

Recorder's Office Cover Sheet

Recording Requested By:

Name: Lori Kroboth

Department: Judicial Services



00112585202009474150060062

KAREN ELLISON, RECORDER

Type of Document: (please select one)

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

specify: _____

FILED

NO. 2020.080
DATE 6/10/2020
DOUGLAS COUNTY CLERK
MINDEN, NV
BY AOB DEPUTY

**CONTRACT FOR PROFESSIONAL SERVICES
BETWEEN
DOUGLAS COUNTY, NEVADA
AND
JOHN E. MALONE, ESQ.
DBA MALONE LAW PLLC
1865 MONTE VISTA DRIVE
RENO, NV 89511
FOR
INDIGENT LEGAL SERVICES**

WHEREAS, Douglas County, is a political subdivision of the State of Nevada, and is required to provide for indigent legal services; and

WHEREAS, Douglas County desires to employ an experienced attorney, John E. Malone, Esq., (hereinafter Attorney) to provide legal services to those indigents involved in the Courts in Douglas County; and

WHEREAS, it is deemed that the services of Attorney herein specified are both necessary and desirable and in the best interests of Douglas County; and

WHEREAS, Attorney represents that he is licensed to practice law in Nevada and in good status with the State Bar, and is also duly qualified, equipped, staffed, ready, willing and able to perform and render the services hereinafter described;

NOW, THEREFORE, in consideration of the agreements herein made, the parties mutually agree as follows:

1. EFFECTIVE DATE OF CONTRACT.

Upon execution by both parties, the contract will be effective for the period of July 1, 2020 through June 30, 2021.

2. WORK TO BE PERFORMED.

The parties agree that the services to be performed are as follows:

A. The Attorney will represent adult criminal defendants that a Court in Douglas County has determined to be indigent. The representation will include all stages of the criminal proceedings including appeals and revocation of probation or parole, but not postconviction proceedings.

B. The Attorney will provide legal representation for a child alleged to be delinquent or in need of supervision where a Court orders the appointment in accord with NRS Chapter 62.

C. Attorney agrees to perform the services of an attorney for a child, parent or other person responsible for a child's welfare when that parent or other person is alleged to

have abused or neglected that child and the Court orders the appointment of Attorney pursuant to NRS 432B.420, or any subsequent proceedings under NRS Chapter 128. Attorney will be paid supplemental fees at the statutory rate for any work performed beyond ten (10) hours, per case, for appointments pursuant to NRS 128.100.

D. If at any time during the representation of a person the Attorney has reason to believe the person is not indigent, the Attorney must immediately notify the Court.

E. If at any time during the representation of a person the Attorney has reason to believe that there is a legal ethical conflict with that representation, the Attorney must immediately notify the Court.

F. If a defendant who is requesting appointed counsel due to indigence has contacted Attorney concerning retaining that Attorney for representation, that Attorney will not be obligated to accept the appointed case. The Attorney must notify the appropriate court, by letter, of the contact with the indigent defendant prior to the proposed appointment, and the next firm in the rotation will be appointed

3. STANDARD OF WORK.

A. In providing legal representation as set forth in Section Two, Attorney must provide those services in a professional, competent and effective manner. This includes but is not limited to interviewing the client, appearing at all Court hearings or providing coverage for those Court hearings, filing all necessary motions or other legal documents and performing or supervising any necessary investigations.

B. Attorney agrees to staff and maintain an office in Douglas County, Nevada. Attorney agrees to furnish to the Justice Courts, District Courts and District Attorney, a telephone number for use after normal office hours in any emergency that may arise where Attorney's services are requested pursuant to the terms of this contract. The expense of office space, furniture, equipment, supplies, routine investigative costs and secretarial services suitable for the conduct of attorney's practice as required by this contract are the responsibility of Attorney and are part of Attorney's compensation paid pursuant to Section 4 of this Contract.

C. Attorney may engage in the private practice of law which does not conflict with Attorney's professional services required pursuant to this contract.

4. PAYMENT FOR SERVICES.

A. Attorney agrees to perform the work set forth in paragraph two at a cost not to exceed \$195,833.33. The County will make the payment to attorney on a quarterly basis in the amount of \$48,958.33. The Attorney may secure reimbursement for extraordinary investigative costs, expert witness fees or other necessary services if so ordered by a Court. Attorney will not be reimbursed for travel expenses or any form of per diem.

B. The compensation specified above is in lieu of the statutorily prescribed fees codified in NRS 7.125. However, the Court may, for the reasons specified in NRS 7.125(4)

(a)-(d), award extraordinary fees to Attorney in a particular matter, which are over and above the compensation specified provided that the statutorily prescribed procedures contained in NRS 7.125(4) are complied with.

5. INDEPENDENT CONTRACTOR STATUS AND PROVISION OF WORKERS COMPENSATION COVERAGE.

The parties agree that Attorney shall have the status of and shall perform all work under this contract as an independent contractor. The parties also agree that this contract, by explicit agreement of the parties, incorporates and applies the provisions of Nev.Rev.Stat. § 284.173, as necessarily adapted, to the parties, including that Attorney is not a County employee 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 Attorney or the County to the public employee's retirement system;
- (5) Accumulation of vacation leave or sick leave provided by the County;
- (6) Unemployment compensation coverage provided by the County if the requirements of NRS 612.085 for independent contractors are met.

6. INDUSTRIAL INSURANCE.

Attorney agrees to maintain required workers compensation coverage pursuant to NRS chapters 616A to 616D, throughout the entire term of the contract. Attorney must, provide either a certificate of insurance or an affidavit indicating that he/she is: (i) In accordance with the provisions of NRS 616B.659, or has not elected to be included within the terms, conditions and provisions of chapters 616A to 616D, inclusive, of NRS; and (ii) Is otherwise in compliance with those terms, conditions and provisions.

7. PROFESSIONAL LICENSING AND LIABILITY INSURANCE.

A. Attorney agrees to maintain their professional license to practice law in active status and good standing for the State of Nevada during the term of this Contract. Failure to maintain this license will result in immediate termination of this contract. Attorney shall notify the Senior Judge of the Ninth Judicial District Court if they are brought before the Nevada State Bar on an ethics charge or if they are arrested for a crime.

B. Contractor also agrees to acquire and maintain professional liability insurance, including errors and omissions coverage, in the minimum amount of \$250,000 per claim and \$500,000 aggregate during the term of this contract. The insurance cost is the sole responsibility of the Attorney. Copies of both the license and certificate of professional liability insurance must be sent to the Douglas County Manager.

8. TERMINATION OF CONTRACT.

A. Either party may revoke this contract without cause, provided that a revocation shall not be effective until 45 calendar days after the party has served written notice upon the other party. All monies due and owing up to the point of termination shall be paid by Douglas County, and all pending cases that were produced for this contract must be

immediately turned over to the Court for re-assignment. If terminated, the total compensation of the Attorney will be reduced to the proportionate number of days worked by the Attorney. The Attorney must reimburse the County for any funds received to which they are not entitled due to the termination.

B. Should Attorney be unable to perform any or all of his duties by reason of illness, accident or other cause beyond his control, and the disability exists for a period beyond ten (10) judicial days, Attorney must provide, at their own cost, a substitute attorney (which could include other contract attorneys) to perform the duties of the Attorney during the term of disability. If the disability is permanent, irreparable, or of such nature as to make the performance of his duties impossible, or the disability continues beyond forty (40) judicial days, the County may, at its discretion, terminate this agreement, and the respective duties, rights and obligations of this agreement will terminate.

9. NON ASSIGNMENT.

The County is contracting for the personal and professional services of the Attorney. This contract may not be assigned or delegated to a third party without the approval of the District Court Judges. If the Attorney wishes to have a substitute attorney appear for him/her due to vacation, illness or personal family matter, then Attorney may do so and is responsible for paying for the substitute attorney. There is no requirement to have District Court Judges approval for substitutions that are less than twenty-five (25) judicial days per year.

10. CONSTRUCTION OF CONTRACT.

This contract shall be construed and interpreted according to the laws of the State of Nevada. Any dispute regarding this contract shall be resolved by binding arbitration, with an arbiter to be selected from a list maintained by the Nevada Supreme Court of senior judges, with both parties to pay share the senior judge and any other related Court fees. Each party is responsible for their own attorney fees. There shall be no presumption for or against the drafter in interpreting or enforcing this contract.

11. DELEGATION OF AUTHORITY.

The Judges of the Ninth Judicial District Court and the Justices of the two Townships are expressly designated the authority to oversee and implement the provisions of this contract. Such designations include the development of factors for determining whether a person is indigent; assigning cases on a rotating basis among the contract Attorneys to ensure an equitable distribution; may order monthly time summaries from attorneys; preparing vouchers for the quarterly payments to Attorneys; approval of and overseeing the use of substitute attorneys for the contract Attorneys, and; all other properly related matters. However, the County reserves the right to maintain ultimate control over the terms and provisions of this Contract.

12. COMPLIANCE WITH APPLICABLE LAWS.

Attorney shall 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 court rules and regulations.

13. INDEMNIFICATION.

Attorney agrees to indemnify and save and hold the County, its officers, agents and employees harmless from any and all claims, causes of action or liability arising from the performance of this contract by Attorney or Attorney's agents or employees.

14. MODIFICATION OF CONTRACT.

This contract constitutes the entire contract between the parties and may only be modified by a written amendment signed by both parties.

15. NOTICES.

All notices or other information that is to be submitted to a party shall be sent to the following addresses:

Douglas County Manager
P.O. Box 218
Minden, NV 89423

John E. Malone, Esq.
1865 Monte Vista Drive
Reno, Nevada 89511

IN WITNESS WHEREOF, the parties hereto have caused this contract for legal services for the Indigent Legal Services to be signed and intend to be legally bound thereby.

John E. Malone 5-27-2020
John E. Malone, Esq. (date)

William B. Penzel 06/09/2020
William B. Penzel, Chairman (date)
Board of County Commissioners

Attest:
Kathy Lewis 6/10/2020
Kathy Lewis, Douglas County Clerk (date)

END OF DOCUMENT

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

10th day of June, 2020

By *Laura Balda* Deputy