tim Russell, P.E., WRS  
Director of Engineering, Engineering Division

<b>Engineering</b>	<b>Per Hour</b>
Director	\$250
Group Manager	235
Senior Project Manager – Special Projects	225
Assistant / Project / Senior Project Manager	170/195/205
Staff / Project / Senior Hydrogeologist	170/180/185
Staff / Project / Senior Engineer	155/165/175
Landscape Designer / Architect / Architect Manager	115/150/160
Staff / Project / Senior Planner	155/165/175
Assistant / Project / Senior Project Coordinator	125/150/160
Project / Senior Project Designer	135/145
Engineering Technician I / II	115/125
Support Technician	90
<b>Construction</b>	<b>Per Hour</b>
Director	\$250
Materials Engineering Manager	215
Assistant / Project / Senior Project Manager	170/195/205
Geotechnical Engineer	195
Construction Services Supervisor / Engineer	140/160
Assistant / Project / Senior Project Coordinator	125/150/160
Geotechnician	140
Inspector / Senior Inspector (includes nuclear gauge)	120/130
Engineering Technician I / II	115/125
Materials Technician I / II (includes nuclear gauge)	95/100
<b>Surveying</b>	<b>Per Hour</b>
Director	\$250
Group Manager	235
Assistant / Project / Senior Project Manager	170/195/205
Staff / Project / Senior Surveyor	145/160/170
Assistant / Project / Senior Project Coordinator	125/150/160
Photogrammetrist / Photogrammetry Manager	140/160
Surveying Technician I / II	115/125
Party Chief	160
Chain Person	80
<b>Administrative &amp; Other Services</b>	<b>Per Hour</b>
Administrator	\$85
Clerical	75
30x42 Color / B&W (per copy)	10/5
24x36 Mylar / Color/B&W (per copy)	20/5/3
8.5x11 Color / B&W (per copy)	0.50/0.15
Mileage (per mile)	0.70

- Fees for prevailing wage rate projects available upon request.
- Map filing, checking, consulting, and other fees paid on behalf of the client shall be billed at cost plus fifteen percent (15%).
- Overtime hours will be billed at 1.5 times standard rate where applicable.
- Survey and Field crew billing rates include standard field survey equipment and truck up to 30 mile radius, after which mileage rates apply
- Fees for depositions and testimony will be billed at two (2) times the standard billing rates

**Invoices are due upon receipt and considered to be past due after 30 days.  
This fee schedule applies to services provided from January 1, 2022 until further notice.**

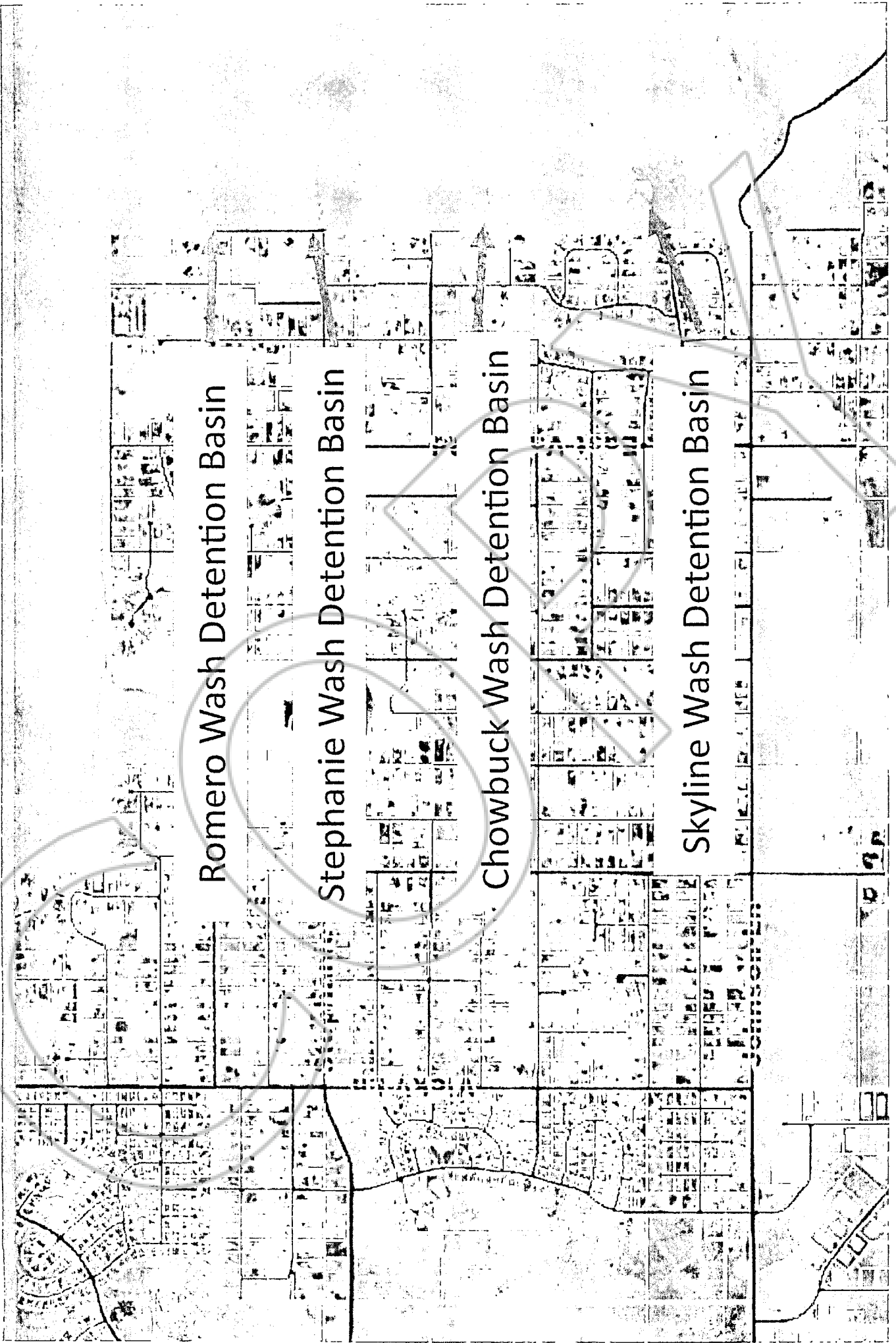
Exhibit C

Romero Wash Detention Basin

Stephanie Wash Detention Basin

Chowbuck Wash Detention Basin

Skyline Wash Detention Basin



COPY

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

8th day of February, 2022

By [Signature] Deputy