

**CONTRACT FOR PUBLIC ATTORNEY SERVICES
FOR INDIGENT DEFENDANTS**

THIS CONTRACT is being entered into this _____ day of _____, 2010, by and between the CITY OF LAS VEGAS (hereinafter the "City"), a municipal corporation within the State of Nevada having its principal office at 400 Stewart Avenue, Las Vegas, Nevada 89101, and Phung H. Jefferson, Esq., PC (hereinafter the "Company") having its principal office located at 6847A W. Charleston Blvd., Las Vegas, Nevada 89117.

SECTION A – Contract Form

The subject matter of this Contract is the Public Attorney Services for Indigent Defendants for Municipal Court Department One located at the Regional Justice Center, 200 Lewis Avenue, Las Vegas, Nevada 89101.

SECTION B – Basic Terms

B-1 Definitions

The following definitions apply to this Contract:

- (a) "*Alternate Public Attorney*" means the individual retained by the Public Attorney, performing services in connection with the criminal defense of indigent defendants, under the supervision of the Public Attorney, possessing the same qualifications and experience as the Public Attorney, and subject to the same standards and accountability. Alternate Public Attorneys are included whenever the term Public Attorney/Company is used unless the use of Public Attorney/Company suggests otherwise.
- (b) "*Award Date*" means the date that a Contract becomes effective. It is the date that is entered into the first paragraph of a Contract upon execution by an authorized representative of the City.
- (c) "*City*" means the City of Las Vegas.
- (d) "*City Council*" means the governing body of the City of Las Vegas.
- (e) "*Company*" means the individual, partnership, or corporation responsible for the performance of services under this Contract.
- (f) "*Company Representative*" means the individual authorized to act on behalf of the Company regarding routine matters arising under or relating to this Contract.
- (g) "*Contract*" means this document, consisting of Sections A through F, which is binding and effective only upon execution by the City.
- (h) "*Contract Administrator*" means the City representative who is responsible for the coordination of Contract performance between the City and the Company.
- (i) "*Deliverable*" means any report, software, hardware, data, documentation, or other tangible item that the Company is required to provide to the City under the terms of the Contract.
- (j) "*Indigent Defendant*" means an individual with all gross income less than the Poverty Guidelines defined in Attachment 3.
- (k) "*Non-exclusive Contract*" means a Contract under which the City agrees to obtain some, but not necessarily all, of the City's requirements for a particular service.
- (l) "*Public Attorney*" means the individual employed by the Company who is primarily responsible on behalf of the Company for the performance of the indigent defendant services required herein.
- (m) "*Reimbursable Expenses*" means those expenses pursuant to the application procedure and limitations set forth in NRS 7.135 and 7.145.

B-2 Contract Type

The Contract type is Firm Fixed Price. This is a Non-Exclusive Contract.

B-3 Prices/Costs

(a) The City will pay the Company the following amounts:

<u>Item No.</u>	<u>Description</u>	<u>Amount</u>
1	Retainer for Public Attorney Services	\$6,825 per department, per month
2	Reimbursable Expenses	Pursuant to NRS 7.135 and 7.145

Reimbursable Expenses: Pursuant to the application procedure and limitations set forth in NRS 7.135 and 7.145, the Public Attorney is entitled to be reimbursed for reasonably incurred expenses for investigative, expert or other services as may be necessary for an adequate defense. In order to be eligible for reimbursement, written approval from the Municipal Court Judge is required prior to incurring such expenses.

B-4 Invoices

(a) The Company shall be paid the Retainer amount specified in B-3 above without the requirement for invoice submittal to the City. If Reimbursable expenses are authorized by the Municipal Court Judge, the request for reimbursement shall be submitted on an invoice to the City pursuant to NRS 7.145. The invoice must be supported by a sworn statement specifying the time expended in court, the services rendered out of court and the time expended therein, the expenses incurred while the case was pending and the compensation and reimbursement applied for or received in the same case from any other source. In addition, all invoices should identify the following items:

- (i) the date of the invoice; and
- (ii) the associated purchase order number

Upon reconciliation of all errors, corrections, credits, and disputes, payment to the Company will be made in full within 30 calendar days. **Invoices received without a valid purchase order number will be returned unpaid.** The Company shall submit an original invoice to:

Department of Finance and Business Services
ATTN: Accounts Payable
City of Las Vegas
400 Stewart Ave.
Las Vegas, NV 89101 – 2986

(b) The Company shall forward a copy of the original invoice to the City's Contract Administrator identified in Paragraph D-2 (Contract Administrator/Company Representative).

B-5 Performance Period

(a) The performance period commences from Date of Award and continues through June 30, 2011, unless extended through mutual agreement by both parties.

(b) This Contract is renewable, upon mutual consent, for two (2) additional one (1) year periods. The City shall give the Company 90 (ninety) days notice of intent to renew the Contract. The Company shall give the Contract Administrator at least 120 (one hundred twenty) days notice of intent not to renew the Contract. If the Company desires to terminate the Agreement during its term, it is agreed that written notice of that intent shall be given at the earliest possible time, to facilitate transition of Indigent Defendant representation. Failure of the Company to give ninety days written notice of termination, or of the Company's decision not to renew the Contract, which would require an additional expense to the City to hire a replacement attorney(s), empowers the City to offset the cost thereof against any compensation owed and owing the Company for prior rendered services.

SECTION C – Statement of Work

C-1 Scope of Services

(a) The Company shall provide indigent defense services.

1. The Public Attorney shall, upon determination of Indigent status eligibility, perform services in connection with the criminal defense of indigent defendants assigned by the courts exercising jurisdiction in the City of Las Vegas. The Public Attorney shall comply with all Nevada Supreme Court Orders and Performance Standards relative to the representation of the Indigent Defendants.
2. In those cases to which the Public Attorney is assigned, such Attorney shall provide the necessary criminal investigations, trial preparation and defense so as to provide full professional defense of such cases and as required shall include, but not be limited to, interviews with advice to indigent defendants and witnesses, the performance of legal research, the interpretation and application of laws, court decisions and legal point and authorities for the use and preparation of cases, contacting agencies regarding the collection of facts and evidence, attendance at arraignments, pre-trial hearings, the conduct of trials, the necessary filing and prosecution of appeals from the assigned department, the attendance at sentencing, and communication with Alternative Sentencing and Education concerning counseling.
3. The Public Attorney shall render professional services in complete compliance with the Nevada Rules of Professional Conduct. Further, the Public Attorney shall provide a level of representation demonstrating the same level of competency, diligence and fidelity to the Indigent Defendant as would be expected of an attorney in a private criminal defense practice. The sufficiency of the Public Attorney communication with the Indigent Defendant will be evaluated by the same standards.
4. Until released as counsel of record, the Public Attorney shall be obligated to conclude all cases assigned to him/her including sentencing, modifications/clarifications and remands even if such case or cases shall extend beyond the time period of this contract and Public Attorney shall do so within the compensation amount established in Section B-3 of the contract.
5. The Public Attorney shall adhere to the Court's procedures for determination of the initial and continuing financial eligibility of Indigent Defendants for appointed representation. If the Public Attorney becomes aware that false information regarding eligibility has been submitted or that a subsequent change in an Indigent Defendant's financial circumstance would make reconsideration of the appointment appropriate, the Public Attorney shall be obliged to recommend that further financial suitability review be conducted.
6. Until released as counsel of record, the Public Attorney shall maintain an independent file for each Indigent Defendant appointed. All such files must be maintained for a period of seven years following termination of representation, unless transferred to subsequent Public Attorney, following the final disposition of that case. Indigent Defendant access to the Public Attorney's file shall be in compliance with the standards for private representation of clients. All original files shall be promptly surrendered to the Court Administrator in the event the contract for Public Attorney services is terminated by the Public Attorney, by the City, or by an event of non-renewal of the contract.
7. The Public Attorney shall provide traffic court rotation coverage. The Public Attorney(s) selected to perform services in accordance with the Municipal Court Department defined herein shall provide duties related to traffic court on a rotational basis and as such, shall be on-call when serving in this capacity during the rotation period.
8. The Public Attorney shall submit a monthly report, using Attachment 5, "Public Attorney (PA) Monthly Report Form", to the Contract Administrator by the 5th of the month following performance of the services for the previous calendar month. The report shall indicate the Department assigned, the court calendar dates, the Attorney name performing Public Attorney services on the court calendar dates, and other pertinent information.
9. The Public Attorney is obligated to notify the Contract Administrator via Attachment 4 "Additions and/or Deletions to Alternate Public Attorney Information" of any proposed additions to Alternate Public Attorneys. Deletion of Alternate Public Attorneys are to be submitted no later than 5 days after the last date of service. All additions are subject to approval by the City.

10. All Public Attorneys and Alternate Public Attorneys are required to submit their fingerprints within thirty (30) days of approval for a background check. The fingerprint submission must be done at the City of Las Vegas Human Resources Department. Appointments will be arranged through the Contract Administrator.
11. Additional requirements shall apply to the specific Judicial Departments subject to modification by the court upon consultation with the Public Attorney.

C-2 Deliverables

The Company shall submit a monthly report, Attachment 5, "Public Attorney (PA) Monthly Report Form", to the Contract Administrator.

SECTION D – Special Clauses

D-1 Legal Notice [CAO-7/24/08]

- (a) All legal notices required pursuant to the terms and conditions of this Contract shall be in writing, unless an emergency situation dictates otherwise. Any notice required to be given under the terms of this Contract shall be deemed to have been given when:

- (i) received by the party to whom it is directed by hand delivery or personal service, or
- (ii) transmitted by facsimile with confirmation of transmission, or
- (iii) sent by U.S. mail via certified mail-return receipt requested at the following addresses:

FOR THE CITY: City of Las Vegas
 Manager, Purchasing and Contracts
 City Hall, First Floor
 400 Stewart Avenue
 Las Vegas, Nevada 89101-2986
 Fax: (702) 384-9964

FOR THE COMPANY: Phung H. Jefferson, Esq., PC
 Phung H. Jefferson
 6847A W. Charleston Blvd.
 Las Vegas, Nevada 89117
 Fax: 702-382-4071

- (b) The parties shall provide written notification of any change in the information stated above.
- (c) An original signed copy, via U. S. Mail, shall follow facsimile transmissions.
- (d) For purposes of this Contract, legal notice shall be required for all matters involving changes in the scope of services, contract terms, potential termination actions, litigation, indemnification, and unresolved disputes. This does not preclude legal notice for any other actions having a material impact on the Contract.
- (e) Routine correspondence should be directed to the Project Manager or the Company Representative, as appropriate.

D-2 Project Manager/Company Representative [CAO-7/24/08]

- (a) The City designates Brian Knudsen, Administrative Officer, as the Project Manager for this Contract. The City will provide written notice to the Company, should there be a subsequent Project Manager change. The Project Manager will be the Company's principal point of contact at the City regarding any matters relating to this Contract, will provide all general direction to the Company regarding Contract performance, and will provide guidance regarding the City's goals and policies. The Project Manager is not authorized to waive or modify any material scope of work changes or terms of the Contract.

- (b) The Company designates Jeannie Hua as the Company Representative for this Contract. The Company will provide written notice to the City, should there be a subsequent Company Representative change. The City has the right to assume that the Company Representative has full authority to act for the Company on all matters arising under or relating to this Contract.

D-3 Private Criminal and Civil Practice of Law

In addition to the services defined in this contract, the Public Attorney is entitled to maintain a private criminal and civil practice of law, with two limitations. First, the Public Attorney is obliged to limit the volume of his private practice to the extent necessary to adequately perform these contract services. Second, the Public Attorney must decline representation of any client when such representation would present a conflict with the contract services rendered by the City. The City may waive potential conflicts of interest known to the Public Attorney only when the Public Attorney has presented a written description of all relevant factors to the Contract Administrator and received written authorization from the Municipal Court Judge to continue the representation in question.

D-4 Warranty – Services [CAO-7/24/08] R

The Company warrants that the services shall be performed in full conformity with this Contract, with the professional skill and care that would be exercised by those who perform similar services in the commercial marketplace, and in accordance with accepted industry practice. In the event of a breach of this warranty and/or in the event of non-performance and/or failure of the Company to perform the services in accordance with this Contract, the Company shall, at no cost to the City, perform the services so that the services conform to the warranty.

D-5 Notice of Disciplinary Action

The Public Attorney is further obligated to promptly forward to the Contract Administrator any notice of disciplinary sanction served by the State Bar of Nevada upon the Public Attorney. Further, the Public Attorney must promptly forward any notice of resolution of such disciplinary actions to the Contract Administrator and make a status report on any disciplinary action upon request by the Contract Administrator and provide a monthly status report on any disciplinary action until resolution.

D-6 License to Practice Law

The Public Attorney must, at all times, maintain in good standing a license to practice law in Nevada which authorizes the Public Attorney to appear on behalf of the Indigent Defendants assigned by the City in the City's Municipal Court, the Eighth Judicial District Court and the Nevada Supreme Court. The Public Attorney is obligated to immediately inform the Contract Administrator of any limitation, suspension or revocation of the necessary licensure status.

D-7 Employment of Governmental Attorneys

The Company hereby acknowledges that pursuant to NRS 7.105, the Attorney General and every city attorney, district attorney, and the deputies and assistants of each, hired or elected to prosecute persons charged with the violation of any ordinance of any law of this state, shall not during their term in office or during the time they are so employed, accept an appointment to defend, agree to defend or undertake the defense of any person charged with the violation of any ordinance or law of this state, which includes working as a Public Attorney or Alternate Public Attorney and performing the services required herein.

If, in performing the services required under this Contract, the Company intends to hire an attorney who at the time of the execution of this Contract is employed by the Attorney General of the State of Nevada, or any District Attorney or City Attorney within this state, the Company shall not allow such attorney to perform any of the services required herein until that person is no longer employed by the Attorney General, District Attorney or City Attorney, whichever is applicable.

D-8 Licenses/Registrations [CAO-7/24/08]

During the entire performance period of this Contract, the Company and the Public Attorney shall maintain in good standing federal, state and local licenses, certifications and registrations applicable to the work performed under this Contract, including maintaining an active City of Las Vegas business license.

D-9 Order of Precedence [CAO-7/24/08]

In the event of a conflict between the specific language set forth in Sections B through E of this Contract and any Attachment or Exhibit set forth in Section F, the specific language in Sections B through E shall prevail. Any exception to this order of precedence will be addressed through specific language elsewhere in Sections B through E.

D-10 SCOPE Information

Regarding Shared Computer Operations for Protection and Enforcement system (SCOPE):

- (a) The Public Attorney is not authorized to, and shall not, disseminate the information to any other party in any manner, orally or in written form (NRS 179A.110);
- (b) Failure to adhere to the terms and/or conditions as set forth above could result in the discontinuation of the availability of criminal histories, termination of the Contract and/or prosecution.

SECTION E – General Clauses

E-1 Disputes [CAO-7/25/08]

- (a) For each claim or dispute arising between the parties under this Contract, the parties shall attempt to resolve the matter through escalating levels of management. In the event the matter cannot be successfully resolved in this manner, the City is granted the right, regardless of which party is asserting the claim or dispute, to determine between arbitration or litigation as the forum in which the party desiring to proceed further shall file to resolve the claim or dispute. For any and all claims or disputes asserted by the Company, the Company shall notify the City of its intent to proceed further with the claim or dispute, and in response thereto, the City shall notify the Company as to its selected forum for resolution. For any and all claims or disputes asserted by the City, the City shall notify the Company in the notice of its intent to proceed with further resolution and in the same notice as to whether it has selected arbitration or litigation as the forum to resolve the claim or dispute. In the event arbitration is the designated forum, such arbitration shall be binding on the parties.
- (b) If arbitration is selected by the City as the forum for further resolution, the claim or dispute shall be filed with the Nevada Arbitration Association or the American Arbitration Association under its then current Commercial Arbitration Rules, Expedited Procedures, regardless of the amount of the claim or dispute.
- (c) The laws of the State of Nevada shall govern this Contract and the venue for purposes of such litigation or arbitration shall be in the City.

E-2 Termination for Convenience [CAO-7/24/08] R

The City shall have the right at any time to terminate further performance of this Contract, in whole or in part, for any reason whatsoever (including no reason). Such termination shall be effected by written notice from the City to the Company, specifying the extent and effective date of the termination. On the effective date of the termination, the Company shall terminate all work and take all reasonable actions to mitigate expenses. The Company shall submit a written request for incurred costs for services performed through the date of termination, and shall provide any substantiating documentation requested by the City. In the event of such termination, the City agrees to pay the Company within 30 days after receipt of a correct, adequately documented written request. The City's sole liability under this Paragraph is for payment of the current month Retainer for the services and current month Reimbursable Expenses authorized by the Municipal Court Judge.

E-3 Termination for Default [CAO-7/24/08] R

- (a) The City may, by written notice of default to the Company, terminate this Contract in whole or in part if the Company fails to:
 - (i) Perform the services under Section C (Statement of Work), including delivering any required documentation within the time specified in this Contract or any extension; or
 - (ii) Perform any of the other provisions of this Contract; or
 - (iii) Provide an Alternate Public Attorney in case of absence of scheduled Public Attorney; or

- (iv) Remain free of violations of the Rules of Professional Conduct and/or disciplinary sanctions as set forth in SCR 102(1) – (7) inclusive.
- (b) The City's right to terminate this Contract under (a) above, may be exercised if the Company does not cure such failure within ten calendar days (or more if authorized by the City) after notice, specifying the failure, is provided pursuant to the Paragraph D-1 (Legal Notice) of this Contract.
- (c) If the City terminates this Contract for default in whole or in part, it may acquire, under reasonable terms and in the manner the City considers appropriate, services similar to those terminated, and the Company shall be liable to the City for any excess costs for those services. However, the Company shall continue the work not terminated.
- (d) The Company shall not be liable for any excess costs if the failure to perform the Contract arises from circumstances beyond the control and without the fault or negligence of the Company. These circumstances are limited to such causes as (1) acts of God or of the public enemy, (2) acts of governmental bodies, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) labor strikes, (8) freight embargoes, or (9) unusually severe weather. The time of performance of the Company's obligations under this Contract shall be extended by such period of enforced delay; provided, however, that such reasonably extended time period shall not exceed 60 days. If the foregoing circumstances result in a delay greater than 60 days, the City may terminate the affected portion of the Contract pursuant to the terms of Paragraph E-2 (Termination for Convenience).
- (e) Either party may terminate this Contract, in whole or in part, if the other party becomes insolvent or bankrupt or makes an assignment for the benefit of creditors, or if a receiver or trustee in bankruptcy is appointed for the other party, or if any proceeding in bankruptcy, receivership, or liquidation is instituted against the other party and is not dismissed within 30 days following commencement thereof.
- (f) The City retains the right to terminate for default immediately should the Company fail to maintain the required levels of insurance, fail to comply with applicable local, state, and Federal statutes governing performance of these services, fail to comply with statutes involving health or safety or fail to have an Alternate Public Attorney appear in the absence of the assigned Public Attorney.

E-4 Insurance [CAO-1/12/09]

- (a) The Company shall procure and maintain, at its own expense, during the entire term of the Contract, the following coverage(s):
 - (i) Industrial/Workers' Compensation Insurance protecting the Company and the City from potential Company employee claims based upon job-related sickness, injury, or accident, during performance of this Contract, and must submit proof of such insurance to the City on a certificate of insurance issued by an insurer qualified to underwrite workers' compensation insurance in the State of Nevada, in accordance with NRS 616A-616D, inclusive. If Company is a sole proprietor, it will be required to submit an affidavit indicating that the company has elected not to be included in the terms, conditions and provisions of NRS 616A-616D, inclusive, and is otherwise in compliance with those terms, conditions and provisions.
Sole Proprietorships must execute the Affidavit - Declaration of Sole Proprietor, Attachment 2 in lieu of providing said insurance.
 - (ii) Commercial General Liability Insurance (bodily injury, property damage) with respect to the Company's agents assigned to the activities performed under this Contract in a policy limit of not less than \$1,000,000.00 per occurrence and \$2,000,000.00 in the aggregate, for bodily injury (including death), personal injury and property damages. Such coverage shall be on an "occurrence" basis and not on a "claims made" basis, and be provided on either a Commercial General Liability or a Broad Form Comprehensive General Liability (including a Broad form CGL endorsement) insurance form. The form must be written on an ISO Form CG 00 01 10 01, or an equivalent form.
 - (iii) Commercial Automobile Liability Insurance of limits no less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage to include, but not be limited to, coverage against all insurance claims for injuries to persons or damages to property which may arise from services rendered by Company and any auto used to the performance of services

under this Contract. The policy must insure all vehicles **owned** by the Company and include coverage for **hired** and **non-owned** vehicles.

If the services requested do not require the use of vehicle to perform, Commercial Automobile Liability Insurance requirements, as described in (iii) above, do not apply.

- (iv) Professional Liability Insurance (only if the contract is for professional services) of limits no less than \$1,000,000, combined single limit and in the aggregate. If coverage is on a "claims made" basis, then it must continue for a period of two years beyond the completion or termination of this Contract. Any retroactive coverage must coincide with or predate the beginning of this Contract and may not be changed without the consent of the City.
- (b) The Company shall deliver certificate(s) of insurance in ACORD form, and endorsements indicating that such coverage required by this Contract is in effect shall be delivered to Insurance Tracking Services, Inc. (ITS), the City's authorized representative, within three days after the Award Date of this Contract, or before work commences, whichever is earliest. All policy certificates and endorsements are required to be an agent authorized by that insurer and who is licensed by the State of Nevada. All required aggregate limits must be disclosed and amounts entered on the certificate(s) of insurance. The certificates must identify the Contract number and the Contract description. The Company shall maintain coverage for the duration of this Contract, and any renewal periods, if applicable. The Company shall annually provide ITS with a certificate of insurance as evidence that all insurance requirements have been met. The Company and/or insurance carrier shall provide the ITS with a 30 day advance notice of policy modification, cancellation or erosion of insurance limits, sent by certified mail "return receipt requested".

Submit certificates of insurance to:

City of Las Vegas
C/O Insurance Tracking Services, Inc. (ITS)
P.O. Box 21919
Long Beach, CA 90801

Account Manager: Michael Palacios
Phone: (888) 435-2955 ext. 503 • Fax: 562-435-2999
Email: michael.palacios@instracking.com

A certified, true and exact copy of each of the project specific insurance policies (including renewal policies) required under this Section E-5 shall be provided to the City if so requested.

- (c) The City, its officers and employees shall be named as additional insureds and such notation shall appear on the certificate of insurance furnished by the Company's insurance carrier. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer and licensed by the State of Nevada. Each insurance carrier's rating as shown in the latest Best's Key Rating Guide shall be fully disclosed and entered on the required certificate of insurance. The City requires insurance carriers to maintain a Best's Key rating of A VII, or higher. The adequacy of the insurance supplied by the Company, including the rating and financial health of each insurance carrier providing coverage, is subject to the approval of the City.
- (d) All deductibles and self-insurance retentions shall be fully disclosed in the certificate of insurance. No deductible or self-insured retention may exceed \$10,000.00 without the prior written approval of the City.
- (e) If the Company fails to carry the required insurance, the City may (i) order the Company to stop further performance hereunder, declare the Company in breach, pursuant to Paragraph E-4, terminate the Contract if the breach is not remedied and, if permitted, assess liquidated damages, or (ii) purchase replacement insurance and withhold the costs or premium payments made from the payments due to the Company or charge the replacement insurance costs back to the Company.
- (f) Any subcontractor or subconsultant approved by the City shall be required to procure, maintain and submit proof of insurance to the City of the same insurance requirements as specified above, and as required in this paragraph.
- (g) The Company is encouraged to purchase any additional insurance as it deems necessary.

- (h) The Company is required to remedy all injuries to persons and damage or loss to any property of the City, caused in whole or in part by the Company, its subcontractors or anyone employed, directed or supervised by the Company.
- (i) The policies required in E-5 (a) i-iii shall have a Waiver of Subrogation provision endorsement in favor of the City of Las Vegas.

E-5 Indemnification [CAO-7/24/08]

- (a) In addition to the insurance requirements set forth in Paragraph E-4 (Insurance), the Company shall protect, indemnify and hold harmless the City, its officers, employees, agents, and consultants (collectively herein the "City") harmless from any and all claims, liabilities, damages, losses, suits, actions, decrees, and judgments including, attorney's fees, court costs or other expenses of any and every kind or character (collectively herein the "Liabilities") which may be recovered from or sought against the City, as a result of, by reason of, or as a consequence of, any act or omission, negligent or otherwise, on the part of the Company, its officers, employees, or agents in the performance of the terms, conditions and covenants of the Contract, regardless of whether the Liabilities were caused in part by the City.
- (b) If a third party claim against the City for negligent performance by the Company is within the limits of its liability insurance and the insurance company has accepted the City's tender of defense, then the City will pay the Company what is due and owing to them, within the payment method specified in this Contract. However, if the claim is greater than the coverage amount, the City, for its protection, may retain any money due and owing the Company under this Contract, until the claim has been resolved. In the event no money is due and owing, the surety, if required, of the Company, may be held until all of the Liabilities have been settled and suitable evidence to that effect furnished to the City.
- (c) It is expressly agreed that the Company shall defend the City, against the Liabilities and in the event that the Company fails to do so, the City shall have the right, but not the obligation, to defend the same and to charge all direct and incidental costs, including attorney's fees and court costs, to the Company.

E-6 Assignment [CAO-7/24/08]

Neither party may assign their rights nor delegate their duties under this Contract without the written consent of the other party. Such consent shall not be withheld unreasonably. Any assignment or delegation shall not relieve any party of its obligations under this Contract.

E-7 Waiver [CAO-7/24/08]

Waiver of any of the terms of this Contract shall not be valid unless it is in writing signed by each party. The failure of the City to enforce any of the provisions of this Contract, or to require performance of any of the provisions herein, shall not in any way be construed as a waiver of such provisions or to affect the validity of any part of this Contract, or to affect the right of the City to thereafter enforce each and every provision of this Contract. Waiver of any breach of this Contract shall not be held to be a waiver of any other or subsequent breach of this Contract.

E-8 Taxes/Compliance with Laws [CAO-7/24/08]

- (a) The City is exempt from paying Sales and Use Taxes under the provisions of Nevada Revised Statutes 372.325(4), and Federal Excise Tax, under Registry Number 88-87-0003k. The Company shall pay all taxes, levies, duties and assessments of every nature and kind, which may be applicable to any work under this Contract. The Company shall make any and all payroll deductions required by law. The Company agrees to indemnify and hold the City harmless from any liability on account of any and all such taxes, levies, duties, assessments and deductions.
- (b) The Company in the performance of the obligations of this Contract shall comply with all applicable laws, rules and regulations of all governmental authorities having jurisdiction over the performance of this Contract including, but not limited to, the Federal Occupational Health and Safety Act, and all state and federal laws prohibiting and/or relating to discrimination by reason of race, sex, age, religion or national origin.

E-9 Audit of Records [CAO-8/5/08]

- (a) The Company agrees to maintain the financial books and records (including supporting documentation) pertaining to the performance of this Contract according to standard accounting principles and procedures. The books and records shall be maintained for a period of three (3) years after completion of this Contract, except that books and records which are the subject of an audit finding shall be retained for three (3) years after such finding has been resolved. If the Company goes out of business, the Company shall forward the books and records to the City to be retained by the City for the period of time required herein.
- (b) The City, or its designated representative(s), shall have the right to inspect and audit (including the right to copy and/or transcribe) the books and records of the Company pertaining to the performance of this Contract during normal business hours. The City will provide prior written notice to the Company of the audit and inspection. If the books and records are not located within Clark County, the Company agrees to deliver them to the City, or to the address, designated by the City, within Clark County. In lieu of such delivery, the Company may elect to reimburse the City for the cost of travel (including transportation, lodging, meals and other related expenses) to inspect and audit the books and records at the Company's office. If the books and records provided to the City are incomplete, the Company agrees to remedy the deficiency after written notice thereof from the City, and to reimburse the City for any additional costs associated therewith including, without limitation, having to revisit the Company's office. The Company's failure to remedy the deficiency shall constitute a material breach of this Agreement. The City shall be entitled to its costs and reasonable attorney fees in enforcing the provisions of this Paragraph
- (c) If, at any time during the term of this Contract, or at any time after the expiration or termination of the Contract, the City or the City's designated representative(s) finds the dollar liability is less than payments made by the City to the Company, the Company agrees that the difference shall be either: (a) repaid immediately by the Company to the City or (b) at the City's option, credited against any future billings due the Company.

E-10 Independent Contractor [CAO-7/24/08]

In the performance of services under this Contract, the Company and any other person employed by it shall be deemed to be an independent contractor and not an agent or employee of the City. The Company shall be liable for the actions of any person, organization or corporations with which it subcontracts to fulfill this Contract. The City shall hold the Company as the sole responsible party for the performance of this Contract. The Company shall maintain complete control over its employees and all of its subcontractors. Nothing contained in this contract or any subcontract awarded by the Company shall create a partnership, joint venture or agency with the City. Neither party shall have the right to obligate or bind the other party in any manner to any third party.

E-11 Severability [CAO-7/24/08]

The invalidity, illegality, or unenforceability of any provision of this Contract or the occurrence of any event rendering any portion or provision of this Contract void shall in no way affect the validity or enforceability of any other portion or provision of this Contract. Any void provision shall be deemed severed from this Contract, and the balance of this Contract shall be construed and enforced as if this Contract did not contain the particular portion or provision held to be void. The parties further agree to amend this Contract to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this clause shall not prevent this entire Contract from being void should a provision which is of the essence of this Contract be determined void.

E-12 Conforming Services [CAO-7/24/08]

The services performed under this Contract shall conform in all respects with the requirements set forth in this Contract. The Company shall furnish the City with sufficient data and information needed to determine if the services performed conform to all the requirements of this Contract.

E-13 Modification/Amendment [CAO-7/24/08]

This Contract shall not be modified or amended except by the express written agreement of the parties, signed by a duly authorized representative for each party. Any other attempt to modify or amend this Contract shall be null and void, and may not be relied upon by either party.

E-14 Entire Agreement, Section and Paragraph Headings [CAO-7/24/08]

- (a) This Contract represents the entire and integrated agreement between the City and the Company. It supersedes all prior and contemporaneous communications, representations, and agreements, whether oral or written, relating to the subject matter of this Contract.
- (b) The section and paragraph headings appearing in this Contract are inserted for the purpose of convenience and ready reference. They do not purport to define, limit or extend the scope or intent of the language of the sections and paragraphs to which they pertain.

E-15 Conflict of Interest (City Officials) [CAO-7/24/08]

- (a) An official of the City, who is authorized in such capacity and on behalf of the City to negotiate, make, accept or approve, or take part in negotiating, making, accepting, or approving this Contract, payments under this Contract, or work under this Contract, shall not be directly or indirectly interested personally in this Contract or in any part hereof. No officer, employee, architect, attorney, engineer or inspector of, or for the City, who is authorized in such capacity and on behalf of the City to exercise any legislative, executive, supervisory or other similar functions in connection with this Contract, shall become directly or indirectly interested personally in this Contract or in any part hereof, any material supply contract, subcontract, insurance contract, or any other contract pertaining to this Contract.
- (b) Each party represents that it is unaware of any financial or economic interest of any public officer or employee of the City relating to this Contract. Notwithstanding any other provision of this Contract, if such interest becomes known, the City may immediately terminate this Contract for default or convenience, based on the culpability of the parties.
- (c) The Company represents and warrants that it has, in accordance with the current policy of the City, disclosed the ownership and principals of the Company on Attachment 1 (Certificate – Disclosure of Ownership/Principals), and that it has a continuing obligation to update this disclosure whenever there is a material change in the information contained therein.

E-16 Public Records [CAO-7/24/08] R

The City is a public agency as defined by state law. As such, it is subject to the Nevada Public Records Law (Chapter 239 of the Nevada Revised Statutes). All of the City's Records are public records, which are subject to inspection and copying by any person (unless declared by law to be confidential). This Contract is deemed to be a public record.

E-17 Confidentiality – City Information [CAO-7/24/08]

- (a) All information, including but not limited to, oral statements, computer files, databases, and other material or data supplied to the Company is confidential and privileged. The Company shall not disclose this information, nor allow to be disclosed to any person or entity without the express prior written consent of the City. The Company shall have the right to use any such confidential information only for the purpose of providing the services under this Contract, unless the express prior, written consent of the City is obtained. Upon request by the City, The Company shall promptly return to the City all confidential information supplied by the City, together with all copies and extracts.
- (b) The confidentiality requirements shall not apply where (i) the information is, at the time of disclosure by the City, then in the public domain; (ii) the information is known to the Company prior to obtaining the same from the City; (iii) the information is obtained by the Company from a third party who did not receive the same directly or indirectly from the City; or (iv) the information is subpoenaed by court order or other legal process, but in such event, the Company shall notify the City. In such event the City, in its sole discretion, may seek to quash such demand.
- (c) The obligations of confidentiality shall survive the termination of this Contract.

E-18 Marketing Restrictions [CAO-7/24/08]

The Company may not publish or sell any information from or about this Contract without the prior written consent of the City. This restriction does not apply to the use of the City's name in a general list of customers, so long as the list does not represent an express or implied endorsement of the Company or its services.

E-19 Limitation of Funding [CAO-7/24/08]

The City reserves the right to reduce estimated or actual quantities, in whatever amount necessary, without prejudice or liability to the City, if funding is not available or if legal restrictions are placed upon the expenditure of monies for the services required under this Contract.

E-20 Counterpart Signatures [CAO-9/24/08]

This Contract may be executed in counterparts, all such counterparts will constitute the same contract and the signature of any party to any counterpart will be deemed a signature to, and may be appended to, any other counterpart. Executed copies hereof may be delivered by facsimile or e-mail and upon receipt will be deemed originals and binding upon the parties hereto, regardless of whether originals are delivered thereafter.

SECTION F – List of Attachments/Exhibits

The following attachments are hereby incorporated into this contract:

<u>Identifier</u>	<u>Title/Text Reference</u>	<u>Date</u>	<u>Pages</u>
Attachment 1	Certificate – Disclosure of Ownership/Principals [Paragraph E-15(c)]		2
Attachment 2	Affidavit –Declaration of Sole Proprietor [Paragraph E-4 (i)]		1
Attachment 3	Las Vegas Municipal Court Declaration And Application for Court-Appointed Counsel	05/27/09	2
Attachment 4	Additions and/or Deletions to Alternate Public Attorney Information	06/04/09	1
Attachment 5	Public Attorney (PA) Monthly Report Form	06/04/09	1

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed by their duly authorized representatives.

CITY OF LAS VEGAS

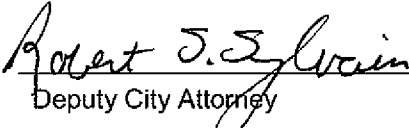
KATHLEEN C. RAINEY, Manager
Purchasing and Contracts

"City"

ATTEST:

BEVERLY K. BRIDGES, MMC
City Clerk

APPROVED AS TO FORM:

 2-17-10
Deputy City Attorney Date

PHUNG H. JEFFERSON, ESQ., PC

PHUNG H. JEFFERSON, President

"Company"

CERTIFICATE DISCLOSURE OF OWNERSHIP/PRINCIPALS

1. Definitions

"City" means the City of Las Vegas.

"City Council" means the governing body of the City of Las Vegas.

"Contracting Entity," means the individual, partnership, or corporation seeking to enter into a contract or agreement with the City of Las Vegas.

"Principal" means, for each type of business organization, the following: (a) sole proprietorship – the owner of the business; (b) corporation – the directors and officers of the corporation; but not any branch managers of offices which are a part of the corporation; (c) partnership – the general partner and limited partners; (d) limited liability company – the managing member as well as all the other members; (e) trust – the trustee and beneficiaries.

2. Policy

In accordance with Resolution 79-99 and 105-99 adopted by the City Council, Contracting Entities seeking to enter into certain contracts or agreements with the City of Las Vegas must disclose information regarding ownership interests and principals. Such disclosure generally is required in conjunction with a Request for Proposals (RFP). In other cases, such disclosure must be made prior to the execution of a contract or agreement.

3. Instructions

The disclosure required by the Resolutions referenced above shall be made through the completion and execution of this Certificate. The Contracting Entity shall complete Block 1, Block 2, and Block 3. The Contracting entity shall complete either Block 4 or its alternate in Block 5. Specific information, which must be provided, is highlighted. An Officer or other official authorized to contractually bind the Contracting Entity shall sign and date the Certificate, and such signing shall be notarized.

4. Incorporation

This Certificate shall be incorporated into the resulting contract or agreement, if any, between the City and the Contracting entity. Upon execution of such contract or agreement, the Contracting Entity is under a continuing obligation to notify the City in writing of any material changes to the information in this Certificate. This notification shall be made within fifteen (15) days of the change. Failure to notify the City of any material change may result, at the option of the City, in a default termination (in whole or in part) of the contract or agreement, and/or a withholding of payments due the Contracting Entity.

Block 1 Contracting Entity
<u>Phyllis H. Jefferson, Esq. P.C.</u> Name
<u>6847A W. Charleston Blvd</u> Address
<u>W 89117</u> Telephone
<u>702 382-4061</u> EIN or DUNS
<u>04-3768959</u>

Block 2 Description Subject Matter of Contract/Agreement
<u>Indigent Defense</u>
Contract No.

Block 3	Type of Business
☐ Individual ☐ Partnership ☐ Limited Liability Company ☒ Corporation ☐ Trust ☐ Other:	

CERTIFICATE – DISCLOSURE OF OWNERSHIP/PRINCIPALS (CONTINUED)

Block 4 Disclosure of Ownership and Principals

In the space below, the Contracting Entity must disclose all principals (including partners) of the Contracting Entity, as well as persons or entities holding more than one-percent (1%) ownership interest in the Contracting Entity.

	FULL NAME/TITLE	BUSINESS ADDRESS	BUSINESS PHONE
1.	Phung H. Jefferson	6819 A W. Charleston Blvd LV, NV 89117	702-382-4061
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			

The Contracting Entity shall continue the above list on a sheet of paper entitled "disclosure of Principals – Continuation" until full and complete disclosure is made. If continuation sheets are attached, please indicate the number of sheets: ____

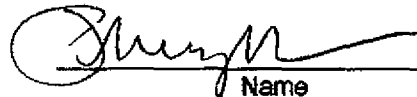
Block 5 DISCLOSURE OF OWNERSHIP AND PRINCIPALS – ALTERNATE

If the Contracting Entity, or its principals or partners, are required to provide disclosure (of persons or entities holding an ownership interest) under federal law (such as disclosure required by the Securities and Exchange Commission or the Employee Retirement Income Act), a copy of such disclosure may be attached to this Certificate in lieu of providing the information set forth in Block 4 above. A description of such disclosure documents must be included below.

Name of Attached Document: _____

Date of Attached Document: _____ Number of Pages: _____

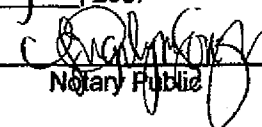
I certify under penalty of perjury, that all the information provided in this Certificate is current, complete and accurate. I further certify that I am an individual authorized to contractually bind the above named Contracting Entity

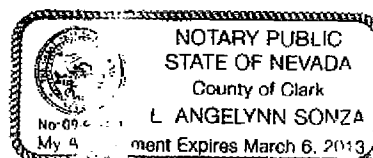

Name

2-16-10
Date

Subscribed and sworn to before me this 16 day of

February, 2010


Notary Public



ATTACHMENT 2 – AFFIDAVIT - DECLARATION OF SOLE PROPRIETOR

AFFIDAVIT

I, _____, on behalf of myself or my Company, _____, being duly sworn,
depose and declare:

1. I am a Sole Proprietor;
2. I will not use the services of any employees in the performance of this contract, identified as
Contract No. _____ / entitled
_____;
3. I have elected to not be included in the terms, conditions, and provisions of NRS Chapters 616A-
616D, inclusive; and
4. I am otherwise in compliance with the terms, conditions, and provisions of NRS Chapters 616A-
616D, inclusive.

I release the City of Las Vegas from all liability associated with claims made against me and my Instructor, in the
performance of this contract, that related to compliance with NRS Chapters 616A-616D, inclusive.

Signed this _____ day of _____, 2010.

Signature _____

State of Nevada)
)ss.
County of Clark)

Signed and sworn to (or affirmed) before me on this _____ day of _____, 2010,
by _____ (name of person making statement).

Notary Signature

STAMP AND SEAL

ATTACHMENT 3
LAS VEGAS MUNICIPAL COURT

DECLARATION AND APPLICATION FOR COURT-APPOINTED COUNSEL

Case/History No. _____

YOUR NAME: _____ Social Security Number _____ - _____ - _____

YOUR ADDRESS: _____
Where you live?

City/State/Zip Code

HOME PHONE (_____) _____ CELL PHONE (_____) _____

WORK PHONE (_____) _____

Do you live in Public Housing? _____ Are you serving a jail sentence? _____

PERSONAL INFORMATION

Number of children, dependants or others you are legally responsible for living in your home: _____

Where do you work? _____

How much do you make monthly before taxes and anything else is taken out of your pay check: \$ _____

Other monthly Income (Wife/Husband, Partner, Co-habitant, other): _____

I and/or my family are currently receiving the following:

AFDC ☐ Unemployment ☐ Worker's Comp ☐ Food Stamps ☐ SSI ☐ Medicaid ☐

Other Public Assistance (Type) _____

I, _____, am saying that I cannot afford to hire an attorney. If a crime is charged against me and the City Attorney is seeking for me to serve time in jail and I cannot afford to hire an attorney, the court may appoint an attorney only under certain circumstances.

I have given the above information to see if an attorney can be appointed by the court to represent me in court. I understand that this information may be used to see if I can pay for an attorney to represent me in court. I am giving my permission to contact any credit bureau, review my credit report from any credit bureau, investigative agency or any other source. I authorize the Las Vegas Municipal Court to verify any statements made and information provided and obtain any other information needed. I declare under penalty of perjury that the information that has been given is true and correct. I understand that I might have to pay back all or a part of the attorney fees if it is found that I can pay.

SIGN YOUR NAME

Date

DETERMINATION OF INDIGENCE

1. Defendant not in custody:

- (a) The defendant appears in the courtroom, is facing jail time and states that they cannot afford legal counsel for their defense.
- (b) The defendant completes the Declaration, and if the Court determines from the Declaration that the defendant qualifies under the Presumptive Threshold Standard as established by Nevada Supreme Court ADKT #411, a Public Attorney is assigned to the case and represents the defendant.
- (c) If a more rigorous screening is indicated or ordered, the completed Declaration is forwarded within 2 business days to the Las Vegas Municipal Court Judicial Enforcement Unit (JEU) for processing.
- (d) If the defendant disputes a finding of non-qualification for indigent status and court appointed counsel, or the Declaration has discretionary aspects that cannot be resolved by a more rigorous review,
- (e) The case may be continued for a hearing or other action as determined by the Court.

2. Defendant in custody:

- (a) Defendants are presumed to be indigent if they are in custody.

2009 HHS POVERTY GUIDELINES

Persons in Family or Household	Federal Poverty Guidelines ¹	Poverty Guidelines at 200% (Presumptive Threshold as established by ADKT #411) ²
1	\$10,830	\$21,660
2	\$14,570	\$29,140
3	\$18,310	\$36,620
4	\$22,050	\$44,100
5	\$25,790	\$51,580
6	\$29,530	\$59,060
7	\$33,270	\$66,540
8	\$37,010	\$74,020
For each additional person, add	\$3,740	\$7,480

SOURCE: *Federal Register*, Vol. 74, No. 14, January 23, 2009, pp.4199-4021

¹ Note: The Federal Poverty guidelines are recalculated and published annually.

² A defendant is considered indigent if all gross income is less than the Presumptive Threshold as established by Nevada Supreme Court ADKT #411 at 200% of the Federal Poverty Guidelines.

**ATTACHMENT 5
PUBLIC ATTORNEY (PA) MONTHLY REPORT FORM**

Department # or Traffic Court	Court Calendar Date	Name of PA or Alternate PA	Date fingerprint requirement completed (New PA or Alternate PA Only)	Comments/Other Pertinent Information

Section C-1, "Scope of Services" 8. The Public Attorney shall submit a monthly report using Attachment 5 to the Contract Administrator by the 5th of the month following completion of the services for the previous calendar month. The report shall indicate the Department assigned, the court calendar dates, the Attorney name performing Public Attorney services on the court calendar dates, and other pertinent information. Report is to be signed & dated by the Contract Holder.

Signature of Contract Holder

Date