

**Recorder's Office Cover Sheet**

**Recording Requested By:**



KAREN ELLISON, RECORDER

**Name: LAW OFFICE OF MICHAEL SMILEY ROWE,ESQ**

**Department: PUBLIC GUARDIAN**

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

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

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

FILED

NO. 2022.152

7/25/22

DATE

DOUGLAS COUNTY CLERK  
MINDEN, NV

**CONTRACT FOR INDIGENT LEGAL SERVICES** BY GO DEPUTY

A CONTRACT BETWEEN

**DOUGLAS COUNTY, NEVADA**

AND

**LAW OFFICE OF MICHAEL SMILEY ROWE, ESQ.**

This Contract for Services by an Independent Contractor (the "Contract") is entered into by and between Douglas County, a political subdivision of the State of Nevada ("County"), and the Law Office of Michael Smiley Rowe, Esq. ("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 July 1, 2022, and will remain in effect until June 30, 2024, unless earlier terminated pursuant to the terms of this Contract.

**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. Attorney 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 the following legal services:

Attorney 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 protected persons in Douglas County.

**4. STANDARD OF WORK.**

In providing legal representation as set forth in Section Three, Attorney must provide those services in a professional, competent, and effective manner. This includes, but is not limited to, consulting with the Public Guardian, 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 all applicable laws and regulations; and
- (3) Comply with the Nevada Rules of Professional Conduct.

**5. PAYMENT FOR SERVICES.**

Attorney agrees to provide the services set forth in Paragraph 4 at a cost not to exceed Two Thousand One Hundred and Sixty-Seven Dollars and Twelve Cents (\$2,167.12) per month. If the Douglas County Public Guardian notifies the County that there is a question regarding the services provided by the Attorney 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 Attorney.

**6. TERMINATION OF CONTRACT.**

A. Either Party may terminate this Contract without cause, provided that a termination shall not be effective until thirty (30) 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.

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. 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.

**8. 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.

**9. 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.

**10. 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.

**11. 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.

**12. 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.

**13. ASSIGNMENT.** Attorney will neither assign, transfer nor delegate any rights, obligations or duties under the Contract without the prior written consent of the County.

**14. 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.

**15. 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.

**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.** 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 and as required under the terms of this Contract.

**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 Attorney or County.

**20. 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: Michael Smiley Rowe, Esq.  
P.O. Box 2080  
Minden, Nevada 89423  
Telephone (775) 782-8141

IN WITNESS WHEREOF, the Parties hereto have caused this Contract for Services by an Independent Contractor to be signed and intend to be legally bound thereby.

Attorney

By: Michael Smiley Rowe 7/5/22  
Michael Smiley Rowe, Esq. (Date)

Douglas County

By: [Signature] 07/14/2022  
Patrick Cates, County Manager (Date)

Denifer Davidson Acting 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

25<sup>th</sup> day of July, 2022

By: [Signature] Deputy