

CONTRACT FOR PROFESSIONAL SERVICES

Between
Nye County, Nevada
and

For
PUBLIC DEFENDER SERVICES
(Tonopah and Beatty)

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

WHEREAS, Nye County desires to provide public defender services, pursuant to the provisions of Chapter 2.48 of the Nye County Code, to those indigents involved in the criminal courts in Nye County through the appointment of a consortium of attorneys acting independently and separately; and

WHEREAS, it is deemed that the services of Attorney herein specified are both necessary and desirable and in the best interests of Nye 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, 2017 through June 30, 2018.

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 Nye County has determined to be indigent, except for capital cases. The representation will include all stages of the criminal proceedings including direct appeals, revocation of probation or parole and specialty courts. The Attorney will be primary counsel for courts located in Tonopah and Beatty. Attorney further agrees to handle conflict cases that may arise in Pahrump if no other consortium counsel is available for appointment.

B. The Attorney will provide legal representation for a child alleged to be delinquent or in need of supervision when 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 agrees to

complete the On-Line Attorney Dependency Training offered by the Nevada Court Improvement Program within sixty (60) calendar of the execution date of the contract.

D. Attorney agrees to attend Justice Court 72-hour in-custody hearings on a rotating basis with other consortium counsel as scheduled.

E. Attorney shall continue to perform services for any appointed client for which said attorney is counsel of record on the effective date of this agreement. Compensation for such services performed after the effective date of this agreement shall be paid in accordance with this agreement only.

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 shall conduct representation of clients in such manner so as not to create conflicts with other attorneys within the consortium. 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 and the County Manager or his or her designee.

C. 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 in which Attorney's services are requested pursuant to the terms of this contract. The expense of office space, furniture, equipment, supplies, routine investigative costs, travel to court 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.

D. Attorney shall cooperate with other counsel within the consortium, to the extent possible under ethical considerations, to ensure all cases are covered and any conflicts are resolved by the consortium of attorneys. 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. Nye County agrees to pay and Attorney agrees to accept as full compensation for the performance of legal services under this Agreement the sum of One Hundred Fifty Thousand Dollars (\$150,000.00) per year. The County will make the payment to attorney on a quarterly basis in the amount of Thirty-Seven Thousand Five Hundred Dollars (\$37,500) in advance on the first day of July, October, January and April.

B. 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. Any payment for extraordinary costs or fees shall be paid only when submitted and approved by the court ordering said extraordinary services.

C. The compensation specified above is for services as a public defender and is in lieu of the statutorily prescribed fees codified in NRS 7.125. In the event Attorney shall be appointed to represent a client on a matter not provided for in this agreement, Attorney agrees to provide representation to each additional client at the rate and in accordance with the provisions of NRS 7.125.

D. Attorney shall be paid for any time and services on cases for which Attorney is counsel of record at the time of the effective date of this agreement at the existing rates. All compensation for any services provided as appointed counsel after the effective date of this agreement shall be in accordance with this agreement only. Attorney shall submit a voucher for compensation of all fees and services earned prior to the effective date of this agreement to the appointing court within ten (10) business days after the effective date of this agreement.

5. INDEPENDENT CONTRACTOR STATUS.

A. The parties agree that Attorney shall have the status of and shall perform all work under this contract as an independent contractor. Nothing herein contained shall be construed as granting to Nye County the power or right to control the means by which Attorney provides legal services under this agreement. The parties also agree Attorney is not a Nye County employee and that there shall be no:

- (1) Withholding of income taxes by Nye County;
- (2) Industrial insurance coverage provided by Nye 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 Nye County to the public employees' retirement system;
- (5) Accumulation of vacation leave or sick leave provided by Nye County;
- (6) Unemployment compensation coverage provided by Nye County; or
- (7) Any other benefit granted to employees of Nye County

B. Attorney may maintain a private law practice and may engage in the private practice of law that does not conflict with Attorney's professional services required pursuant to this Agreement.

C. Attorney agrees that acceptance of this appointment is as a public defender pursuant to Chapter 260 of the Nevada Revised Statutes and Chapter 2.48 of the Nye County Code.

6. INDUSTRIAL INSURANCE.

Attorney agrees to maintain required workers compensation coverage pursuant to NRS chapters 616A through 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 NRS chapters 616A through 616D, inclusive; and (ii) Is otherwise in compliance with those terms, conditions and provisions.

7. PROFESSIONAL LICENSING AND LIABILITY INSURANCE.

A. Attorney agrees to maintain his or her 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 County Manager if he or she is brought before the Nevada State Bar on a charge of professional misconduct for services performed pursuant to this agreement or in his or her private practice or if he or she is arrested for a Crime.

B. Attorney 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 Nye County Manager.

8. TERMINATION OF CONTRACT.

A. Either party may revoke this contract without cause, provided that a revocation shall not be effective until ninety (90) 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 Nye 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 County Manager or his or her designee. 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. The use of a substitute is intended for very short durations on a non-recurring basis. Any use of a substitute attorney on a regular or recurring basis shall constitute an assignment or delegation unless agreed to by the County Manager or his or her designee.

10. REPORTING REQUIREMENTS.

A. Attorney shall make an annual report on or before July 31st of each calendar year to the County Manager covering all cases handled by his or her office during the preceding year in accordance with the provisions of NRS 260.070. Said report shall include a list, by name of defendant, of all cases assigned to Attorney during the preceding fiscal year or current active cases previously assigned to Attorney indicating for each case the type of offenses involved and the manner and date of disposition.

B. Attorney shall maintain records of cases assigned and report such information on or before the 15th day of each month for activities during the preceding calendar month. Reports shall include, but not limited to tracking of number of cases opened and closed, type of offenses, manner of disposition and such other pertinent information as requested by the County Manager. Attorney shall provide such other information as may be required by statute, court order or request from any State agency.

C. Attorney shall provide proof of completion of the On-Line Attorney Dependency Training required under subsection 2.C.

11. 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 share the costs for 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.

12. DELEGATION OF AUTHORITY.

The County Manager may by contract delegate the authority to oversee and implement the provisions of this contract to any attorney within the consortium, which attorney shall be designated as the program coordinator. The program coordinator shall work with the County Manager and courts assigning cases on a rotating basis among the contract Attorneys to ensure an equitable distribution; may order case reporting summaries from attorneys; approval of and overseeing the use of substitute attorneys for the contract Attorneys, and; all other properly

related matters. The County reserves the right to maintain ultimate control over the terms and provisions of this Contract.

13. 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.

14. 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.

15. 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 upon approval of the Nye County Board of County Commissioners.

16. NOTICES.

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

Nye County Manager
P.O.153
Tonopah, NV 89049

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.

NYE COUNTY

CONTRACTOR

County Manager

Date:

Date: