

Assessor's Parcel Number: N/A

Date: APRIL 14, 2016

Recording Requested By:

Name: DEBBIE BEAM, COUNTY MANAGER'S OFC

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

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

Real Property Transfer Tax: \$ N/A



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KAREN ELLISON, RECORDER

**CONTRACT #2016.078**

(Title of Document)

**CONTRACT FOR SERVICES BY AN INDEPENDENT FIRM**

A CONTRACT BETWEEN

**DOUGLAS COUNTY, NEVADA**

AND

**ROWE HALES & YTURBIDE, LLP**

**FILED**  
NOV 20 2016  
2016 APR 13 PM 3:30  
DOUGLAS COUNTY  
CLERK  
BETH J. DEBORTY

This Contract for Services by an Independent Firm (the “Contract”) is entered into by and between Douglas County, a political subdivision of the State of Nevada (the “County”), and the law firm of Rowe Hales & Yturvide, LLP, a Nevada limited liability partnership (“Firm”). The County and Firm are at times collectively referred to as the “Parties” or individually as a “Party.”

**WHEREAS**, it is deemed that the legal services of the Firm are necessary, desirable and in the best interests of the County; and

**WHEREAS**, the Firm represents that it is licensed, qualified, staffed, and able to provide the legal services to the Public Guardian as requested by the County.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants herein made, the County and Firm 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. The term of the Contract will be from March 1, 2016, through June 30, 2018, unless terminated earlier pursuant to the terms of this Contract. Upon approval, the Contract supersedes and replaces the previous contract between the parties approved by the Douglas County Board of County Commissioners on June 5, 2014 and recorded with the Douglas County Recorder as Document Number 0844542 in Book 0614 beginning at Page 3393.

**2. INDEPENDENT FIRM STATUS.** The Parties agree Firm will have the status of an independent Firm 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 Firm 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 Firm 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 Firms are met.

### **3. INDUSTRIAL INSURANCE.**

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

Rowe Hales Yturbide, LLP has entered into a contract with Douglas County to perform work from March 1, 2016, through June 30, 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 Firm is required to maintain.

The certificate and notice should be mailed to:

Douglas County Manager  
Post Office Box 218  
Minden, Nevada 89423

The Firm agrees to maintain all required workers' compensation coverage throughout the entire term of the Contract. If Firm does not maintain the required coverage throughout the entire term of the Contract, Firm agrees that the County may, at any time the coverage is not maintained by Firm, order the Firm 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, Firm 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 the Firm does not make the request or does not provide the certificate before the expiration of the six-month period, the Firm agrees that the County may order the Firm 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 Firm will perform the following:

The Firm will represent the Douglas County Public Guardian in all matters relating to the provision of legal services and legal support required by the Public Guardian in the performance of all of his/her duties as the guardian of indigent wards.

**5. PAYMENT FOR SERVICES.** Firm agrees to provide the services set forth in Paragraph 4 at a cost not to exceed One Thousand Eight Hundred Eighty Four Dollars and Forty-Five Cents (\$1,884.45) per month payable by County to Contractor in equal monthly installments. If the Douglas County Public Guardian notifies the County that there is a question regarding the services provided by the Firm and requests that the County withhold payment; the County may withhold payment until such time as the issue raised by the Public Guardian is resolved between the Public Guardian and the Firm.

**6. TERMINATION OF CONTRACT.** Either Party may terminate the Contract upon at least thirty (30) days advance written notice provided to the other Party.

**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 Firm 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 Firm 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 Firm. Firm 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. Costs but not attorney's fees will be awarded to the prevailing party at the discretion of the court.

**9. COMPLIANCE WITH APPLICABLE LAWS.** Firm 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.** Firm 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 Firm 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 Firm 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 Firm's expense, to the County by Firm upon the completion, termination or cancellation of the contract. Alternatively, if the County provides its written approval to Firm, the Materials must be retained by Firm for a minimum of six years after Firm'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 Firm will promptly remit and deliver the materials, at Firm's expense, to the County. Unless the County has requested the remittance and delivery by Firm of the Materials, Firm will not use, willingly allow or cause to have such Materials used for any purpose other than the performance of Firm's obligations under the terms of the Contract without the prior written consent of the County.

**13. PUBLIC RECORDS LAW.** Firm expressly understands and agrees that all documents submitted, filed, or deposited with the County by Firm, 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. Firm 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.** Firm 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 Firm's performance pursuant to the terms of the Contract by Firm or Firm's agents or employees.

**15. MODIFICATION OF CONTRACT.** The Contract and any 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.** Firm will perform all services in a manner consistent with that level of care and skill ordinarily exercised by other members of Firm's profession currently practicing in the same locality under similar conditions.

**18. WAIVER OF LIEN.** Firm 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 Firm 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 Firm 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: County Manager  
Post Office Box 218  
Minden, Nevada 89423

**To Firm:**

Michael Smiley Rowe, Esq.  
Rowe Hales Yturbide, LLP  
P.O. Box 2080  
Minden, Nevada 89423

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**21. CONFLICT OF INTEREST.** By signing the Contract, Firm 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. Firm must notify Douglas County of any other contracts or projects Firm 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.

**On behalf of and with authority to sign for  
ROWE HALES YTURBIDE, LLP**

By: Michael Smiley Rowe 3/3/16  
Michael Smiley Rowe, Esq (Date)

**On behalf of and with authority to sign for  
DOUGLAS COUNTY**

By: Mimi Moss 3/3/16  
Mimi Moss (Date)  
Acting Douglas County Manager

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

14th day of April, 2016

By: [Signature] Deputy