

**Recorder's Office Cover Sheet**

**Recording Requested By:**

**Name:** NATALIE WOOD

**Department:** COUNTY MANAGER



KAREN ELLISON, RECORDER

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

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

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

FILED

NO. 2021.162

10/13/2021  
DATE

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

DOUGLAS COUNTY CLERK  
MINDEN, NV

BY ed DEPUTY

A CONTRACT BETWEEN

**DOUGLAS COUNTY, NEVADA**

AND

**JOHN E. MALONE, ESQ.  
DBA MALONE LAW PLLC**

This Contract for Professional Services by an Independent Contractor (the "Contract") is entered into by and between Douglas County, a political subdivision of the State of Nevada, and John Malone ("Contractor"). The County and Contractor are at times collectively referred to hereinafter as the "Parties" or individually as the "Party."

**WHEREAS**, County, from time to time, requires the professional services of independent contractors; and

**WHEREAS**, County believes the professional services of Contractor are necessary, desirable, and in the best interests of the County; and

**WHEREAS**, Contractor represents that he is duly qualified, equipped, staffed, competent, ready, willing and able to perform the services required by County as 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 upon signature and will remain in effect until December 31, 2022, unless earlier terminated pursuant to the terms of this Contract.

**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, its officers, employees, and agents are not employees 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, as a precondition to the performance of any work under this contract and as a precondition to any obligation of the County to make any payment under this contract, Contractor must provide an affidavit indicating that he is a sole proprietor and that:

- a. In accordance with the provisions of NRS 616B.659, he has not elected to be included within the terms, conditions and provisions of chapters 616A to 616D, inclusive, of NRS; and
- b. Is otherwise in compliance with those terms, conditions and provisions.

**4. SERVICES TO BE PERFORMED.** To provide indigent defense legal services for Robert Veith Wilson in cases 20-CR-00132, 20-CR-00030, and 18-CR-0672 as needed.

**5. PAYMENT FOR SERVICES.** Contractor agrees to provide the services set forth in Paragraph 4 at a rate of \$185.00 per hour for a total cost not to exceed forty-nine thousand nine hundred and 00/00 (\$49,900) over the term of the Contract. The contractor will be responsible for expenses incurred while performing services under this agreement unless ordered by the courts. A 1099 Miscellaneous Income Form will be issued by County to Contractor at year end for all amounts paid by County to Contractor.

**6. TERMINATION OF CONTRACT.** Either party may terminate this contract without cause, provided that a termination shall not be effective until 45 calendar days after the party has served written notice upon the other party.

**7. NONAPPROPRIATION.** 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. The Parties mutually agree to not seek punitive damages against either Party.

**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. County will not waive and intends to assert all available NRS chapter 41 liability limitations.

**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.

**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 OF COUNTY.** To the fullest extent permitted by law, Contractor shall indemnify, hold harmless and defend County from and against all liability, claims, actions, damages, losses, and expenses, including, without limitation, reasonable attorneys' fees and costs, arising out of any alleged negligent or willful acts or omissions of Contractor, its officers, employees and agents. Contractor will defend, hold harmless and/or indemnify County against such claims. Notwithstanding the obligation of Contractor to defend County as set forth in this paragraph, County may elect to participate in the defense of any claim brought against County

because of the conduct of Contractor, its officers, employees and agents. Such participation shall be at County's own expense and County shall be responsible for the payment of its own attorney's fees it incurs in participating in its own defense.

**15. INDEMNIFICATION OF CONTRACTOR.** To the fullest extent permitted by law, County shall indemnify, hold harmless and defend Contractor from and against all liability, claims, actions, damages, losses, and expenses, including, without limitation, reasonable attorneys' fees and costs, arising out of any alleged negligent or willful acts or omissions of County, its officers, employees and agents. County will defend, hold harmless and/or indemnify Contractor against such claims. Notwithstanding the obligation of County to defend Contractor as set forth in this paragraph, Contractor may elect to participate in the defense of any claim brought against Contractor because of the conduct of County, its officers, employees and agents. Such participation shall be at Contractor's own expense and Contractor shall be responsible for the payment of its own attorney's fees it incurs in participating in its own defense.

**16. 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.

**17. AUTHORITY.** The Parties represent and warrant that they have the authority to enter into this Contract.

**18. 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 accounting profession currently practicing under similar conditions.

**19. 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.

**20. 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.

**21. NOTICES.** All formal 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):

[CONTINUED ON NEXT PAGE]

**To County:** Douglas County  
Attn. County Manager  
Post Office Box 218  
Minden, Nevada 89423  
Telephone: (775) 782-6268

**To Contractor:** John E. Malone  
dba Malone Law PLLC  
1662 US Highway 395, SUITE 202  
Minden, NV 89423


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

**Contractor**

By:  9-24-21  
John Malone (Date)

**Douglas County**

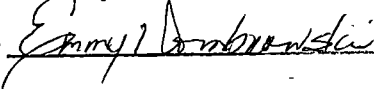
By:  9/28/21  
Patrick Cates, County Manager (Date)

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

13<sup>th</sup> day of OCTOBER, 2021

By  Deputy