

PROFESSIONAL SERVICES AGREEMENT

(Service of Process Services)

§1.00 PARTIES AND DEFINITIONS

§1.01 Parties :

THIS AGREEMENT is by and between

"County" Washoe County, a political Subdivision of the State of Nevada, 1 South Sierra Street Reno, Nevada 89501

"Professional" Martin -Ross and Associates, LLC 350 South Rock Boulevard Reno, NV 89502 a Nevada limited liability company

Tel: 336-4440
FAX: 336-4441

§1.02 Definitions

Administrator means the Washoe County District Attorney or his designee

Board of County Commissioners means the Board of County Commissioners of Washoe County, Nevada.

Scope of Work (Work) means execution, service and delivery by Professional of legal process, writs, subpoenas, orders, and other legal papers issued by the Washoe County District Attorney's office or courts, judicial officers and coroners involving the business of the district attorney's office (hereinafter "Item" or "Items") and return of items, reports or records to the place or person designated by County.

§1.03 Recitals

a. The County desires to obtain the services of a professional to accomplish legal service of legal process, subpoenas, orders, and other legal papers issued by the Washoe County District Attorney's office or courts in which that office appears.

b. The County and the Professional have been parties to a contract for the Work for one year and are satisfied and desire to enter into this agreement.

NOW THEREFORE, the parties agree as follows.

§2.00 SERVICES TO BE PERFORMED.

§2.01 Engagement; Scope of Work (Work) and Services; Changes

County hereby engages Professional and Professional hereby agrees to provide professional services to the County and the Parties agree to perform all of the obligations set forth in this Agreement. Changes in the Scope of Work set forth in must be approved by the Administrator and Professional in writing and duly executed by the parties hereto.

§2.02 Assigned Personnel

a. In selecting Professional for this Agreement, County relied on the performance of the Professional under a previous one-year contract and the expertise and qualifications of certain persons identified by the Professional, namely Joe Martin.

b. Accordingly, Professional shall assign the appropriately qualified personnel and may assign additional appropriately qualified personnel of Professional's choice, to perform Professional's duties hereunder, and shall give them adequate time and other resources necessary to complete duties in a professional manner. Other than clerical, support or administrative staff, Professional shall not assign any person to the performance of services under this Agreement without the consent of County, which shall not be unreasonably withheld or delayed.

c. The qualified personnel employed by Professional have passed Washoe County Sheriff's Department background checks and are retired or former law enforcement officers who have completed peace officer training. The Professional does not perform services for attorneys engaged in criminal defense work and therefore has no conflict of interests with the district attorney's prosecution function. The quality and skill of Joe Martin and the employees and agents of Professional are paramount in the County's decision to contract with the Professional.

§2 .03 Agreement to provide records and testify

a. Professional agrees to retain all of its records regarding the work for a period of six years from the date the work is completed, and to provide them upon subpoena from a Nevada Court, provided, however, Professional is adequately compensated for the cost of copying and providing the same.

b. Professional agrees to cause any of its principals, officers and employees who contributed to the Work and who are still employed by Professional at the time their testimony is requested to appear and testify in any judicial or other proceeding regarding the Work. The Professional may retain the usual witness fees that accompany a subpoena to appear as a witness.

§2.04 Professional Standards of Care

a. The Work involves professional judgment and other performance from time to time in a context where the participation of the Parties or others may be necessary, where answers may not be certain or verifiable in advance and where facts and available information change over time. Professional's performance of services shall be in substantial conformance with the standards and specifications expressly set forth in this Agreement and all applicable professional standards.

b. Professional shall be responsible for the quality of all service, reports, information, and other items and services furnished under this Agreement and any amendments thereto.

c. Unless otherwise expressly agreed in writing, Professional has no responsibility to update any of its work after its completion.

§2.05 Compliance with laws; employment practices

a. Professional shall comply with all the requirements of all applicable state and local laws.

b. In connection with the performance of work under this Agreement, Professional shall not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, sexual orientation or age, including, without limitation, with regard to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including, without limitation, apprenticeship.

§2.06 Protecting Confidential Information

In the performance of Professional's duties under this Agreement, Professional may receive certain confidential information and agrees to keep all such information confidential and prevent its unauthorized disclosure. For the purpose of this section confidential information includes but is not limited to: Federal Bureau of Investigation information on the background and personal history of persons, information about the County's computer network infrastructure, and information declared confidential by Nevada law.

§3.00 COMPENSATION

§3.01 Fees and charges

County shall pay to Contractor \$55.00 per service of each Item plus \$30.00 per validated due diligence. Delivery or service of multiple Items addressed to the same person or individual at the same location shall be charged as a single Item. If the Contractor accepts delivery of records produced pursuant to a subpoena duces tecum for return to County at a location where another Item is being delivered or served during the same trip, there shall be no additional Item charge to the charge imposed when the Item was initially delivered or served. However, if the Contractor has to make a separate trip for the sole purpose of picking up a return or Item from a third party, an Item charge may be imposed for the pick-up. There shall be no charge for delivery of returns or Items to the designated person or place of the County. There shall be no charge for Contractor to provide to County an affidavit of due diligence indicating the attempts made to accomplish service of an Item or for a return of service document.

§3.02 Billing and payment

a. County shall pay Professional after receiving a properly completed and undisputed invoice which indicates Work performed including the case number issued by the district attorney's office with each request for service and the expenses allowed under this Agreement together with receipts and proofs of payment as required by County policy. Payment is due upon receipt of invoice and the Parties agree the County's usual accounts payable process shall

be used to process payment.

b. Professional invoices shall be submitted to:

Washoe County District Attorney's Office
1 South Sierra Street
Reno, Nevada 89501

with a copy to the Administrator, who shall communicate approval directly to the Comptroller in accordance with established procedures in the County.

c. All claims against the County must be submitted within six months from the time such claims become due or payable in accordance with NRS 244.250

§4.00 TERM OF AGREEMENT

§4.01 The term of this Agreement is from July 1, 2018 to June 30, 2020 unless extended by the mutual agreement of the Parties. The Agreement will automatically be renewed for successive one-year periods for a total of 3 years on the same terms unless either party gives the other written notice of nonrenewal at least 60 days prior to June 30 of each year. The automatic renewal provision of this section shall not affect the right of the County to terminate the Agreement as provided below.

§4.02 Termination by County.

If in the sole discretion of the Administrator the services of the Professional are no longer needed, the Administrator may terminate the Agreement effective immediately upon delivery of notice to the Professional. In the event County terminates the Agreement, County will pay Professional for all fees and expenses for all Work performed through the date Work is stopped, whether or not Professional has produced any Deliverables.

§5.00 OBLIGATIONS OF COUNTY

a. The Administrator is responsible for following up on Professional requests and coordinating the efforts of the County with the Professional; and will assign or direct other staff members as needed to provide technical information which must be provided by the County and needed by Professional to complete the work.

b. The Administrator shall screen subpoenas and other documents delivered to Professional and the Administrator is responsible for the information given to Professional.

§6.00 BREACH AND REMEDIES

§6.01 Excuse due to force majeure

a. Except as provided elsewhere herein, if an event of *force majeure* makes performance of an obligation or cure of a breach or default impossible, such performance or cure is excused for the duration of the event of force majeure provided that the obligated party (i) within a

reasonable time after the commencement of the force majeure notifies the other party of the nature of the event of force majeure, when it commenced, why it makes performance or cure impossible, and the expected duration (if known), and (ii) agrees to and does in fact diligently pursue remediation of the effects of the force majeure, and (iii) agrees to notify the other party immediately when it becomes possible to commence efforts to cure the default.

b. An event of *force majeure* is defined as (i) without the fault of and beyond the reasonable control of the obligated party, a war; insurrection; riot; flood; earthquake; fire; casualty; act of God; act of a public enemy; quarantine restriction or other effect of epidemic or disease; freight embargo; delay caused by unusually severe or extreme weather; lack of transportation attributable to any of these; or (ii) labor strikes, boycotts or picketing (unless the labor action is taken because of an alleged violation of the prevailing wage provisions in this Agreement, if any); (iii) provided, however, that if the breach or default is the failure to pay money, the force majeure must actually prevent access to or payment from a bank account or payment mechanism, such as during a banking holiday, moratorium, or sabotage of wire or automated transfer systems. A force majeure does not include general economic or market conditions, or the financial condition of party even if they are influenced by any of the foregoing.

c. A force majeure is deemed to cease for purposes of this Agreement and a party is deemed to be in breach of an obligation or cure on the earlier of (i) when it becomes possible for the obligated party to commence to perform the obligation or cure and the obligated party fails to so commence the obligation to perform or cure, or (ii) one year from the commencement of the event of *force majeure*.

§6.02 Breach

Subject to §6.0 I, a breach occurs when (i) a party repudiates, breaches or fails to perform any obligation, term or provision in this Agreement; (ii) an event required to occur does not occur by the time required due to the lack of diligence or fault of a party; (iii) any representation of a material fact expressed herein was false at the time it was made, or, if a continuing representation, becomes false as a result of a subsequent event or occurrence; (iv) any warranty made herein is breached at the time made or, if a continuing warranty, is breached as a result of a subsequent event or occurrence; (v) a party violates any law in connection with the administration of this Agreement or material and relevant to this Agreement; or (vi) any event otherwise described in this Agreement as a breach or default.

§6.03 Notice and right to cure

Unless otherwise specified in this Agreement, in the event of a breach, the non-breaching party shall provide written notice of such breach and the specific action required to cure such breach and the breaching party shall have thirty (30) days from the date that the notice is deemed given to cure the breach.

§6.04 Remedies

a. If breach is suffered or caused by any party and not cured within the period of time specified, the non-breaching party may, subject to any specific provision regarding remedies herein, (i) suspend any counter-performance due hereunder until the default is cured; (ii) terminate this Agreement; and/or (iii) pursue any other remedy specifically provided in this Agreement.

b. All remedies stated in this Agreement are cumulative with each other and with any remedy afforded in law or equity. The election of any remedy does not constitute a waiver of any other remedy.

§6.05 Waivers.

Any forbearance, inaction, or failure to promptly pursue any remedy (whether intentional or negligent) shall not be deemed a waiver of any default or remedy. Waivers must be expressed in writing signed by the waiving party, and a waiver of a default is limited to the specific default identified in the written waiver and does not constitute a course of dealing or implication that similar defaults will be waived in the future.

§7.00 GENERAL TERMS

§ 7.01 No assignment or delegation

Neither party may assign any rights hereunder or delegate any duties hereunder without the prior written consent of the other party, which consent may be withheld in its sole discretion. The County agrees consent to assignment of duties to an affiliated or member firm shall not be unreasonably withheld.

§7.02 Ownership and Use of Work; limitations

The computer programs, reports, and papers generated by Professional under this Agreement shall be the joint property of the County and Professional. The Items, returns of service and affidavits produced by Professional are the sole property of County. Professional may retain copies thereof for work paper documentation. Professional shall not be restricted from disclosing such documentation to the extent required by governmental, judicial, or regulatory authority or in accordance with applicable law.

§7.03 Limitations of Liability, Indemnifications and Insurance

The provisions of Exhibit B, attached hereto and incorporated herein by reference shall apply to this Agreement.

§7.04 Independent Contractor; no agency

a. Professional is associated with the County only for purposes and to the extent set forth in this Agreement, and with respect to performance of the contracted services pursuant to this Agreement, is and shall be an independent contractor and, subject only to the terms of this Agreement, shall have the sole right to select, supervise, manage, operate, control and direct the performance of the resources (including personnel, equipment, intellectual property and processes), it devotes to the performance of this agreement. Nothing in this Agreement shall be construed to imply or create a partnership, joint venture, or other business association, or create an employer-employee or principal-agent relationship, or to otherwise create any liability for the County whatsoever with respect to the indebtedness, liabilities, and obligations of Professional. Professional shall be solely liable for, and County shall have no obligation with respect to (i) the payment or withholding of any federal (including FICA and Medicare) or state income taxes or fees, (ii) providing industrial insurance coverage to any person who performs work in

furtherance of this Agreement (except County employees), (iii) participation in any group insurance plans, retirement plans or any other employee benefit or compensation plans available to the County employees, (iv) unemployment compensation or insurance.

b. The employees, agents or representatives of each Party and each Party itself are not and shall not be considered to be employees, agents, or representatives of the other Party.

§7.05 Binding effect; no third party beneficiary

This Agreement shall be binding on and runs to the benefit of the parties, their respective successors and any assignees or delegates if the assignment or delegation is permitted. Unless otherwise specifically identified in this Agreement, there are no third party beneficiaries intended by this Agreement and no third parties have any standing to enforce any of the provisions of this Agreement.

§7.06 Notices; when deemed sufficiently given

a. Unless otherwise provided herein, formal notices, demands and communications between the parties must be in writing and must be sent via certified or registered mail, return receipt requested, or by overnight courier to the addresses stated in Article 1 above, or to any address or number subsequently communicated to the sending party in writing.

b. If notice is sent by registered or certified mail to the correct address, postage prepaid, it will be deemed sufficiently given when actually received by the addressee or three business days after it is received by the U.S. Post Office as indicated on the receipt, whichever is earlier.

c. If notice is sent by courier, or overnight delivery service (e.g., Federal Express, UPS Overnight, U.S. Postal Priority Mail), it will be deemed sufficiently given when delivered to the address as indicated in the records of the courier or service.

§7.07 Timing provisions

Time is of the essence in the performance of this Agreement. Unless otherwise specified, the term "days" means calendar days. If a deadline falls on a weekend or holiday then performance is due on the first business day of the recipient thereafter. Unless otherwise specified, performance is due by the later of 5 p.m. Reno, Nevada time or close of business of the recipient on the day it is due.

§7.08 Applicable law; jurisdiction and venue

This Agreement shall be construed under and governed by the laws of the State of Nevada. Any judicial action arising hereunder shall be brought only in the Second Judicial District Court for the State of Nevada in and for Washoe County.

§7.09 Non-liability of individual officers or employees of parties

No official or employee of any party to this Agreement shall be personally liable to any other party or any successor in interest, in the event of any default or breach by the party or for any amount which may become due to any other party or its successor, or as a result of any

representation (except any representation regarding the authority to execute this Agreement), warranty or obligation under the terms of this Agreement.

§7.10 Severability; construction of agreement

a. Each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law, taking into account permissible waivers or provisions which may be upon agreement of the parties. If any term or provision of this Agreement or the application thereof shall be deemed by a court of competent jurisdiction to be in violation of law or public policy, then it shall be deemed modified, ipso facto, to bring it within the limits of validity or enforceability, but if it cannot be so modified, then it shall be excised from this Agreement. In any event, the remainder of this Agreement, or the application of such term or provision to circumstances other than those to which it is invalid or unenforceable, shall not be affected.

b. To prevent windfall or unintended consideration, if any term or provision of this Agreement is deemed invalid or unenforceable or enforceable only to a limited extent, the parties agree to negotiate in good faith to adjust any counter performance, condition, or corresponding consideration.

c. Titles and headlines of this agreement are intended for editorial convenience and are not to be construed as a part of this agreement.

d. The word "include" or "including" is not intended as a limitation and shall be construed to include the words "but not limited to."

e. Any reference to the masculine genders includes, where appropriate in the context, the feminine gender. Any term in the singular includes, where appropriate in the context, the plural.

f. The Parties hereto were each advised by counsel in drafting and negotiating this agreement, and each Party contributed to its contents. No presumptions against or in favor of any party are appropriate based on who drafted this Agreement or any provision herein.

§7.11 Modifications and Amendments

This agreement may be modified or amended only by a writing signed by an authorized agent of the party to be bound by the modification or amendment.

§7.12 Authority to execute and implement

a. Each person who signs this Agreement below warrants and represents that he or she has the legal capacity to enter into this agreement and if signing in a representative capacity, has the actual authority to bind the Principal for which he or she signs and that his or her signature has the effect of binding the Principal.

b. The Administrator shall have the authority to negotiate and execute all approvals or disapprovals of performance, all extensions, all waivers, all modifications and amendments to this Agreement, and take all remedial actions authorized by this Agreement.

c. A Principal of Professional shall have the authority to negotiate and execute all approvals or disapprovals of performance, all extensions, all waivers, all modifications and amendments to this Agreement, and take all remedial actions authorized by this Agreement.

§7.13 Entire Agreement; Attachments; Counterparts

a. This Agreement (together with attachments and documents incorporated by reference) integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the subject matter hereof except as otherwise expressly provided herein.

b. All attachments hereto and/or referred to in this Agreement are incorporated herein as though set forth in full.

c. This Agreement may be executed in counterparts and is deemed duly executed when original signature pages of all parties are executed and delivered.

EXECUTED on the dates indicated to become effective on the date executed by the last party to execute.

County

Washoe County, Nevada, a political subdivision of the State of Nevada

By _____
Chairman

Date _____

Professional

Martin -Ross and Associates, LLC

By  _____
Managing Director

Date 1/29/2019

Exhibits

- A. (none)
- B. Insurance and Indemnifications

Exhibit B

INSURANCE, INDEMNIFICATION AND HOLD HARMLESS REQUIREMENTS FOR SERVICE PROVIDERS

INTRODUCTION

Washoe County has established specific insurance and indemnification requirements for service providers contracting with the County. Indemnification and hold harmless clauses and insurance requirements are intended to assure that a service provider accepts and is able to pay for a loss or liability related to its activities.

ATTENTION IS DIRECTED TO THE INSURANCE REQUIREMENTS BELOW. IT IS HIGHLY RECOMMENDED THAT PROVIDERS CONFER WITH THEIR RESPECTIVE INSURANCE CARRIERS OR BROKERS TO DETERMINE THE AVAILABILITY OF INSURANCE CERTIFICATES AND ENDORSEMENTS AS PRESCRIBED AND PROVIDED HEREIN. IF THERE ARE ANY QUESTIONS REGARDING THESE INSURANCE REQUIREMENTS, IT IS RECOMMENDED THAT THE AGENT/ BROKER CONTACT THE COUNTY RISK MANAGER DIRECTLY AT (775) 328-2071.

INDEMNIFICATION AGREEMENT

PROVIDER agrees to hold harmless, indemnify, and defend COUNTY, its officers, agents, employees, and volunteers from any loss or liability, financial or otherwise resulting from any claim, demand, suit, action, or cause of action based on bodily injury including death or property damage, including damage to PROVIDER'S property, caused by the omission, failure to act, or negligence on the part of PROVIDER, its employees, agents, representatives, or Subcontractors arising out of the performance of work under this Agreement by PROVIDER, or by others under the direction or supervision of PROVIDER.

In the event of a lawsuit against the COUNTY arising out of the activities of PROVIDER, should PROVIDER be unable to defend COUNTY due to the nature of the allegations involved, PROVIDER shall reimburse COUNTY, its officers, agents, and employees for cost of COUNTY personnel in defending such actions at its conclusion should it be determined that the basis for the action was in fact the negligent acts, errors or omissions of PROVIDER.

GENERAL REQUIREMENTS

PROVIDER shall purchase Industrial Insurance, General Liability, and Automobile Liability as described below. The cost of such insurance shall be borne by PROVIDER. PROVIDER may be required to purchase Professional Liability coverage based upon the nature of the service agreement.

INDUSTRIAL INSURANCE (Workers' Compensation)

It is understood and agreed that there shall be no Industrial Insurance coverage provided for PROVIDER or any Sub-consultant by COUNTY. PROVIDER agrees, as a precondition to the performance of any work under this Agreement and as a precondition to any obligation of the COUNTY to make any payment under this Agreement to provide COUNTY with a certificate issued by an insurer in accordance with NRS 616B.627 and with a certificate of an insurer showing coverage pursuant to NRS 617.210 for PROVIDER and any sub-consultants used pursuant to this Agreement. Should PROVIDER be self-funded for Industrial Insurance, PROVIDER shall so

notify COUNTY in writing prior to the signing of this Agreement. COUNTY reserves the right to approve said retentions and may request additional documentation financial or otherwise for review prior to the signing of this Agreement.

It is further understood and agreed by and between COUNTY and PROVIDER that PROVIDER shall procure, pay for, and maintain the above-mentioned industrial insurance coverage at PROVIDER'S sole cost and expense.

MINIMUM LIMITS OF INSURANCE

PROVIDER shall maintain limits no less than:

1. General Liability: \$1,000,000 combined single limit per claim for bodily injury, personal injury, and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, the general aggregate limit shall be increased to equal twice the required occurrence limit or revised to apply separately to each project or location.
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage. No aggregate limits may apply.
3. Professional Liability: \$ -0-per occurrence and as an annual aggregate.

DEDUCTIBLES AND SELF-INSURED RETENTIONS

Any deductibles or self-insured retentions must be declared to and approved by the COUNTY Risk Management Division. COUNTY reserves the right to request additional documentation, financial or otherwise, prior to giving its approval of the deductibles and self-insured retention and prior to executing the underlying agreement. Any changes to the deductibles or self-insured retentions made during the term of this Agreement or during the term of any policy, must be approved by the COUNTY Risk Manager prior to the change taking effect.

OTHER INSURANCE PROVISIONS

The policies are to contain, or be endorsed to contain, the following provisions:

1. COUNTY, its officers, employees and volunteers are to be covered as insureds as respects: liability arising out of activities performed by or on behalf of PROVIDER, including COUNTY'S general supervision of PROVIDER; products and completed operations of PROVIDER; premises owned, occupied or used by PROVIDER; or automobiles owned, leased, hired, or borrowed by PROVIDER. The coverage shall contain no special limitations on the scope of protection afforded to COUNTY, its officers, employees or volunteers.
2. PROVIDER'S insurance coverage shall be primary insurance as respects COUNTY, its officers, employees and volunteers. Any insurance or self-insurance maintained by COUNTY, its officers, employees or volunteers shall be excess of PROVIDER'S insurance and shall not contribute with it in any way.
3. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to COUNTY, its officers, employees or volunteers.
4. PROVIDER'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled or non-renewed by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to COUNTY except for nonpayment of premium.

ACCEPTABILITY OF INSURERS

Insurance is to be placed with insurers with a Best's rating of no less than A-: VII. COUNTY, with the approval of the Risk Manager, may accept coverage with carriers having lower Best's Ratings upon review *pf* financial information concerning PROVIDER and insurance carrier. COUNTY reserves the right to require that PROVIDER'S insurer be a licensed and admitted insurer in the State of Nevada, or on the Insurance Commissioner's approved but not admitted list.

VERIFICATION OF COVERAGE

PROVIDER shall furnish COUNTY with certificates of insurance and with original endorsements affecting coverage required by this exhibit. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. **All certificates and endorsements are to be addressed to the specific COUNTY contracting department and be received and approved by the COUNTY before work commences.** COUNTY reserves the right to require complete, certified copies of all required insurance policies, at any time.

SUBCONTRACTORS

PROVIDER, shall include all Subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each Subcontractor. All coverages for Subcontractors shall be subject to all of the requirements stated herein.

MISCELLANEOUS CONDITIONS

1. PROVIDER shall be responsible for and remedy all damage or loss to any property, including property of COUNTY, caused in whole or in part by PROVIDER, any Subcontractor, or anyone employed, directed or supervised by PROVIDER.
2. Nothing herein contained shall be construed as limiting in any way the extent to which the PROVIDER may be held responsible for payment of damages to persons or property resulting from its operations or the operations of any Subcontractor under it.
3. In addition to any other remedies COUNTY may have if PROVIDER fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, COUNTY may, at its sole option:
 - a. Order PROVIDER to stop work under this Agreement and/or withhold any payments which become due PROVIDER hereunder until PROVIDER demonstrates compliance with the requirements hereof;
 - b. Terminate the Agreement.