

Recorder's Office Cover Sheet

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Department: County Manager



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KAREN ELLISON, RECORDER

Type of Document: (please select one)

Agreement

Contract

Grant

Change Order

Easement

Other specify: _____



FILED
NO. 2022-026
2.11.22
DATE
DOUGLAS COUNTY CLERK
MINDEN, NV
BY W/A DEPUTY

CONTRACT FOR INDIGENT LEGAL SERVICES

A CONTRACT BETWEEN

DOUGLAS COUNTY, NEVADA

AND

BRIAN FILTER, ESQ.
1662 U.S. HIGHWAY 395, SUITE 105
MINDEN, NEVADA 89423

This Contract for Indigent Legal Services (the "Contract") is entered into by and between Douglas County, a political subdivision of the State of Nevada ("County"), and Brian Filter ("Attorney"). The County and Attorney 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, it is deemed that the services of Attorney are both necessary and desirable and in the best interests of County; and

WHEREAS, Attorney represents that Attorney is licensed to practice law in the State of Nevada, is in good standing with the State Bar of Nevada, and is duly qualified, equipped, staffed, ready, willing and able to perform and render the legal services required by the County.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein made, the County and Attorney mutually agree as follows:

1. TERM AND EFFECTIVE DATE OF CONTRACT. The Contract will become effective on January 1, 2022, and will remain in effect until June 30, 2022, unless earlier terminated pursuant to the terms of this Contract. This Contract replaces the remaining term of any previously executed contract between Attorney and County.

2. INDEPENDENT CONTRACTOR STATUS. The Parties agree that Attorney, Attorney's associates and employees shall have the status of an independent contractors and that this Contract, by explicit agreement of the parties, incorporates and applies the provisions of NRS 333.700, as necessarily adapted, to the parties, including that Attorney is not a Douglas 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 independent contractor or the County to the public employees' retirement system;
- (5) Accumulation of vacation leave or sick leave;

- (6) Unemployment compensation coverage provided by the County if the requirements of NRS 612.085 for independent contractors are met.

Attorney and County agree to the following rights and obligations consistent with an independent contractor relationship between the Parties:

- a. Attorney has the right to perform services for others during the term of this Agreement.
- b. Attorney has the sole right to control and direct the means, manner and method by which the services required by this Agreement will be performed.
- c. Attorney shall not be assigned a work location on County premises.
- d. Attorney, at Attorney's sole expense, will furnish all equipment and materials used to provide the services required by this Agreement.
- e. Attorney, at Attorney's sole expense, has the right to hire assistants as subcontractors, or to use Attorney's employees to provide the services required by this Agreement.
- f. Attorney or Attorney's employees or contract personnel shall perform the services required by this Agreement, and Attorney agrees to the faithful performance and delivery of described services in accordance with the time frames contained herein; County shall not hire, supervise or pay any assistants to help Attorney.
- g. Neither Attorney nor attorney's employees or contract personnel shall receive any training from County in the skills necessary to perform the services required by this Agreement.
- h. County shall not require Attorney or Attorney's employees or contract personnel to devote full time to performing the services required by this Agreement.

Attorney further certifies the following:

- i. Contactor is licensed by the State Bar of Nevada to provide legal services to members of the public and agrees to maintain the required professional license to practice law in active status and in good standing for the State of Nevada.
- j. Attorney understands that Attorney is solely responsible to pay any federal and state taxes and/or any social security or related payments applicable to money received for services provided under the terms of this contract. Attorney understands that an IRS Form 1099 will be filed by County for all payments County makes to Attorney.

3. SERVICES TO BE PERFORMED. On an as-needed basis, the Attorney will provide professional legal services including the following:

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 bail hearings and other court appearances, appeals and revocation of probation or parole, but not post-conviction 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 62A.

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.

G. The Attorney shall perform all duties required under the Nevada Revised Statutes and by the Nevada Department of Indigent Defense Services, including standards of performance, record keeping, time keeping and reporting requirements. However, in no event shall the Attorney be required to provide any information that would compromise client confidentiality, prejudice the rights or defense of any eligible client or violate any provision of the Nevada Rules of Professional Conduct.

4. Standard Of Work.

A. In providing legal representation as set forth in Section Four, 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. Attorney shall:

- (1) Provide zealous, competent representational services in all cases;
- (2) Comply with the requirements of the Nevada Department of Indigent Defense Services and the Nevada Indigent Defense Standards of Performance;
- (3) Comply with all applicable laws and regulations;
- (4) Comply with the Nevada Rules of Professional Conduct; and
- (5) Comply with the Douglas County Plan for the Provision of Indigent Defense Services.

B. Attorney agrees to staff and maintain an office in Douglas County, Nevada. Attorney agrees to furnish 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 to the Justice Courts, District Courts and District Attorney. 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 sole responsibility of Attorney and are a part of Attorney's compensation pursuant to Section 6 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.

5. PAYMENT FOR SERVICES.

A. Attorney agrees to provide the services set forth in Paragraph 4 at a cost not to exceed One Hundred and Thirty-Two Thousand and Five Hundred Dollars (\$132,500)

through the term of this Contract.

B. The Attorney may secure payment for extraordinary investigative costs, expert witness fees or other legally necessary services if authorized in advance by the Douglas County Indigent Services Coordinator. Attorney understands and agrees that the reimbursement of these extraordinary costs is subject to the limits and requirements of NRS 7.135. Attorney agrees to submit invoices within ten days of the end of the prior month in which any extraordinary costs or other expenses were incurred and for which reimbursement is requested from the County. County will pay invoices it receives within a reasonable time. However, in no event will Attorney be reimbursed or receive payment for the Attorney's travel expenses or any form of the Attorney's per diem expense.

C. 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), 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.

D. It is understood and agreed by the Attorney that the County has paid \$48,958.33 to Attorney on or about December 30, 2021, and will make the additional payment of \$17,291.67 to Attorney on or before February 11, 2022, for the period of January 1 through March 31, 2022. The County shall pay the remaining amount of \$66,250 on or before March 31, 2022, for the period of April 1 through June 30, 2022.

6. TERMINATION OF CONTRACT.

A. 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. All monies due and owing up to the point of termination of the Contract shall be paid by 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 of the Contract.

B. If Attorney should be unable to perform any or all of the duties required by reason of illness, accident or other cause beyond Attorney's control, and the disability exists for a period beyond ten (10) judicial days, Attorney must provide, at Attorney's own expense, 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 the Attorney's duties impossible, or the disability continues beyond forty (40) judicial days, the County may, at its discretion, terminate this Contract, and the respective duties, rights and obligations of this agreement will terminate.

7. INDUSTRIAL INSURANCE. Attorney shall, 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, provide the County with a work certificate and/or a certificate issued by a qualified insurer in accordance with NRS 616B.627. Attorney also shall, prior to commencing any work under the contract, complete and provide the following written request to a qualified insurer:

_____ has entered into a contract with Douglas County to perform work from _____, to _____, and requests that the 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 attorney is required to maintain. The certificate and notice should be mailed to:

Douglas County Manager
Post Office Box 218
Minden, Nevada 89423

Attorney agrees to maintain required workers compensation coverage throughout the entire term of the Contract. If Attorney does not maintain coverage throughout the entire term of the Contract, Attorney agrees that County may, at any time the coverage is not maintained by Attorney, order the Attorney to stop work, suspend the Contract, or terminate the Contract. For each six-month period this Contract is in effect, Attorney agrees, prior to the expiration of the six-month period, to provide another written request to a qualified insurer for the provision of a certificate and notice of lapse in or nonpayment of coverage. If Attorney does not make the request or does not provide the certificate before the expiration of the six-month period, Attorney agrees that County may order the Attorney to stop work, suspend the Contract, or terminate the Contract.

Attorney may, in lieu of furnishing a certificate of an insurer, provide a sworn affirmation confirming that the Attorney is a sole proprietor and that:

- A. In accordance with the provisions of NRS 616B.659, 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

8. PROFESSIONAL LICENSE. Attorney agrees to maintain his or her professional license to practice law in active status and in good standing for the State of Nevada. Attorney promises and agrees to notify the County Manager if Attorney is brought before the State Bar of Nevada on any ethics charge or if Attorney is arrested for any crime. Failure to maintain this license to practice law will result in the immediate termination of this Contract.

9. GENERAL LIABILITY INSURANCE. Douglas County's liability coverage will not extend to the Attorney and Attorney is required to acquire and maintain general liability insurance in the minimum amount of \$1,000,000 during the term of this Contract at Attorney'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.

10. LEGAL MALPRACTICE INSURANCE. Attorney agrees to acquire and maintain malpractice insurance in the minimum amount of \$250,000 per claim and \$500,000 aggregate claims during the term of this Contract at Attorney's sole expense. Proof of malpractice insurance must be sent to the County within five (5) business days upon request. Douglas County must be notified at least 30 days in advance of any cancellation or nonrenewal of such malpractice insurance.

11. NONAPPROPRIATION. Nothing in the Contract will be construed to provide Attorney 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 Attorney 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 Attorney. Attorney will have no claim of any sort to the unexpended funds.

12. 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.

13. COMPLIANCE WITH APPLICABLE LAWS. Attorney 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.

14. ASSIGNMENT. Attorney will neither assign, transfer nor delegate any rights, obligations or duties under the Contract without the prior written consent of the Douglas County Indigent Defense Services Coordinator and must meet the qualifications under the Nevada Department of Indigent Services to represent the charged individual. If the Attorney wishes to have a substitute attorney appear for him or her due to vacation, illness or personal family matter, then the Attorney may do so and is responsible for paying the substitute attorney. There is no requirement to have the Douglas County Indigent Defense Coordinator approve such substitution if the substitution is for less than twenty-five judicial days per calendar year.

15. COUNTY INSPECTION. The accounting records and expense invoices of Attorney related to the Contract will be subject to inspection, examination and audit by the County, including, the County Manager and Chief Financial Officer to audit and verify the expenses claimed by Attorney.

16. 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 and all other properly related matters related to the appointment of indigent defense counsel. The Douglas County Indigent Defense Services Coordinator is expressly designated the authority to oversee and implement the provisions of this Contract. This authority includes the assigning of cases on a rotating basis among attorneys to ensure an equitable distribution, ordering/requiring monthly time summaries from attorneys, and preparing vouchers for the quarterly payments due to Attorney. However, the County reserves the right to maintain ultimate control over the terms and provisions of this Contract.

17. INDEMNIFICATION OF COUNTY. To the fullest extent permitted by law, Attorney 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 Attorney, its officers, employees and agents arising from or relating to this Contract. Attorney will defend, hold harmless and/or indemnify County against such claims. Notwithstanding the obligation of Attorney 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 Attorney, 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.

18. 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.

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

20. STANDARD OF CARE. Attorney will perform all services in a manner consistent with that level of care and skill ordinarily exercised by other members of Attorney's profession currently practicing under similar conditions and in compliance with the standards established by the Nevada Department of Indigent Defense Services.

21. 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 Attorney or County.


22. 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):

To County: Douglas County
Attn. County Manager
Post Office Box 218
Minden, Nevada 89423
Telephone: (775) 782-9821

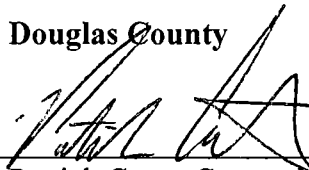
To Attorney: Brian Filter
1662 U.S. Highway 395, Suite 105
Minden, Nevada 89423
Telephone (775) 392-4774

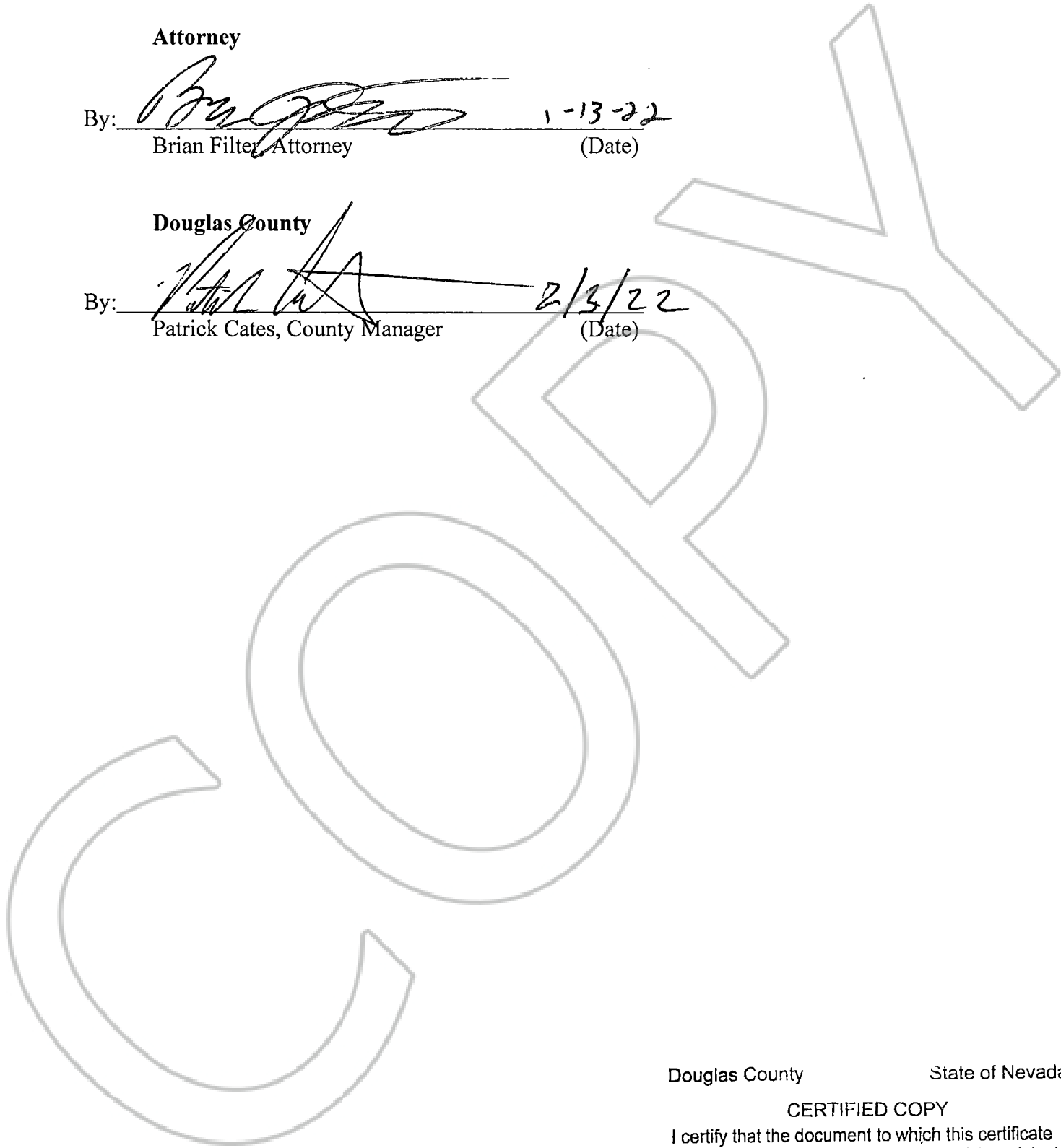
IN WITNESS WHEREOF, the Parties hereto have caused the Contract to be signed and intend to be legally bound thereby.

Attorney

By:  1-13-22
Brian Filter, Attorney (Date)

Douglas County

By:  2/3/22
Patrick Cates, County Manager (Date)



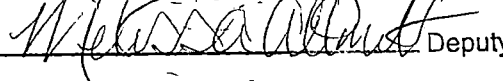
Douglas County

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

1st day of February, 2022

By  Deputy