



## STAFF REPORT

**Report To:** Board of Supervisors **Meeting Date:** October 20, 2022

**Staff Contact:** Carol Akers, Purchasing & Contracts Administrator and Nancy Paulson, City Manager

**Agenda Title:** For Possible Action: Discussion and possible action regarding Conflict Counsel Attorney Services Contract No. 20300003-B for the provision of conflict counsel services in the First Judicial District Court and the Carson City Justice/Municipal Court and for services to assign indigent defense cases to conflict counsel or private attorneys under Carson City's Indigent Defense Plan ("Plan") from November 1, 2022 through June 30, 2023 in the amount of \$14,583.34 per month for conflict counsel services and an additional \$13,350, for case assignment services on an hourly basis, not to exceed 12 hours per week, for a total not to exceed amount of \$130,016.72, to be awarded to one of the following attorneys: Maria E. Pence or John George. (Carol Akers, cakers@carson.org and Nancy Paulson, npaulson@carson.org)

Staff Summary: Carson City previously contracted with Walter B. Fey to provide conflict counsel services to indigent defendants. Mr. Fey recently resigned, effective September 30, 2022. Carson City advertised the position and received letters of interest and resumes from two applicants. The Board of Supervisors ("Board") may award the contract to any applicant who submitted a letter of interest. Staff recommends awarding the contract to Maria E. Pence.

**Agenda Action:** Formal Action / Motion **Time Requested:** 15 minutes

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### **Proposed Motion**

I move to award the contract as presented to Maria E. Pence [or another applicant at the discretion of the Board].

### **Board's Strategic Goal**

Efficient Government

### **Previous Action**

June 4, 2020 (Item 10B) - The Board approved Contract No. 20300003 with Walter B. Fey.

### **Background/Issues & Analysis**

Carson City contracts with three conflict counsel to provide indigent defense services in the First Judicial District Court and the Carson City Justice/Municipal Court. Mr. Fey, one of the attorneys providing these services, tendered his resignation effective September 30, 2022. Due to the nature of Mr. Fey's cases and clients, it is imperative to have as little lapse as possible in the representation of his former clients.

Pursuant to the Plan, the Board is required to select the conflict counsel. An announcement soliciting letters of interest for the contract was published in the Nevada Appeal and the Reno Gazette Journal and circulated to the Washoe County Bar Association and the First Judicial District Bar Association. Letters of interest and resumes were received from, Maria E. Pence, Esq., and John George, Esq. The judges of the First Judicial District and

the Carson City Justice/Municipal Court recommend Maria E. Pence, Esq., to the Board. City staff also recommends Ms. Pence as she is a former attorney with the State Public Defender's Office and provided indigent representation in Carson City Courts.

The regulations of the Nevada Board of Indigent Defense Services require, for the most part, the judiciary not to be involved with the provision of indigent defense services in a county. Prior to the City's implementation of the Plan, case assignment services were provided by the Court Clerk's Offices. However, this was deemed to be too much involvement of the judiciary in the provision of indigent defense services. The provision for case assignment services is proposed to be added to the conflict counsel contract to allow a person employed by conflict counsel, outside the judiciary, to assign indigent defense cases to conflict counsel and private attorneys in accordance with the Plan.

**Applicable Statute, Code, Policy, Rule or Regulation**

NRS 332.115; Board of Indigent Defense Services regulations; Carson City Indigent Defense Plan

**Financial Information**

**Is there a fiscal impact?** Yes

**If yes, account name/number:** General Fund Conflict Council Account / 1010610-500361

**Is it currently budgeted?** Yes

**Explanation of Fiscal Impact:** Funds from the General Fund Conflict Council Account 1010610-500361 will be allocated to the new conflict counsel contract. The Fiscal Year ("FY") 2023 remaining budget from Walter B. Fey's contract (20300003) is \$151,249.98.

**Alternatives**

Do not award the contract and/or provide alternative direction to staff.

**Attachments:**

[Letter of Resignation-Walter Fey.pdf](#)

[Letter of Recommendation for Conflict Counsel Contract 09-2022.pdf](#)

[All Submissions.pdf](#)

[20300003-B Draft Contract.pdf](#)

**Board Action Taken:**

Motion: \_\_\_\_\_

1) \_\_\_\_\_

2) \_\_\_\_\_

Aye/Nay

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(Vote Recorded By)

# WALTER B. FEY

Telephone 775 329-1101  
Fax 775-329-1103  
Email [wbfey1@gmail.com](mailto:wbfey1@gmail.com)

*Attorney at Law*

1601 Fairview Dr, Suite D  
Carson City, Nevada 89701

8/15/2022

Honorable James E. Wilson Jr.

Senior Judge

First Judicial District

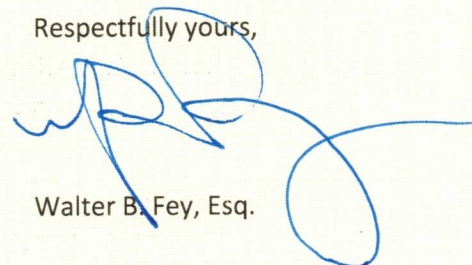
Dear Judge Wilson;

It has been a true pleasure and an honor to serve as conflict counsel for the First Judicial District of Nevada. The time spent on this contract has enabled me to act again as a line criminal defense attorney. It has been a very rewarding experience.

As the court is aware, I have had numerous health issues since the end of last year. I have tried to balance my professional duties with my health. Sometimes I have been successful. At other times, I have been distracted by my personal health requirements. The time has come when I must regrettably give notice that I am no longer able to fulfill my conflict counsel contract obligations. This is a difficult decision, but one which is necessary for my future and for the well-being of my clients.

Accordingly, I hereby offer my resignation and termination of the conflict counsel contract effective September 30, 2022. I thank you and the entire Carson City Court community for the courtesy and the kindnesses you have extended me during this difficult time.

Respectfully yours,

A handwritten signature in blue ink, appearing to be 'WBF', with a long horizontal flourish extending to the right.

Walter B. Fey, Esq.

Cc: Honorable James Todd Russell



## FIRST JUDICIAL DISTRICT COURT

CARSON CITY & STOREY COUNTY  
STATE OF NEVADA

JAMES T. RUSSELL

District Judge, Department One  
885 East Musser Street, Room 3061  
Carson City, Nevada 89701  
(775) 882-1996  
Fax: (775) 887-2272

JAMES E. WILSON, JR.

District Judge, Department Two  
885 East Musser Street, Room 3057  
Carson City, Nevada 89701  
(775) 882-1619  
Fax: (775) 887-2296

September 29, 2022

Carson City Board of Supervisors  
201 N. Carson Street, Suite 2  
Carson City, NV 89701

RE: Conflict Counsel Contract #20300003-B

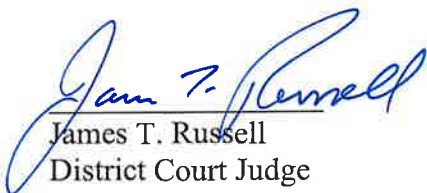
Dear Carson City Board of Supervisors,


The purpose of this letter is to provide a recommendation for the Conflict Counsel contract. We have been informed of the attorneys who have submitted letters of interest. We recommend Ms. Maria Pence for the contract.

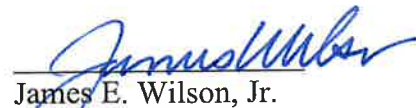
We understand that Ms. Pence is approved by the Department of Indigent Defense and has been a licensed attorney in the State of Nevada for over 29 years.


If you need any further information, please do not hesitate to contact us.

Sincerely,

  
James T. Russell  
District Court Judge

  
Thomas R. Armstrong  
Justice of the Peace  
Municipal Court Judge

  
James E. Wilson, Jr.  
District Court Judge

  
Kristin N. Luis  
Justice of the Peace  
Municipal Court Judge



## Pence & Associates

1662 Hwy 395, Suite 203  
Minden, NV 89423  
(775) 392-4084 office  
(866) 661-2585 fax  
[pencelegaldefense@gmail.com](mailto:pencelegaldefense@gmail.com)

September 12, 2022

**RE: CARSON CITY CONFLICT COUNSEL ATTORNEY SERVICES**

Dear Carol,

Hello again! I am writing this letter to request that you consider me as an applicant for the available contract for Conflict Counsel for Indigent Defendants in Carson City, Nevada. I am saddened by circumstances that have brought about this upcoming contract vacancy, but am excited about the opportunity to return to serving the indigent population of Carson City, where I live and have raised my family.

I have almost 30 years of experience as a criminal defense attorney—a large part of which has been devoted to serving underprivileged populations. I am passionate about my work and would love to bring my skill set and work ethic to the Carson City criminal justice system.

The Department of Indigent Services has formally qualified me to handle all levels of felony and misdemeanor defense work, including juvenile and 432(B) cases, which allows me to handle all matters within the purview of this contract.

I have appeared regularly in the courtrooms of Carson City and have a good working relationship with the District Attorney's Office and with court staff. I previously worked with both Justice Court judges and enjoy appearing in their courtrooms. I am also familiar with Carson City's District Court judges, having practiced in front of them many years ago in my role as a public defender, and more recently as a private attorney.

Additionally, my assistant, Kai Weaver, would be happy to take on the job of assigning indigent defense cases to conflict and private attorneys, in accordance with the City's Plan. Her previous experience with DIDS and similar work make her an excellent candidate for this position.

I am attaching a copy of my resume, as well as my qualification letter from DIDS, to this letter of interest. If there is any other information that would be helpful in considering my request to become one of Carson City's conflict attorneys for indigent defendants, please just let me know. I look forward to meeting with you regarding this opportunity at your earliest convenience.

Thank you for your time and consideration.

Sincerely,



Maria Pence, Esq.

**MARIA E. PENCE**  
**1662 U.S. Hwy 395, Ste. 203, Minden, NV, 89423**  
**(775) 392-4084 office/ (775) 220-0884 cell**  
**pencelegaldefense@gmail.com**

**PERSONAL PROFILE**

Highly motivated, bilingual (English/Spanish) attorney, licensed in Nevada and California, with extensive professional experience in criminal law in both federal and state government settings seeks employment as conflict counsel for indigent defendants in Carson City, Nevada. Energetic, dependable, and extremely adaptable attorney possesses excellent writing, organization, and communication skills and has diverse public speaking experience including argument before the Nevada Supreme Court.

**PROFESSIONAL EXPERIENCE**

**PENCE & ASSOCIATES**

Minden, Nevada, *Criminal Defense Attorney*

June 2014 – Current

**DOUGLAS COUNTY INDIGENT DEFENSE ATTORNEY**

Minden, Nevada, *Indigent Defense Attorney*

June 2014 – December 2021

Provided all levels of criminal defense to Douglas County's indigent population, from traffic tickets to first degree murder charges; responsible for all aspects of defense including bail hearings, case negotiation, preliminary hearings, motion writing, evidentiary hearings, trial, sentencing, and appellate work.

**DOUGLAS COUNTY DISTRICT ATTORNEYS' OFFICE**

Minden, Nevada, *Deputy District Attorney III*

2011 – June 2014

Recruited by Douglas County District Attorney to perform all aspects of prosecution, including charging decisions, case negotiation, and trial work; was sole attorney prosecuting cases in the Tahoe Justice Court for several years.

**NEVADA STATE PUBLIC DEFENDER OFFICE**

Carson City, Nevada, *Deputy Public Defender*

October 2009 – 2011

Represented indigent clients in all phases of criminal misdemeanor and felony cases; developed rapport with District Attorney's Office to improve case resolution; networked with community agencies to provide necessary client services.

**NEVADA SUPREME COURT**

Carson City, Nevada, *Staff Attorney*, Civil Division

February 2007 – August 2009

Researched and analyzed diverse issues of civil law raised in appeals of last resort at the state level; Orally presented cases to the justices of the Nevada Supreme Court and drafted memoranda of law, orders, and opinions.

**KUMMER KAEMPFER BONNER RENSHJAW & FERRARIO**

Carson City, Nevada, *Contract Attorney*

January 2004-February 2007

Drafted legal pleadings ranging from criminal motions to appellate documents filed with the Nevada Supreme Court, conducted client interviews, and developed case strategies for firm partners. Successfully argued Herbst Gaming, Inc. v. Heller, 122 Nev. 877, 141 P.3d 1224(2006) before the Nevada Supreme Court as counsel for the American Cancer Society, which later formed the basis of the Nevada Clean Indoor Air Act.

**FEDERAL DEFENDERS OF SAN DIEGO, INC**

San Diego, California, *Trial Attorney*

August 1993-November 1996

Handled all phases of federal felony criminal cases; extensive trial and appellate experience; served on training committee for new attorneys; participated in Casa de Migrante program educating undocumented persons in Tijuana, Mexico about United States federal immigration laws.

**MARIA E. PENCE**  
1662 U.S. Hwy 395, Ste. 203, Minden, NV, 89423  
(775) 392-4084 office/ (775) 220-0884 cell  
[pencelegaldefense@gmail.com](mailto:pencelegaldefense@gmail.com)

### **EDUCATION**

#### **CALIFORNIA WESTERN SCHOOL OF LAW**

San Diego, California, Juris Doctorate, April 1993

#### **EAST CHINA INSTITUTE OF POLITICS AND LAW**

Shanghai, Peoples' Republic of China, Comparative Law Summer Program, 1992

#### **SANTA CLARA UNIVERSITY**

Santa Clara, California, Bachelor of Science, Psychology, 1988

### **PUBLICATIONS AND LECTURES**

*Anatomy of a Case – Fighting the Good Fight from Appointment to Trial*, presenter, First Annual Indigent Defense CLE Conference, Nevada, April 2021

*"I've been convicted of a crime—Now what?" The Collateral Consequences of Criminal Convictions*, guest lecturer, NACCA Northern Regional Training, National Judicial College, Reno, Nevada, September 2016

*Plea Bargaining*, Criminal Justice Act Seminar, guest lecturer, San Diego, California, June 1996

*Bail issues & Detention Hearing Tactics*, Criminal Justice Act Seminar, guest lecturer, San Diego, California, June 1995

Defending a Federal Criminal Case, co-author, San Diego Federal Defenders 1995 Manual, Chapter Six "*Pretrial and other Motions*"

### **SPECIAL TRAINING**

- 1 *Defending Drug Delivery Resulting in Death Cases* (NACDL Live Webcast Series, January—February 2021)
- 2 *Defending the Modern Drug Case* NACDL Seminar (Las Vegas, Nevada, October 2017)
- 3 Nevada Community Improvement Council Summit (Reno, Nevada, September 2016-2018)
- 4 *Capital Case Defense* CACJ Seminar (Monterey, California, February 2015)
- 5 *Understanding, Attacking, and Winning DUI Cases* (Reno, Nevada, February 2011)
- 6 Council of Appellate Staff Attorneys (CASA) and Appellate Judges Education Institute (AJEI) Conference (Phoenix, Arizona, November 2008)
- 7 National Association of Appellate Court Attorneys (NAACA) Conference (New Orleans, Louisiana, July 2007)
- 8 National College of Criminal Defense, Trial Practice Institute (Macon, Georgia, July 1995)
- 9 National College of Criminal Defense, Themes and Theories (Denver, Colorado, December 1994)

Fluency in Spanish, including legal communication and terminology.

Steve Sisolak  
Governor



Marcie Ryba  
Executive Director

Jarrod Hickman  
Deputy Director

Thomas Qualls  
Deputy Director

**STATE OF NEVADA  
DEPARTMENT OF INDIGENT DEFENSE SERVICES**

896 West Nye Lane, Suite 202 | Carson City, NV 89703-1578  
Phone: (775) 687-8480 | [dids.nv.gov](http://dids.nv.gov)

June 11, 2021

Ms. Maria Pence  
Pence & Associates  
1662 U.S. Highway 395, Suite 203  
Minden, Nevada 89423

RE: Application for list of eligible providers

Dear Ms. Pence,

Thank you for submitting your application for inclusion on the Department's list of eligible indigent defense providers. In turn, counties will use the list to select counsel for contracts or panels of appointed counsel as part of their plan for indigent defense services. NRS 260.070. County plans will be submitted to the Board on Indigent Defense Services by September 3, 2021. Until plans are submitted and approved, it is anticipated that appointments will occur in the usual manner.

**Date of Application:** May 18, 2021

**Jurisdictions:** Carson City, Douglas, Lyon

**Categories Approved:** (1) Misdemeanor; (2) Gross Misdemeanor and Category E, D, C, and B (for which the maximum penalty is 10 years or less) felonies; (3) Category B (for which the maximum penalty is 10 years or more) and non-capital Category A felonies; (4) Direct Appeals – Non-Capital; and (5) Juvenile.

If you disagree with this determination, you may submit a request for reconsideration within 30 days of receipt of this notice. Please include the basis for the reconsideration in the request. The Board on Indigent Defense Services will review any request for reconsideration submitted at the next scheduled meeting.

Sincerely,

*/s/ Jarrod Hickman*  
Jarrod Hickman  
Deputy Director





**LAW OFFICES OF JOHN GEORGE**  
**— ATTORNEY AND COUNSELOR AT LAW —**

624 South Ninth Street Las Vegas, Nevada 89101

September 13, 2022

Carol Akers  
Carson City Hall- Executive Office  
201 N. Carson Street Suite 2  
Carson City, NV 89701  
Sent via email

I am grateful to be submitting my application for the conflict counsel position to represent indigent defendants. Please take the time to read this letter because it will impress upon you that I am the best suited candidate applying for this position. Moreover, I believe the boldness of that statement will clearly demonstrate my profound desire to work in that capacity.

I recently accepted a position as an Assistant District Attorney in Nye County and have been working in that capacity since April. I enjoy that position and believe that having the experience as a prosecutor will now enable me to be an even better defense attorney than I was prior to working as a District Attorney. Because my boss did not win re-election and because I simply miss being a defense attorney, I want to return to criminal defense.

The feature that makes me best qualified to work as a conflict attorney is the fact that I already functioned in that capacity. I was the conflict attorney for Clark County in four of the rural jurisdictions surrounding Las Vegas, i.e., Boulder City, Searchlight, Goodsprings, and Laughlin. I know the duties of the position and have proven myself fully capable and successful at maintaining 150 or more cases at once. Moreover, I never had support staff when I had my own private practice. I did everything including all of the duties that support staff normally perform, e.g., mailings, filing, drafting letters and briefs etc. It was not unusual for me to be working seven days a week, although I try to take Sunday off because I do have spiritual interest and commitments. I believe I earned the right to say that I am one of the hardest working attorneys in the State.

I have a unique ability to get along with everyone: without exception. I have been wealthy and I have been poor and homeless, so I can relate to everyone in any circumstance. I am gregarious and outgoing and people trust me instantly. Moreover, I have a proven track record of working successfully with indigent clients. Lastly, I speak, read and write Spanish fluently.



**LAW OFFICES OF JOHN GEORGE**  
— ATTORNEY AND COUNSELOR AT LAW —

624 South Ninth Street Las Vegas, Nevada 89101

I want to work in Northern Nevada. Working recently in Nye County reminded me of how much I enjoy being in environments with hard working and down-to-earth people. After law school I spent 5 years getting a Master's degree in a small farm town in North Dakota where I learned to love communities with agriculture, industry, military and more diversified economies than the single -industry economy in Southern Nevada. Diversified economies attract harder working, honest, and good people. Quite simply, Northern Nevada has more appeal to me as a location to work and represent clients because the environment is more productive, more diverse, has more integrity, and generally better people than Southern Nevada. I can make a greater and more noticeable contribution to the culture and society in Northern Nevada

Give me an interview and you will be very comfortable and convinced that I am the best person for this position,

/s/ John George  
JOHN GEORGE

## PROFESSIONAL EXPERIENCE

### Office of the Nye County District Attorney

April 1, 2022 – Present

- Assistant District Attorney position prosecuting all criminal matters occurring in the second largest County in the United States
- Responsible for every facet of criminal cases from their screening (determining whether the matter will be charged and if so, what the charges will be); drafting the complaints; appearing at arraignments; negotiating the resolution of criminal matters at all stages of their evolution in the criminal justice system; conducting preliminary hearings; drafting all pretrial, trial, and post-trial briefs. Responsible for all trial matters, e.g., choosing experts and witnesses; preparing and interacting with those parties; interacting with, and delegating responsibilities to investigators and experts; conducting trials and managing the outcome of all cases in which I am involved, including any post-conviction matters that arise.
- Responsible for all categories of cases regardless of their complexity or penalty level at which they are charged, e.g., from Category A felonies to those less severe
- Permitted a wide range of discretion and autonomy and exposed to the entire breadth of criminal matters that occur in the jurisdiction by being permitted to work on the entire variety of matters that are prosecuted by this office in this large jurisdiction

### Law Office of John George

August 2015 -April,2022

- Sole Proprietor of law office with a general practice including a County appointed criminal defense track as the conflict attorney in four rural jurisdictions surrounding the Las Vegas metropolitan area.
- Appointed by the same county office for numerous Supreme Court and Appellate court appeals; extraordinary relief matters including writs of habeas corpus, mandamus, and coram nobis; post-conviction matters such as IAOC claims and plea withdrawals
- Extensive experience representing clients in every court in Southern Nevada resulting in extensive experience drafting, researching, arguing, and trial experience. In addition to appointed cases and the criminal defense track, I had a large retained practice including family and civil matters. I have a remarkably diverse and eclectic background litigating in both the civil and criminal milieus.
- CJA from 2014 to 2020, with an average of 11 active cases simultaneously. I represented an incredibly diverse number of cases from terrorism cases to large multi-defendant, multi-tiered matters in lengthy trials such as USA v BUNDY and USA v PALAFOX (VAGOS motorcycle club)
- Contract attorney in the Southern Nevada region for the largest criminal defense firm in the United States: Imhoff and Associates
- Argued in front of the Nevada Supreme Court en banc.

### Associate Attorney – Cobeaga Law Offices

January 2012 – January 2015

- Represented both plaintiff and defendants in large tort actions involving personal and economic injuries: including: wrongful death, medical malpractice, civil rights, fraud, personal injury, etc.

## BAR LICENSES

Illinois 2010, Nevada 2012.

## EDUCATION

University of North Dakota --Masters of Space Studies

Boyd School of Law – Juris Doctor

University of California Berkeley – Bachelor of Art in Philosophy

## OTHER ACTIVITIES

SPEAK, READ, WRITE SPANISH LANGUAGE. CDL HOLDER WITH 1,000,000 MILES. TOASTMASTERS. VOLUNTEER TRUANCY JUDGE WITH CLARK COUNTY FOR 6 YEARS

# PROFESSIONAL SERVICES CONSULTANT AGREEMENT

Contract No. 20300003-B

Title: Conflict Counsel, Maria E. Pence; Attorney at Law

THIS CONTRACT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by and between Carson City, a consolidated municipality, a political subdivision of the State of Nevada, hereinafter referred to as "CITY", and Maria E. Pence; Attorney at Law, hereinafter referred to as "CONSULTANT".

## WITNESSETH:

**WHEREAS**, the Purchasing and Contracts Manager for **CITY** is authorized pursuant to Nevada Revised Statutes (hereinafter referred to as "NRS") 332 and 338 and Carson City Purchasing Resolution #1990-R71, to approve and accept this Contract as set forth in and by the following provisions; and

**WHEREAS**, this Contract (does involve\_\_\_) (does not involve \_X\_) a "public work" construction project, which pursuant to NRS 338.010(17) means any project for the new construction, repair or reconstruction of an applicable project financed in whole or in part from public money; and

**WHEREAS, CONSULTANT'S** compensation under this agreement (does \_\_\_) (does not \_X\_) utilize in whole or in part money derived from one or more federal grant funding source(s); and

**WHEREAS**, it is deemed necessary that the services of **CONSULTANT** for **CONTRACT No. 20300003-B** (hereinafter referred to as "Contract") are both necessary and in the best interest of **CITY**; and

**NOW, THEREFORE**, in consideration of the aforesaid premises, and the following terms, conditions and other valuable consideration, the parties mutually agree as follows:

### 1. REQUIRED APPROVAL:

This Contract shall not become effective until and unless approved by the Carson City Board of Supervisors.

### 2. SCOPE OF WORK (Incorporated Contract Documents):

2.1 **CONSULTANT** shall provide and perform the following services set forth in **Exhibit A**, which shall all be attached hereto and incorporated herein by reference, and shall provide administrative services under the Carson City Indigent Defense Plan related to assignment of conflict counsel and private DIDS qualified attorneys to indigent defense cases for and on behalf of **CITY** and hereinafter referred to as the "SERVICES".

2.2 **CONSULTANT** represents that it is duly licensed by **CITY** for the purposes of performing the SERVICES.

2.3 **CONSULTANT** represents that it is duly qualified and licensed in the State of Nevada for the purposes of performing the SERVICES.

For P&C Use Only

CCBL expires \_\_\_\_\_

GL expires \_\_\_\_\_

PL expires \_\_\_\_\_

WC expires \_\_\_\_\_

## PROFESSIONAL SERVICES CONSULTANT AGREEMENT

Contract No. 20300003-B

Title: Conflict Counsel, Maria E. Pence; Attorney at Law

2.4 **CONSULTANT** represents that it and/or the persons it may employ possess all skills and training necessary to perform the SERVICES described herein and required hereunder. **CONSULTANT** shall perform the SERVICES faithfully, diligently, in a timely and professional manner, to the best of its ability, and in such a manner as is customarily performed by a person who is in the business of providing such services in similar circumstances. **CONSULTANT** shall be responsible for the professional quality and technical accuracy of all SERVICES furnished by **CONSULTANT** to **CITY**.

2.5 **CONSULTANT** represents that neither the execution of this Contract nor the rendering of services by **CONSULTANT** hereunder will violate the provisions of or constitute a default under any other contract or agreement to which **CONSULTANT** is a party or by which **CONSULTANT** is bound, or which would preclude **CONSULTANT** from performing the SERVICES required of **CONSULTANT** hereunder, or which would impose any liability or obligation upon **CITY** for accepting such SERVICES.

2.6 Before commencing with the performance of any work under this Contract, **CONSULTANT** shall obtain all necessary permits and licenses as may be necessary. Before and during the progress of work under this Contract, **CONSULTANT** shall give all notice and comply with all the laws, ordinances, rules and regulations of every kind and nature now or hereafter in effect promulgated by any Federal, State, County, or other Governmental Authority, relating to the performance of work under this Contract. If **CONSULTANT** performs any work that is contrary to any such law, ordinance, rule or regulation, it shall bear all the costs arising therefrom.

2.7 Special Terms and Conditions for Engineers, Architects, and Land Surveying/Testing:  
**(OMITTED)**

2.8 **CITY Responsibilities:**

2.8.1 **CITY** shall make available to **CONSULTANT** all technical data that is in **CITY'S** possession, reasonably required by **CONSULTANT** relating to the SERVICES.

2.8.2 **CITY** shall provide access to and make all provisions for **CONSULTANT** to enter upon public and private lands, to the fullest extent permitted by law, as reasonably required for **CONSULTANT** to perform the SERVICES.

2.8.3 **CITY** shall examine all reports, correspondence, and other documents presented by **CONSULTANT** upon request of **CITY**, and render, in writing, decisions pertaining thereto within a reasonable time so as not to delay the work of **CONSULTANT**.

2.8.4 It is expressly understood and agreed that all work done by **CONSULTANT** shall be subject to inspection and acceptance by **CITY** and approval of SERVICES shall not forfeit the right of **CITY** to require correction, and nothing contained herein shall relieve **CONSULTANT** of the responsibility of the SERVICES required under the terms of this Contract until all SERVICES have been completed and accepted by **CITY**.

### 3. **CONTRACT TERM:**

3.1 This Contract shall be effective from November 1, 2022, subject to Carson City Board of Supervisors' approval (anticipated to be October 20, 2022) to June 30, 2023, unless sooner terminated by either party as specified in **Section 7** (CONTRACT TERMINATION).



# PROFESSIONAL SERVICES CONSULTANT AGREEMENT

Contract No. 20300003-B

Title: Conflict Counsel, Maria E. Pence; Attorney at Law

## 4. NOTICE:

4.1 Except any applicable bid and award process where notices may be limited to postings by **CITY** on its Bid Opportunities website ([www.carson.org](http://www.carson.org)), all notices or other communications required or permitted to be given under this Contract shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by e-mail, by regular mail, by telephonic facsimile with simultaneous regular mail, or by certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address specified below.

4.2 Notice to **CONSULTANT** shall be addressed to:

Maria E. Pence  
1662 U.S. Hwy 395, Ste 203  
Minden, NV 89423  
775-392-4082  
[Pencelegaldefense@gmail.com](mailto:Pencelegaldefense@gmail.com)

4.3 Notice to **CITY** shall be addressed to:

Carson City Purchasing and Contracts Department  
Carol Akers, Purchasing and Contracts Administrator  
201 North Carson Street, Suite 2  
Carson City, NV 89701  
775-283-7362 / FAX 775-887-2286  
[CAkers@carson.org](mailto:CAkers@carson.org)

## 5. COMPENSATION:

5.1 The parties agree that **CONTRACTOR** will provide the SERVICES specified in Section 2 (SCOPE OF WORK) and **CITY** agrees to pay **CONTRACTOR** the Contract's compensation of a total not to exceed maximum amount of One Hundred Thirty Thousand Sixteen Dollars and 72/100 (\$130,016.72), from November 1, 2022 through June 30, 2023, \$116,666.72 of which will be paid in equal installments of \$14,583.34 per month, and the additional not to exceed amount of \$13,350 shall be paid on an as billed basis, not to exceed 12 hours per week, for administrative services under the Carson City Indigent Defense Plan to relate to assignment of conflict counsel and private DIDS qualified attorneys to indigent defense cases. These amounts shall hereinafter be referred to as the "Contract Sum."

5.2 Contract Sum represents full and adequate compensation for the completed SERVICES, and includes the furnishing of all materials; all labor, equipment, tools, and appliances; and all expenses, direct or indirect, connected with the proper execution of the SERVICES.

5.3 **CITY** has provided a sample invoice and **CONSULTANT** shall submit its request for payment using said sample invoice.

5.4 Payment by **CITY** for the SERVICES rendered by **CONSULTANT** shall be due within thirty (30) calendar days from the date **CITY** acknowledges that the performance meets the requirements of this Contract or from the date the correct, complete, and descriptive invoice is received by **CITY** employee designated on the sample invoice, whichever is the later date.

5.5 **CITY** does not agree to reimburse **CONSULTANT** for expenses unless otherwise specified.

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## 6. TIMELINESS OF BILLING SUBMISSION:

6.1 The parties agree that timeliness of billing is of the essence to this Contract and recognize that **CITY** is on a fiscal year which is defined as the period beginning July 1 and ending June 30 of the following year. All billings for dates of service prior to July 1 must be submitted to **CITY** no later than the first Friday in August of the same year. A billing submitted after the first Friday in August will subject **CONSULTANT** to an administrative fee not to exceed \$100.00. The parties hereby agree this is a reasonable estimate of the additional costs to **CITY** of processing the billing as a stale claim and that this amount will be deducted from the stale claim payment due to **CONSULTANT**.

## 7. CONTRACT TERMINATION:

### 7.1 Termination Without Cause:

7.1.1 Any discretionary or vested right of renewal notwithstanding, this Contract may be terminated upon written notice by mutual consent of both parties or unilaterally by either party without cause.

7.1.2 **CITY** reserves the right to terminate this Contract for convenience whenever it considers termination, in its sole and unfettered discretion, to be in the public interest. In the event that the Contract is terminated in this manner, payment will be made for SERVICES actually completed. If termination occurs under this provision, in no event shall **CONSULTANT** be entitled to anticipated profits on items of SERVICES not performed as of the effective date of the termination or compensation for any other item, including but not limited to, unabsorbed overhead. **CONSULTANT** shall require that all subcontracts which it enters related to this Contract likewise contain a termination for convenience clause which precludes the ability of any subconsultant to make claims against **CONSULTANT** for damages due to breach of contract, of lost profit on items of SERVICES not performed or of unabsorbed overhead, in the event of a convenience termination.

### 7.2 Termination for Nonappropriation:

7.2.1 All payments and SERVICES provided under this Contract are contingent upon the availability of the necessary public funding, which may include various internal and external sources. In the event that Carson City does not acquire and appropriate the funding necessary to perform in accordance with the terms of the Contract, the Contract shall automatically terminate upon **CITY'S** notice to **CONSULTANT** of such nonappropriation, and no claim or cause of action may be based upon any such nonappropriation.

### 7.3 Cause Termination for Default or Breach:

7.3.1 A default or breach may be declared with or without termination.

7.3.2 This Contract may be terminated by either party upon written notice of default or breach to the other party as follows:

7.3.2.1 If **CONSULTANT** fails to provide or satisfactorily perform any of the conditions, work, deliverables, goods, or any SERVICES called for by this Contract within the time requirements specified in this Contract or within any granted extension of those time requirements; or

7.3.2.2 If any state, county, city or federal license, authorization, waiver, permit,

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qualification or certification required by statute, ordinance, law, or regulation to be held by **CONSULTANT** to provide the goods or SERVICES or any services required by this Contract is for any reason denied, revoked, debarred, excluded, terminated, suspended, lapsed, or not renewed; or

7.3.2.3 If **CONSULTANT** becomes insolvent, subject to receivership, or becomes voluntarily or involuntarily subject to the jurisdiction of the bankruptcy court; or

7.3.2.4 If **CITY** materially breaches any material duty under this Contract and any such breach impairs **CONSULTANT'S** ability to perform; or

7.3.2.5 If it is found by **CITY** that any quid pro quo or gratuities in the form of money, services, entertainment, gifts, or otherwise were offered or given by **CONSULTANT**, or any agent or representative of **CONSULTANT**, to any officer or employee of **CITY** with a view toward securing a contract or securing favorable treatment with respect to awarding, extending, amending, or making any determination with respect to the performing of such contract; or

7.3.2.6 If it is found by **CITY** that **CONSULTANT** has failed to disclose any material conflict of interest relative to the performance of this Contract.

### 7.4 Time to Correct (Declared Default or Breach):

7.4.1 Termination upon a declared default or breach may be exercised only after providing 7 (seven) calendar days written notice of default or breach, and the subsequent failure of the defaulting or breaching party, within five (5) calendar days of providing that default or breach notice, to provide evidence satisfactory to the aggrieved party demonstrating that the declared default or breach has been corrected. Time to correct shall run concurrently with any notice of default or breach and such time to correct is not subject to any stay with respect to the nonexistence of any Notice of Termination. Untimely correction shall not void the right to termination otherwise properly noticed unless waiver of the noticed default or breach is expressly provided in writing by the aggrieved party. There shall be no time to correct with respect to any notice of termination without cause or termination for nonappropriation.

### 7.5 Winding Up Affairs Upon Termination:

7.5.1 In the event of termination of this Contract for any reason, the parties agree that the provisions of this **Subsection 7.5** (Winding Up Affairs Upon Termination) survive termination:

7.5.1.1 The parties shall account for and properly present to each other all claims for fees and expenses and pay those which are undisputed and otherwise not subject to set off under this Contract. Neither party may withhold performance of winding up provisions solely based on nonpayment of fees or expenses accrued up to the time of termination; and

7.5.1.2 **CONSULTANT** shall satisfactorily complete SERVICES in progress at the agreed rate (or a pro rata basis if necessary) if so requested by **CITY**; and

7.5.1.3 **CONSULTANT** shall execute any documents and take any actions necessary to effectuate an assignment of this Contract if so requested by **CITY**; and

7.5.1.4 **CONSULTANT** shall preserve, protect, and promptly deliver into **CITY** possession all proprietary information in accordance **Section 19** (CITY OWNERSHIP OF

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PROPRIETARY INFORMATION).

7.5.1.5 **CONTRACTOR** shall provide all court appointment case files to the **CITY** or the new conflict counsel within 7 days of notification to the **CITY** that he or she is terminating the contract or closing practice or within 7 days of notification by the **CITY** that the contract is being terminated.

## 7.6 Notice of Termination:

7.6.1 Unless otherwise specified in this Contract, termination shall not be effective until seven (7) calendar days after a party has provided written notice of default or breach, or notice of without cause termination. Notice of Termination may be given at the time of notice of default or breach, or notice of without cause termination. Notice of Termination may be provided separately at any time after the running of the 7-day notice period, and such termination shall be effective on the date the Notice of Termination is provided to the party unless a specific effective date is otherwise set forth therein. Any delay in providing a Notice of Termination after the 7-day notice period has run without a timely correction by the defaulting or breaching party shall not constitute any waiver of the right to terminate under the existing notice(s).

## 8. REMEDIES:

Except as otherwise provided for by law or this Contract, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including, without limitation, actual damages, and to a prevailing party reasonable attorney's fees and costs. The parties agree that, in the event a lawsuit is filed and a party is awarded attorney's fees by the court, for any reason, the amount of recoverable attorney's fees shall not exceed the rate of \$125 per hour. **CITY** may set off consideration against any unpaid obligation of **CONSULTANT** to **CITY**.

## 9. LIMITED LIABILITY:

**CITY** will not waive and intends to assert available NRS Chapter 41 liability limitations in all cases. Contract liability of both parties shall not be subject to punitive damages. Liquidated damages shall not apply unless otherwise expressly provided for elsewhere in this Contract. Damages for any **CITY** breach shall never exceed the amount of funds appropriated for payment under this Contract, but not yet paid to **CONSULTANT**, for the fiscal year budget in existence at the time of the breach. **CONSULTANT'S** tort liability shall not be limited.

## 10. FORCE MAJEURE:

Neither party shall be deemed to be in violation of this Contract if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including, without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of this Contract after the intervening cause ceases.

## 11. INDEMNIFICATION:

11.1 To the extent permitted by law, including, but not limited to, the provisions of NRS Chapter 41, each party shall indemnify, hold harmless and defend, not excluding the other's right to participate, the other party from and against all liability, claims, actions, damages, losses, and expenses, including but not limited to reasonable attorney's fees and costs, arising out of any alleged negligent or willful acts or omissions of the indemnifying party, its officers, employees and agents. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of the indemnity which would otherwise exist as to any party or person described in this Section.

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11.2 As required by NRS 338.155, if this Contract involves a "public work" construction project as defined above, **CONSULTANT** shall defend, indemnify and hold harmless the **CITY**, and the employees, officers and agents of the public body from any liabilities, damages, losses, claims, actions or proceedings, including without limitation, reasonable attorney's fees, to the extent that such liabilities, damages, losses, claims, actions or proceedings are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the **CONSULTANT** or the employees or agents of the **CONSULTANT** in the performance of the Contract. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of the indemnity which would otherwise exist as to any party or person described in this section. However, with respect to any anticipated benefits to **CITY** resulting from the Scope of Work, **CONSULTANT** shall not be responsible or liable to **CITY** for any warranties, guarantees, fitness for a particular purpose or loss of anticipated profits resulting from any termination of this Contract. Additionally, **CONSULTANT** shall not be responsible for acts and decisions of third parties, including governmental agencies, other than **CONSULTANT'S** subcontractors, that impact project completion and/or success.

11.3 Except as otherwise provided in **Subsection 11.5** below, the indemnifying party shall not be obligated to provide a legal defense to the indemnified party, nor reimburse the indemnified party for the same, for any period occurring before the indemnified party provides written notice of the pending claim(s) or cause(s) of action to the indemnifying party, along with:

11.3.1 a written request for a legal defense for such pending claim(s) or cause(s) of action; and

11.3.2 a detailed explanation of the basis upon which the indemnified party believes that the claim or cause of action asserted against the indemnified party implicates the culpable conduct of the indemnifying party, its officers, employees, and/or agents.

11.4 After the indemnifying party has begun to provide a legal defense for the indemnified party, the indemnifying party shall not be obligated to fund or reimburse any fees or costs provided by any additional counsel for the indemnified party, including counsel through which the indemnified party might voluntarily choose to participate in its defense of the same matter.

11.5 After the indemnifying party has begun to provide a legal defense for the indemnified party, the indemnifying party shall be obligated to reimburse the reasonable attorney's fees and costs incurred by the indemnified party during the initial thirty (30) day period of the claim or cause of action, if any, incurred by separate counsel.

## 12. **INDEPENDENT CONTRACTOR:**

12.1 **CONSULTANT**, as an independent contractor, is a natural person, firm or corporation who agrees to perform SERVICES for a fixed price according to his or its own methods and without subjection to the supervision or control of the **CITY**, except as to the results of the SERVICES, and not as to the means by which the SERVICES are accomplished.

12.2 It is mutually agreed that **CONSULTANT** is associated with **CITY** only for the purposes and to the extent specified in this Contract, and in respect to performance of the contracted SERVICES pursuant to this Contract. **CONSULTANT** is and shall be an independent contractor and, subject only to the terms of this Contract, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract.

12.3 Nothing contained in this Contract shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for **CITY** whatsoever with respect to the indebtedness, liabilities, and obligations of **CONSULTANT** or any other party.

12.4 **CONSULTANT**, in addition to **Section 11** (INDEMNIFICATION), shall indemnify and hold **CITY** harmless from, and defend **CITY** against, any and all losses, damages, claims, costs, penalties, liabilities, expenses arising out of or incurred in any way because of, but not limited to, **CONSULTANT'S** obligations or legal duties regarding any taxes, fees, assessments, benefits, entitlements, notice of



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benefits, employee's eligibility to work, to any third party, subcontractor, employee, state, local or federal governmental entity.

12.5 Neither **CONSULTANT** nor its employees, agents, or representatives shall be considered employees, agents, or representatives of **CITY**.

### 13. **INSURANCE REQUIREMENTS (GENERAL):**

**13.1 NOTICE: The following general insurance requirements shall apply unless these general requirements are altered by any specific requirements set forth in CITY'S solicitation for bid document, the adopted bid or other document incorporated into this Contract by the parties.**

13.2 **CONSULTANT**, as an independent contractor and not an employee of **CITY**, must carry policies of insurance in amounts specified and pay all taxes and fees incident hereunto. **CITY** shall have no liability except as specifically provided in this Contract.

13.3 **CONSULTANT** shall not commence work before: (1) **CONSULTANT** has provided the required evidence of insurance to **CITY** Purchasing and Contracts, and (2) **CITY** has approved the insurance policies provided by **CONSULTANT**.

13.4 Prior approval of the insurance policies by **CITY** shall be a condition precedent to any payment of consideration under this Contract and **CITY'S** approval of any changes to insurance coverage during the course of performance shall constitute an ongoing condition subsequent this Contract. Any failure of **CITY** to timely approve shall not constitute a waiver of the condition.

13.5 *Insurance Coverage (13.6 through 13.23):*

13.6 **CONSULTANT** shall, at **CONSULTANT'S** sole expense, procure, maintain and keep in force for the duration of this Contract the following insurance conforming to the minimum requirements specified below. Unless specifically specified herein or otherwise agreed to by **CITY**, the required insurance shall be in effect prior to the commencement of work by **CONSULTANT** and shall continue in force as appropriate until the later of:

13.6.1 Final acceptance by **CITY** of the completion of this Contract; or

13.6.2 Such time as the insurance is no longer required by **CITY** under the terms of this Contract.

13.6.3 Any insurance or self-insurance available to **CITY** under its coverage(s) shall be in excess of and non-contributing with any insurance required from **CONSULTANT**.

**CONSULTANT'S** insurance policies shall apply on a primary basis. Until such time as the insurance is no longer required by **CITY**, **CONSULTANT** shall provide **CITY** with renewal or replacement evidence of insurance no less than thirty (30) calendar days before the expiration or replacement of the required insurance. If at any time during the period when insurance is required by this Contract, an insurer or surety shall fail to comply with the requirements of this Contract, as soon as **CONSULTANT** has knowledge of any such failure, **CONSULTANT** shall immediately notify **CITY** and immediately replace such insurance or bond with an insurer meeting the requirements.

13.7 *General Insurance Requirements (13.8 through 13.23):*

13.8 **Certificate Holder:** Each liability insurance policy shall list Carson City c/o Carson City Purchasing and Contracts, 201 N. Carson Street, Suite 2, Carson City, NV 89701 as a certificate holder.

13.9 **Additional Insured:** By endorsement to the general liability insurance policy evidenced by **CONSULTANT**, The City and County of Carson City, Nevada, its officers, employees and immune contractors shall be named as additional insureds for all liability arising from this Contract.

13.10 **Waiver of Subrogation:** Each liability insurance policy shall provide for a waiver of subrogation

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as to additional insured, unless:

13.10.1 **CONSULTANT** maintains an additional \$5,000,000.00 umbrella policy in lieu of the Waiver of Subrogation Clause.

13.11 **Cross-Liability:** All required liability policies shall provide cross-liability coverage as would be achieved under the standard ISO separation of insureds clause.

13.12 **Deductibles and Self-Insured Retentions:** Insurance maintained by **CONSULTANT** shall apply on a first dollar basis without application of a deductible or self-insured retention unless otherwise specifically agreed to by **CITY**. Such approval shall not relieve **CONSULTANT** from the obligation to pay any deductible or self-insured retention. Any deductible or self-insured retention shall not exceed \$50,000.00 per occurrence, unless otherwise approved by **CITY**.

13.13 **Policy Cancellation:** Except for ten (10) calendar days notice for non-payment of premium, each insurance policy shall be endorsed to state that; without thirty (30) calendar days prior written notice to Carson City Purchasing and Contracts, the policy shall not be canceled, non-renewed or coverage and /or limits reduced or materially altered, and shall provide that notices required by this paragraph shall be sent by mail to Carson City Purchasing and Contracts, 201 N. Carson Street, Suite 2, Carson City, NV 89701.

13.14 **Approved Insurer:** Each insurance policy shall be issued by insurance companies authorized to do business in the State of Nevada or eligible surplus lines insurers acceptable to the State and having agents in Nevada upon whom service of process may be made, and currently rated by A.M. Best as "A-VII" or better.

13.15 **Evidence of Insurance:** Prior to commencement of work, **CONSULTANT** must provide the following documents to Carson City Purchasing and Contracts, 201 North Carson Street, Suite 2, Carson City, NV 89701:

13.16 **Certificate of Insurance:** The Acord 25 Certificate of Insurance form or a form substantially similar must be submitted to Carson City Purchasing and Contracts to evidence the insurance policies and coverages required of **CONSULTANT**.

13.17 **Additional Insured Endorsement:** An Additional Insured Endorsement (CG20 10 or C20 26), signed by an authorized insurance company representative, must be submitted to Carson City Purchasing and Contracts to evidence the endorsement of **CITY** as an additional insured per **Subsection 13.9** (Additional Insured).

13.18 **Schedule of Underlying Insurance Policies:** If Umbrella or Excess policy is evidenced to comply with minimum limits, a copy of the Underlying Schedule from the Umbrella or Excess insurance policy may be required.

13.19 **Review and Approval:** Documents specified above must be submitted for review and approval by **CITY** Purchasing and Contracts prior to the commencement of work by **CONSULTANT**. Neither approval by **CITY** nor failure to disapprove the insurance furnished by **CONSULTANT** shall relieve **CONSULTANT** of **CONSULTANT'S** full responsibility to provide the insurance required by this Contract. Compliance with the insurance requirements of this Contract shall not limit the liability of **CONSULTANT** or its subcontractors, employees or agents to **CITY** or others, and shall be in addition to and not in lieu of any other remedy available to **CITY** under this Contract or otherwise. **CITY** reserves the right to request and review a copy of any required insurance policy or endorsement to assure compliance with these requirements.

## 13.20 **COMMERCIAL GENERAL LIABILITY INSURANCE:**

13.20.1 *Minimum Limits required:*

13.20.2 Two Million Dollars (\$2,000,000.00) - General Aggregate.

13.20.3 Two Million Dollars (\$2,000,000.00) - Products & Completed Operations

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Aggregate.

13.20.4 One Million Dollars (\$1,000,000.00) - Each Occurrence.

13.20.5 Coverage shall be on an occurrence basis and shall be at least as broad as ISO 1996 form CG 00 01 (or a substitute form providing equivalent coverage); and shall cover liability arising from premises, operations, independent contractors, completed operations, personal injury, products, civil lawsuits, Title VII actions and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

## 13.21 BUSINESS AUTOMOBILE LIABILITY INSURANCE:

13.21.1 *Minimum Limit required:*

13.21.2 One Million Dollars (\$1,000,000.00) per occurrence for bodily injury and property damage.

13.21.3 Coverage shall be for "any auto", including owned, non-owned and hired vehicles. The policy shall be written on ISO form CA 00 01 or a substitute providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

## 13.22 PROFESSIONAL LIABILITY INSURANCE (Architects, Engineers and Land Surveyors)

13.22.1 *Minimum Limit required:*

13.22.2 One Million Dollars (\$1,000,000.00).

13.22.3 Retroactive date: Prior to commencement of the performance of this Contract.

13.22.4 Discovery period: Three (3) years after termination date of this Contract.

13.22.5 A certified copy of this policy may be required.

## 13.23 WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY INSURANCE:

13.23.1 **CONSULTANT** shall provide workers' compensation insurance as required by NRS Chapters 616A through 616D inclusive and Employer's Liability insurance with a minimum limit of \$500,000.00 each employee per accident for bodily injury by accident or disease.

13.23.2 **CONSULTANT** may, in lieu of furnishing a certificate of an insurer, provide an affidavit indicating that **CONSULTANT** is a sole proprietor; that **CONSULTANT** will not use the services of any employees in the performance of this Contract; that **CONSULTANT** has elected to not be included in the terms, conditions, and provisions of NRS Chapters 616A-616D, inclusive; and that **CONSULTANT** is otherwise in compliance with the terms, conditions, and provisions of NRS Chapters 616A-616D, inclusive.

## 14. BUSINESS LICENSE:

14.1 **CONSULTANT** shall not commence work before **CONSULTANT** has provided a copy of his Carson City business license to Carson City Purchasing and Contracts.

14.2 The Carson City business license shall continue in force until the later of: (1) final acceptance by **CITY** of the completion of this Contract; or (2) such time as the Carson City business license is no longer required by **CITY** under the terms of this Contract.

## 15. COMPLIANCE WITH LEGAL OBLIGATIONS:

**CONSULTANT** shall procure and maintain for the duration of this Contract any state, county, city, or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by **CONSULTANT** to provide the goods or SERVICES or any services of this Contract. **CONSULTANT** will be responsible to pay all government obligations, including, but not limited to, all taxes, assessments, fees,

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finances, judgments, premiums, permits, and licenses required or imposed by law or a court. Real property and personal property taxes are the responsibility of **CONSULTANT** in accordance with NRS Chapter 361 generally and NRS 361.157 and 361.159, specifically regarding for-profit activity. **CONSULTANT** agrees to be responsible for payment of any such government obligations not paid by its subcontractors during performance of this Contract. **CITY** may set-off against consideration due any delinquent government obligation.

If the **CITY** was required by NRS 332.039(1) to advertise or request a proposal for this Agreement, by signing this Agreement, the **CONSULTANT** provides a written certification that the **CONSULTANT** is not currently engaged in, and during the Term shall not engage in, a Boycott of Israel. The term "Boycott of Israel" has the meaning ascribed to that term in Section 3 of Nevada Senate Bill 26 (2017). The **CONSULTANT** shall be responsible for fines, penalties, and payment of any State of Nevada or federal funds that may arise (including those that the **CITY** pays, becomes liable to pay, or becomes liable to repay) as a direct result of the **CONSULTANT's** non-compliance with this Section.

### 16. WAIVER OF BREACH:

Failure to declare a breach or the actual waiver of any particular breach of this Contract or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.

### 17. SEVERABILITY:

If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract shall be construed as if such provision did not exist and the nonenforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.

### 18. ASSIGNMENT / DELEGATION:

To the extent that any assignment of any right under this Contract changes the duty of either party, increases the burden or risk involved, impairs the chances of obtaining the performance of this Contract, attempts to operate as a novation, or includes a waiver or abrogation of any defense to payment by **CITY**, such offending portion of the assignment shall be void, and shall be a breach of this Contract. **CONSULTANT** shall neither assign, transfer nor delegate any rights, obligations or duties under this Contract without the prior written approval of **CITY**. The parties do not intend to benefit any third party beneficiary regarding their respective performance under this Contract.

### 19. CITY OWNERSHIP OF PROPRIETARY INFORMATION:

Any files, reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer programs, computer codes, and computer records (which are intended to be consideration under this Contract), or any other documents or drawings, prepared or in the course of preparation by **CONSULTANT** (or its subcontractors) in performance of its obligations under this Contract shall be the exclusive property of **CITY** and all such materials shall be delivered into **CITY** possession by **CONSULTANT** upon completion, termination, or cancellation of this Contract. **CONSULTANT** shall not use, willingly allow, or cause to have such materials used for any purpose other than performance of **CONSULTANT'S** obligations under this Contract without the prior written consent of **CITY**. Notwithstanding the foregoing, **CITY** shall have no proprietary interest in any materials licensed for use by **CITY** that are subject to patent, trademark or copyright protection.

### 20. PUBLIC RECORDS:

Pursuant to NRS 239.010, information or documents received from **CONSULTANT** may be open to public inspection and copying. **CITY** will have the duty to disclose unless a particular record is made confidential by law or a common law balancing of interests. **CONSULTANT** may clearly label specific parts of an individual document as a "trade secret" or "confidential" in accordance with NRS 332.061, provided that **CONSULTANT** thereby agrees to indemnify and defend **CITY** for honoring such a designation. The failure to so label any document that is released by **CITY** shall constitute a complete waiver of any and all claims for damages caused by any release

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of the records.

## 21. **CONFIDENTIALITY:**

**CONSULTANT** shall keep confidential all information, in whatever form, produced, prepared, observed or received by **CONSULTANT** to the extent that such information is confidential by law or otherwise required by this Contract.

## 22. **FEDERAL FUNDING:**

22.1 *In the event federal grant funds are used for payment of all or part of this Contract:*

22.1.1 **CONSULTANT** certifies, by signing this Contract, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. This certification is made pursuant to the regulations implementing Executive Order 12549, Debarment and Suspension, 28 C.F.R. pt. 67, § 67.510, as published as pt. VII of the May 26, 1988, Federal Register (pp. 19160-19211), and any relevant program-specific regulations. This provision shall be required of every subcontractor receiving any payment in whole or in part from federal funds.

22.1.2 **CONSULTANT** and its subcontractors must be registered in the US Government System for Award Management (SAM) for verification on projects with federal funding.

22.1.3 **CONSULTANT** and its subcontractors shall comply with all terms, conditions, and requirements of the Americans with Disabilities Act of 1990 (P.L. 101-136), 42 U.S.C. 12101, as amended, and regulations adopted thereunder contained in 28 C.F.R. 26.101-36.999, inclusive, and any relevant program-specific regulations.

22.1.4 **CONSULTANT** and its subcontractors shall comply with the requirements of the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, P.L. 93-112, as amended, and any relevant program-specific regulations, and Executive Order 11478 (July 21, 2014) and shall not discriminate against any employee or offeror for employment because of race, national origin, creed, color, sex, sexual orientation, gender identity, religion, age, disability or handicap condition (including AIDS and AIDS-related conditions).

22.1.5 If and when applicable to the particular federal funding and the Scope of Work under this Contract, **CONSULTANT** and its subcontractors shall comply with: American Iron and Steel (AIS) provisions of P.L. 113- 76, Consolidated Appropriations Act, 2014, Section 1605 – Buy American (100% Domestic Content of iron, steel and manufactured goods); Federal Highway Administration (FHWA) 23 U.S.C. § 313 – Buy America, 23 C.F.R. § 635.410 (100% Domestic Content of steel, iron and manufactured products); Federal Transit Administration (FTA) 49 U.S.C. § 5323(j), 49 C.F.R. Part 661 – Buy America Requirements (See 60% Domestic Content for buses and other Rolling Stock).

## 23. **LOBBYING:**

23.1 The parties agree, whether expressly prohibited by federal law, or otherwise, that no funding associated with this Contract will be used for any purpose associated with or related to lobbying or influencing or attempting to lobby or influence for any purpose the following:

23.1.1 Any federal, state, county or local agency, legislature, commission, council or board;

23.1.2 Any federal, state, county or local legislator, commission member, council member, board member, or other elected official; or



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23.1.3 Any officer or employee of any federal, state, county or local agency; legislature, commission, council or board.

## 24. GENERAL WARRANTY:

**CONSULTANT** warrants that it will perform all SERVICES required hereunder in accordance with the prevailing standard of care by exercising the skill and care normally required of individuals performing the same or similar SERVICES, under the same or similar circumstances, in the State of Nevada.

## 25. PROPER AUTHORITY:

The parties hereto represent and warrant that the person executing this Contract on behalf of each party has full power and authority to enter into this Contract. **CONSULTANT** acknowledges that this Contract is effective only after approval by the Carson City Board of Supervisors and only for the period of time specified in this Contract. Any SERVICES performed by **CONSULTANT** before this Contract is effective or after it ceases to be effective is performed at the sole risk of **CONSULTANT**.

## 26. ALTERNATIVE DISPUTE RESOLUTION (Public Work):

If the SERVICES under this Contract involve a "public work" as defined under NRS 338.010(17), then pursuant to NRS 338.150, a public body charged with the drafting of specifications for a public work shall include in the specifications a clause requiring the use of a method of alternative dispute resolution ("ADR") before initiation of a judicial action if a dispute arising between the public body and the **CONSULTANT** engaged on the public work cannot otherwise be settled. Therefore, unless ADR is otherwise provided for by the parties in any other incorporated attachment to this Contract, in the event that a dispute arising between **CITY** and **CONSULTANT** regarding that public work cannot otherwise be settled, **CITY** and **CONSULTANT** agree that, before judicial action may be initiated, **CITY** and **CONSULTANT** will submit the dispute to non-binding mediation. **CITY** shall present **CONSULTANT** with a list of three potential mediators. **CONSULTANT** shall select one person to serve as the mediator from the list of potential mediators presented by **CITY**. The person selected as mediator shall determine the rules governing the mediation.

## 27. GOVERNING LAW / JURISDICTION:

This Contract and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada, without giving effect to any principle of conflict-of-law that would require the application of the law of any other jurisdiction. **CONSULTANT** consents and agrees to the jurisdiction of the courts of the State of Nevada located in Carson City, Nevada for enforcement of this Contract.

## 28. ENTIRE CONTRACT AND MODIFICATION:

This Contract and its integrated attachment(s) constitute the entire Contract of the parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other Contracts that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Contract specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language between any such attachment and this Contract shall be construed consistent with the terms of this Contract. Unless otherwise expressly authorized by the terms of this Contract, no modification or amendment to this Contract shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto and approved by the Carson City Board of Supervisors. Conflicts in language between this Contract and any other agreement between **CITY** and **CONSULTANT** on this same matter shall be construed consistent with the terms of this Contract. The parties agree that each has had their respective counsel review this Contract which shall be construed as if it was jointly drafted.

**PROFESSIONAL SERVICES CONSULTANT AGREEMENT**

**Contract No. 20300003-B**

**Title: Conflict Counsel, Maria E. Pence; Attorney at Law**

**29. ACKNOWLEDGMENT AND EXECUTION:**

This Contract may be executed in counterparts. The parties hereto have caused this Contract to be signed and intend to be legally bound thereby as follows:

**CITY**

Attn: Carol Akers, Purchasing & Contracts Administrator  
Purchasing and Contracts Department  
201 North Carson Street, Suite 2  
Carson City, Nevada 89701  
Telephone: 775-283-7362  
Fax: 775-887-2286  
[CAkers@carson.org](mailto:CAkers@carson.org)

**CITY'S LEGAL COUNSEL**

Carson City District Attorney  
I have reviewed this Contract and approve  
as to its legal form.

By: \_\_\_\_\_  
Sheri Russell, Chief Financial Officer

By: \_\_\_\_\_  
Deputy District Attorney

Dated \_\_\_\_\_

Dated \_\_\_\_\_

**CITY'S ORIGINATING DEPARTMENT**

**CONSULTANT will not be given authorization  
to begin work until this Contract has been  
signed by Purchasing and Contracts**

**BY:** Carol Akers  
Purchasing & Contracts Administrator

Account: 1010610 500361

By: \_\_\_\_\_

Dated \_\_\_\_\_

**PROFESSIONAL SERVICES CONSULTANT AGREEMENT**

**Contract No. 20300003-B**

**Title: Conflict Counsel, Maria E. Pence; Attorney at Law**

Undersigned deposes and says under penalty of perjury: That he/she is **CONSULTANT** or authorized agent of **CONSULTANT**; that he/she has read the foregoing Contract; and that he/she understands the terms, conditions and requirements thereof.

**CONTRACTOR**

**BY:** Maria E. Pence

**TITLE:** Attorney at Law

**CARSON CITY BUSINESS LICENSE #:** \_\_\_\_\_

**Address:** 1662 U.S. Hwy, Ste 203

**City:** Minden **State:** NV **Zip Code:** 89423

**Telephone:** 775-392-4084

**E-mail Address:** [pencelegaldefense@gmail.com](mailto:pencelegaldefense@gmail.com)

\_\_\_\_\_  
(Signature of Consultant)

**DATED** \_\_\_\_\_

**STATE OF** \_\_\_\_\_ )

)ss

**County of** \_\_\_\_\_ )

Signed and sworn (or affirmed before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
(Signature of Notary)

(Notary Stamp)

**PROFESSIONAL SERVICES CONSULTANT AGREEMENT**

**Contract No. 20300003-B**

**Title: Conflict Counsel, Maria E. Pence; Attorney at Law**

**CONTRACT ACCEPTANCE AND EXECUTION:**

The Board of Supervisors for Carson City, Nevada at their publicly noticed meeting of October 20, 2022 approved the acceptance of the attached Contract hereinbefore identified as **CONTRACT No. 20300003-B**. Further, the Board of Supervisors authorizes the Mayor of Carson City, Nevada to set his hand to this document and record his signature for the execution of this Contract in accordance with the action taken.

**CARSON CITY, NEVADA**

\_\_\_\_\_  
LORI BAGWELL, MAYOR

DATED this 20<sup>th</sup> day of October 2022.

**ATTEST:**

\_\_\_\_\_  
AUBREY ROWLATT, CLERK-RECORDER

DATED this 20<sup>th</sup> day of October 2022.

**PROFESSIONAL SERVICES CONSULTANT AGREEMENT**

**Contract No. 20300003-B**

**Title: Conflict Counsel, Maria E. Pence; Attorney at Law**

**SAMPLE INVOICE**

Invoice Number: \_\_\_\_\_

Invoice Date: \_\_\_\_\_

Invoice Period: \_\_\_\_\_

Invoice shall be submitted to:

Carson City District Court

Attn: Wendy Yang, [WYang@carson.org](mailto:WYang@carson.org)

885 East Musser St

Carson City NV 89701

Line Item #	Description	Unit Cost	Units Completed	Total \$\$
Total for this invoice				

Original Contract Sum \$ \_\_\_\_\_

Less amount previously billed \$ \_\_\_\_\_

= contract sum prior to this invoice \$ \_\_\_\_\_

Less this invoice \$ \_\_\_\_\_

=Dollars remaining on Contract \$ \_\_\_\_\_

**ENCLOSE COPIES OF RECEIPTS & INVOICES FOR EXPENSES & OUTSIDE SERVICES**



## Conflict Counsel Contract FY22-FY23

### I. CONTRACTOR SERVICES:

- a. The **CONTRACTOR** hereby agrees to perform the services of an attorney in the defense of indigent adults charged with a public offense and when the court for cause is required to disqualify the State Public Defender.
- b. The **CONTRACTOR** agrees to perform the services of an attorney for a child alleged to be delinquent or in need of supervision where the Court orders the appointment of an attorney in accord with NRS 62.085 and when the Court for cause is required to disqualify the State Public Defender.
- c. The **CONTRACTOR** agrees to perform the services of an attorney for a 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 **CONTRACTOR** pursuant to NRS 432B.420 and when the court for cause is required to disqualify the State Public Defender.
- d. The **CONTRACTOR** agrees to actively participate and attend meetings to adhere to the best practices and standards adopted by the First Judicial District Court, the First Judicial District Court - Juvenile Court Division, and the Carson City Justice/Municipal Court.
- e. The **CONTRACTOR** agrees to perform the services of an attorney for a person against whom proceedings are commenced to revoke any probation which was granted to that person, provided that the Court appoints **CONTRACTOR** on the matter to represent that person at the probation revocation proceedings and the person is indigent and when the Court for cause is required to disqualify the State Public Defender.
- f. The **CONTRACTOR** agrees to perform the duties required by NRS 260.050 (County public defenders).
- g. The **CONTRACTOR** agrees to perform the services of an attorney to represent a child or parent in any proceeding for terminating parental rights, or any rehearing or appeal where the Court orders the appointment of an attorney in accord with NRS 128.100 and when the Court for cause is required to disqualify the State Public Defender.
- h. The **CONTRACTOR** agrees to perform services of an attorney for fees pursuant to NRS 7.125 – 7.165 on cases appointed by the Court for the convenience of the Court, where there is no disqualification of the public defender.

### II. SCOPE OF WORK:

The parties agree that the scope of work for the **CONTRACTOR** shall be as follows:

- a. The **CITY** contracts with the **CONTRACTOR** to provide the professional and legal services of an attorney for conflict cases when the First Judicial District Court or the Carson City Justice/Municipal Court for cause is required to disqualify the State Public Defender.
- b. The **CONTRACTOR** shall provide all required professional services as necessary to satisfy the intended purposes of this Contract.

## Conflict Counsel Contract FY22-FY23

- c. Such services shall be performed in accordance with this Contract and shall not be altered except by written consent of both parties.
- d. The professional services described in the succeeding paragraphs must be performed in a professional, competent and effective manner given the law applicable to the particular matter for which legal services are being rendered and the applicable rules and standards of professional responsibility.
- e. The **CITY** is contracting for the professional services of the **CONTRACTOR**.
- f. **CONTRACTOR** must personally handle the cases in which **CONTRACTOR** has been appointed as counsel. However, in the event that **CONTRACTOR** is unable to personally appear at any stage of the court proceeding, **CONTRACTOR** may have another conflict counsel or, if **CONTRACTOR** practices law with a law firm, have another lawyer within **CONTRACTOR's** firm appear for **CONTRACTOR**, provided that **CONTRACTOR**, provided that **CONTRACTOR** has adequately briefed the appearing conflict counsel or lawyer to enable the appearing conflict counsel or lawyer to provide effective assistance of counsel. **CONTRACTOR** may not transfer the case to another attorney without substitution of counsel being approved by the court.
- g. However, no additional compensation shall be paid to the **CONTRACTOR** or the other lawyer in **CONTRACTOR'S** firm by virtue of this change.
- h. In performing the professional services described in the Scope of Work to be performed by the **CONTRACTOR** under this Contract shall be as follows:
  - i. Conduct interviews;
  - ii. Perform or supervise the performance of necessary investigation;
  - iii. Conduct necessary preparation;
  - iv. Promptly appear at all Court hearings concerning the assigned matter including, but not limited to, preliminary hearing, arraignment, pretrial writ or motion hearings, trial and sentencing as required to provide a full professional defense of the matter;
  - v. Be required to represent the person in the assigned matter on any appeal to the First Judicial District Court or Nevada Supreme Court whether based upon a preliminary matter, final judgment, or other matters required in this Contract.
  - vi. **CONTRACTOR** shall represent indigent defendants on all matters deemed appropriate by the Court and any other pending or trailing matter that the State Public Defender was previously appointed.
  - vii. The **CONTRACTOR** agrees to staff and maintain an office in Carson City, Nevada and furnish to the Justice Courts, District Courts, Specialty Courts, Juvenile Court, Sheriff's Department and District Attorney a telephone number for use after normal office hours in

## Conflict Counsel Contract FY22-FY23

any emergency that may arise where the **CONTRACTOR'S** services are requested pursuant to the terms of this contract.

### III. PROCEDURAL PROVISIONS:

If, in the interests of justice, the **CONTRACTOR** is required to substitute out of an assigned case, the **CONTRACTOR** shall petition the Court for approval of the substitution.

- a. The Court will make reasonable efforts to appoint and substitute in one of the **CONTRACTORS** in the **CITY'S** contracted conflict counsel.
- b. **CONTRACTOR** shall be allowed to substitute out of an assigned case if the Defendant of the assigned case has sought to retain **CONTRACTOR** prior to, or before knowledge of, the assignment. **CONTRACTOR** shall notify the Court in writing of the conflict, and the Court will make reasonable efforts to appoint and substitute in one of the **CONTRACTORS** in the City's contracted conflict counsel.
- c. If the **CITY'S** other contract **CONTRACTORS** cannot properly be substituted into the **CONTRACTOR'S** assigned case, the Court may appoint and order the compensation of a non-contract lawyer.
- d. The Indigent Defense Coordinator may request periodic time summaries from the **CONTRACTOR** in a form prescribed by the Indigent Defense Coordinator.
- e. These time summaries will report the amount of time necessary and reasonable spent for travel, investigation, research, trial preparation and hearings as well as trials.
- f. These time summaries will be provided to the Indigent Defense Coordinator at the conclusion of each assigned case. The time summaries may be requested by the Court.
- g. These time reports may be made available by the Indigent Defense Coordinator for audit by the **CITY'S** representative.
- h. If any State statute in effect now or hereinafter enacted requires public defenders to provide certain information or reports, **CONTRACTOR** agrees to provide and maintain that information at no additional cost to the **CITY**.
- i. **CONTRACTOR** is not required to provide any information which would compromise client confidentiality or violate any laws or rules of professional conduct. In case of a dispute, the **CONTRACTOR** should attempt to resolve the matter with the Court Administrator, or his or her designee and, if necessary, the Board of Supervisors.
- j. Nothing in this section shall be construed in a manner that requires violating the confidence of the client or the attorney-client privilege contained in Court rules or statutes.

## Conflict Counsel Contract FY22-FY23

### IV. MISCELLANEOUS PROVISIONS:

- a. The **CITY** and the **CONTRACTOR** acknowledge that the City may contract with other lawyers in the same manner and for the same purposes as **CONTRACTOR**.
- b. It is agreed by the **CITY** and the **CONTRACTOR** that this Contract, if entered into, will enable appointments to be made by the Court, on a rotating basis and to eliminate appointment of **CONTRACTOR** in a matter that would create a conflict of interest for **CONTRACTOR** in a particular matter.
- c. When **CONTRACTOR** is appointed as counsel in any case, **CONTRACTOR** must, within 1 day of being appointed, run a conflict check and inform the appointing court if **CONTRACTOR** has a conflict.
- d. Causes of action between the parties to this Contract pertaining to acts or failures to act shall be deemed to have accrued and the applicable statutes of limitations shall commence to run not later than either the date of completion for acts or failures to act occurring prior to completion, or the date of final payment, to the **CONTRACTOR** in a particular manner.
- e. The **CITY** and the **CONTRACTOR**, respectively, bind themselves, their partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Contract.
- f. **CONTRACTOR** may engage in the private practice of law which does not conflict with **CONTRACTOR'S** professional services as Conflict Counsel pursuant to this Contract.
- g. If **CONTRACTOR** is required to substitute out of an assigned case, **CONTRACTOR** shall comply with Procedural Provisions within the Scope of Work section of this Contract and with the applicable statutes and court rules .
- h. This Contract represents the entire and integrated agreement between the City and **CONTRACTOR** and supersedes all prior negotiations, representations, contracts, or agreements, either written or oral.
- i. This Contract may be amended only by written instrument signed by both the **CITY** and the **CONTRACTOR**.
- j. Nothing contained in this Contract shall create a contractual relationship with or a cause of action in favor of a third party against either the **CITY** or **CONTRACTOR**.

### V. CONSIDERATION:

#### Monthly Payments:

- a. From November 1, 2022 through June 30, 2023 - The **CITY** agrees to pay the **CONTRACTOR** and the **CONTRACTOR** agrees to accept as full compensation for the performance of legal services under this contract the sum of Fourteen Thousand Five Hundred Eighty Three Dollars and Thirty-Four Cents (\$14,583.34) per month.

## Conflict Counsel Contract FY22-FY23

- b. The **CONTRACTOR** must submit a monthly billing to the First Judicial District Court, Attention: Wendy Yang, 885 Musser Street, Suite 2007, Carson City, NV 89701 or by email to WYang@carson.org and CFischer@carson.org. **CITY** has up to 30 days to process payment to **CONTRACTOR** for services rendered.
- c. In the event that a billing is for services provided to an inmate of the Nevada State Prison system, the billing shall state this information so that the **CITY** will be able to obtain reimbursement from the State of Nevada pursuant to NRS 212.070.
- d. The Indigent Defense Coordinator may appoint **CONTRACTOR** under the contract in lieu of the State Public Defender's Office if the **CONTRACTOR** previously represented the defendant.
- e. Billing statement must include; monthly billing costs, hours and rates for special cases pursuant to NRS 7.125 and that have been approved by the Judge. The compensation specified in Monthly Payments (a-d) is in lieu of the statutorily prescribed fees codified in NRS 7.125.
- f. However, if in a particular case the **CONTRACTOR** believes that the complexity of a case, the number of the factual or legal issues in a case, the severity of the offense, the time necessary to provide an adequate defense, or other special circumstances warrant an award of extraordinary fees in excess of the monthly fee paid to **CONTRACTOR** under sections (a)-(d), the **CONTRACTOR** may apply to the Indigent Defense Coordinator for additional fees as provided in the Carson City Indigent Defense Plan. These extraordinary fees may only be awarded if the Indigent Defense Coordinator or the court in which the representation was rendered finds that the amount of the excess, extraordinary payment is both reasonable and necessary to the representation of the client in the case.
- g. **CONTRACTOR** will not request Extraordinary Fees when appointed on Category A felony cases until 25 hours of work has been conducted.
- h. **CONTRACTOR** agrees to indicate that 25 hours of work has been performed and \$2,500.00 deducted from the total Extraordinary Fee Request when submitting these requests.
- i. The **CITY** must receive from **CONTRACTOR** notice of a request to the court for extraordinary fees when such a request is made. Under NRS 7.145 a claim for extraordinary compensation and expenses must not be paid unless it is submitted within 60 days after the appointment is terminated to the Indigent Defense Coordinator. It is hereby agreed by **CONTRACTOR**, **CITY** and **COURT** that **CONTRACTOR** shall submit notice of a request for extraordinary fees to **CITY** when a request for extraordinary fees is submitted to the Indigent Defense Coordinator. These provisions allow the **CITY** to adhere to minimum accounting standards and to properly budget and account for these services.
- j. The **CONTRACTOR** may secure pre-authorization or reimbursement for extraordinary investigative costs, costs required to secure experts, or costs for other services that are reasonable and necessary for a client's defense in any assigned matter, in the manner codified in NRS 7.135, 7.145 and 7.155 and under the Carson City Indigent Defense Services Plan.
- k. The expense of office space, furniture, equipment, supplies, routine investigative costs and secretarial services suitable for the conduct of the **CONTRACTOR'S** practice as required by this

## Conflict Counsel Contract FY22-FY23

contract are the responsibility of the **CONTRACTOR** and are part of **CONTRACTOR'S** compensation paid pursuant to Monthly Payments of this contract and as provided in NRS 260.040(5).

- l. Mileage and travel expenses of the **CONTRACTOR** are the responsibility of the **CONTRACTOR** and are part of the compensation paid pursuant to Monthly Payments.
- m. The **CITY** does not agree to reimburse **CONTRACTOR** for expenses unless otherwise specified in this Contract.

### VI. REQUIREMENTS OF THE DEPARTMENT OF INDIGENT DEFENSE ("DIDS"):

- a. **CONTRACTOR** must comply with the requirements of DIDS for the provision of services to indigent persons in cases described by NRS 180.004 (an adult charged with a criminal offense for whom the appointment of counsel is ordered, or a child (minor) who is alleged to be delinquent or in need of supervision under NRS Title 5), including the workload and reporting requirements of DIDS. **CITY** may request case information reported to DIDS from DIDS or from **CONTRACTOR**.
- b. **CONTRACTOR** must comply with the Carson City Indigent Services Plan, as may be amended.
- c. **CONTRACTOR** must be registered with DIDS and meet the DIDS qualifications for representation of indigent persons.
- d. **CONTRACTOR** must provide legal representation under this **CONTRACT** to all clients in a professional, skilled manner consistent with all applicable regulations, laws, Rules of Professional Conduct, and the Nevada Indigent Defense Standards of Performance adopted by the October 16, 2008 Nevada Supreme Court Order in Administrative Docket 411.
- e. **CONTRACTOR** must generally advise a clients not to waive any substantive rights or plead guilty at the initial appearance unless, in the **CONTRACTOR's** judgment, to do otherwise is in the client's best interest.
- f. **CONTRACTOR** must make a reasonable efforts to meet with a client within the first 7 days following the appointment of **CONTRACTOR** as counsel in the case, and may a reasonable effort to communicate with a client at least every 30 days thereafter, unless in the **CONTRACTOR'S** judgment there are no significant updates in the client's case.