



STAFF REPORT

Report To: Board of Supervisors **Meeting Date:** February 3, 2022

Staff Contact: Nancy Paulson, City Manager

Agenda Title: For Possible Action: Discussion and possible action regarding a Carson City Designee(s) Agreement of Terms and Conditions and a Confidentiality and Non-Disclosure Agreement between the State of Nevada Department of Indigent Defense Services (“DIDS”) and its designated Carson City indigent defense coordinators, Nancy Paulson and Stephanie Hicks (“Designee(s)”), to ensure compliance with DIDS Regulations and relevant Nevada Law to protect confidential client information regarding indigent defendant cases. (Nancy Paulson, npaulson@carson.org)

Staff Summary: According to Carson City's Indigent Defense Services Plan ("Plan") that was approved by the Board of Supervisors ("Board") on November 4, 2021, counsel may request compensation and reimbursement for services that are reasonable and necessary for an indigent person's defense. Counsel must submit requests to the City's indigent defense coordinator qualifying as a “designee” of DIDS. The purpose of these agreements is to ensure compliance with DIDS Regulations and relevant Nevada law and to protect all confidential client information regarding all indigent defendant cases to which the Designees have access in their official capacity.

Agenda Action: Formal Action / Motion **Time Requested:** Consent

Proposed Motion

I move to approve, and authorize Nancy Paulson and Stephanie Hicks to sign, the Agreements as presented.

Board's Strategic Goal

Efficient Government

Previous Action

November 4, 2021 - The Board approved a revised Carson City Plan.

September 16, 2021 - The Board approved Carson City's Plan and directed staff to provide input to the Board of Indigent Defense Services ("BIDS") regarding the revised proposed permanent regulations of the Board.

Background/Issues & Analysis

The Plan requires Carson City's indigent defense coordinator to be a “designee” of DIDS and to approve Indigent Defense Counsels' request for compensation and reimbursement for services that are reasonable and necessary for an indigent person's defense. DIDS has recently agreed to allow the City Manager and the Deputy City Manager to be the designated Carson City indigent defense coordinators, eliminating the need for the City to engage an independent contractor to provide these services.

Applicable Statute, Code, Policy, Rule or Regulation

NRS 260.070; NRS Chapter 180; Regulations of the Board of Indigent Defense Services.

Financial Information

Is there a fiscal impact? No

If yes, account name/number:

Is it currently budgeted?

Explanation of Fiscal Impact:

Alternatives

Do not approve the agreements and provide alternative direction to staff.

Attachments:

[Paulson and Hicks Updated Designee Agreement of Terms and Conditions SH clean.pdf](#)

[Paulson and Hicks FINAL Designee Confidentiality Agreement SH clean.pdf](#)

Board Action Taken:

Motion: _____	1) _____	Aye/Nay
	2) _____	_____

(Vote Recorded By)



STATE OF NEVADA
DEPARTMENT OF INDIGENT DEFENSE SERVICES

896 West Nye Lane, Suite 202 | Carson City, NV 89703-1578
Phone: (775) 687-8490 | dids.nv.gov

Carson City Designee(s) Agreement of Terms & Conditions

This Agreement is made this ____ day of _____, 20____,

between the State of Nevada Department of Indigent Defense Services (“DIDS”) and its Designated **Carson City** Indigent Defense Coordinators Nancy Paulson and/or Stephanie Hicks (“Designee”), to ensure compliance with DIDS Regulations and relevant Nevada Law.

The Term of this Agreement will remain in effect throughout Designees’ tenure as Designees.

The Designees maintain their designation at the pleasure of the Executive Director of DIDS. The Executive Director of DIDS may suspend or revoke the designation at any time, with or without cause or reason.

Designation is expressly conditioned upon the Designees agreeing to the following terms:

1. The Designee agrees to comply with all relevant statutory and regulatory authority, specifically, Nevada Revised Statutes Chapters 7, 171, 180, and 260, and Nevada Administrative Code Chapter 180.
2. In the performance of their duties, Designee must maintain their independence from the judiciary and the prosecuting agency. If any member of the judiciary or the prosecuting agency attempts to exert pressure or influence over a Designee’s performance of their duties, Designee must report the attempts to DIDS as soon as is practicable. This section is not intended in any way to hinder the communication with the Court and Designee.
3. If any funds approved by a Designee are subsequently denied or modified by any person for any reason, Designee must report the denial or modification of funds to DIDS as soon as is practicable.
4. If a Designee becomes aware of any possible violations of Nevada Revised Statutes Chapters 7, 171, 180, and 260, or Nevada Administrative Code Chapter 180, a Designee must furnish the following information to DIDS as soon as is practicable:
 - a. A brief narrative of the facts and circumstances surrounding the possible violation;
 - b. Any documentation related to the possible violation; and

- c. A list of other witnesses to the possible violation.
5. If in the course of its duties, a Designee intends to deny or modify any claim for payment of attorney fees, or request for pre-authorization of defense expenses, or request for other fees or costs, a Designee must contact DIDS to report and discuss a Designee's reasons for the intended denial or modification, prior to issuing the denial or modification. This is in addition to any reporting required by a Designee's local Indigent Defense Plan or any other agreement with Designee's local county. A designee will not deny reasonable and necessary expenses. If there is a disagreement as to whether the expense is reasonable and necessary to the representation and the expense is not approved, the affected indigent defense attorney may submit the matter to the trial judge in accordance with the Plan and NRS 7.135.
6. If in the course of its duties, a Designee intends to deny or modify any claim for investigator or expert fees, the Designee must contact DIDS to report and discuss the Designee's reasons for the intended denial or modification, prior to issuing the denial or modification. If there is a disagreement as to whether the expense is reasonable and necessary to the representation and the expense is not approved, the affected indigent defense attorney may submit the matter to the trial judge in accordance with the Plan and NRS 7.135.
7. If any of Designee's actions as Designee become the subject of a Petition for Judicial Review, Designee must notify DIDS as soon as is practicable.
8. Upon request, Designee(s) will provide such information or documentation related to their performance as Designees as may be required by DIDS.
9. In the event both Designees become unable to carry out the duties of Designee, a Designee must contact DIDS immediately to discuss an appropriate solution and substitution of the Designees.
10. Upon termination of Designee's position, by either Carson City, the Designee, or DIDS, all relevant case information, financial information, and other documentation relating to any pending requests for compensation or expenses must be turned over to DIDS immediately. All other case information, financial information, and other documentation relating to DIDS must also be turned over to DIDS, unless such information or documents are contemplated by the Plan to be administered by Carson City. DIDS will work with Carson City to select another Designee. If needed by Carson City, DIDS shall assist with the Designee duties until a new Designee is selected.
11. Carson City does not waive and intends to assert any and all available NRS chapter 41 immunity in all cases. Designees undertake the duties in this Agreement as part of their employment with Carson City; Designees are not liable under this Agreement in their individual capacity. The contract liability under this Agreement does not include punitive or liquidated damages, or any damages claimed by an indigent defendant or his or her attorney.

12. This Agreement, together with the Confidentiality Agreement, constitutes the entire agreement and is the complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless otherwise expressly authorized by the terms of this Agreement, no modification or amendment to this Agreement is binding upon the Parties unless the same is in writing and signed by the Parties.
13. The law of the State of Nevada applies in interpreting and construing this Agreement.
14. It is specifically agreed between the Parties that none of the provisions this Agreement create in an indigent person, the attorney for the indigent person, or the public or any member thereof a third-party beneficiary, or grant anyone not a Party to this Agreement any right to maintain a suit for personal injuries or property damage under the terms or provisions of this Agreement.
15. This Agreement or the rights, obligations, or duties under this Agreement may not be assigned, transferred or delegated.
16. This Agreement may be executed in counterparts, each of which shall be deemed to be an original but all of which, taken together, shall constitute one and the same Agreement.
17. Neither Party shall be deemed to be in violation of this Agreement if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, acts 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 the Agreement after the intervening cause ceases.

Nancy Paulson, City Manager
Designee

Marcie Ryba,
Department of Indigent Defense

Stephanie Hicks, Deputy City Manager
Designee

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

This Agreement is made this _____ day of _____, 2021, between the State of Nevada Department of Indigent Defense Services (“DIDS”) and its Designated **Carson City Indigent Defense Coordinators**, Nancy Paulson and Stephanie Hicks (“Designee(s)”), for the purposes of protecting all Confidential Client Information regarding all indigent defendant cases to which Designee has access in her official capacity.

The Term of this Agreement will remain in effect throughout Designee’s tenure serving in the capacity of Designee.

1. Confidentiality.

The Designee recognizes and acknowledges that all confidential, privileged, attorney-client, and propriety information she may have access to in the course of her duties as Designee, including any information generally considered confidential is not only a valuable, special, and unique asset, but may also be protected by the attorney-client privilege and by the Fifth and Fourteenth Amendments to the United States Constitution. Designee will not, in whole or in part, directly or indirectly, use or disclose such confidential, attorney-client, and proprietary information to any person, firm, corporation, association, prosecutor, governmental agency, or any other entity, for any reason or purpose unless expressly authorized by DIDS or unless required to disclose such information by applicable law or court process. If the Designee is required to disclose such information, Designee agrees that she shall provide DIDS with written notice of receipt of such a request to enable DIDS to seek a protective order or other appropriate remedy before disclosure. Should DIDS cease to recognize Designees as Designees, Designees shall destroy or return to DIDS all Confidential Information, except for such information in the possession of Carson City in accordance with its Indigent Defense Plan (“Plan”). The obligation to keep the Confidential Information confidential shall survive DIDS’ termination of Designees as Designees.

Neither DIDS nor any person who holds a possessory or privacy interest in the Confidential Information is waiving or will they be deemed to have waived or diminished, any of their attorney work product protections, attorney-client privileges, or similar protections and privileges as a result of the Designee having access to Confidential Information (including Confidential Information related to pending or threatened litigation), regardless of whether DIDS or the person has asserted, or is or may be entitled to assert, such privileges and protections.

DIDS and the Designee: (a) agree that all information received by Designee in her role as Designee is Confidential Information that may be subject to applicable privileges and protections as set forth elsewhere in this agreement; (b) intend that such privileges and protections remain intact should DIDS or the Designee become subject to any actual or threatened proceeding to which the Confidential Information covered by such protections and privileges relates; and (c) intend that at all relevant times the Designee shall have the right to assert such protections and privileges toward any third party.

The Designee may not waive any attorney work-product protections, attorney-client privileges, or similar protections and privileges, whether belonging to DIDS or any other person, with respect to any Confidential Information, documents or other material to which Designee may have access to in the course of her duties.

2. Additional Definitions.

“Confidential Information” expressly means all proprietary information of DIDS, including:

Any data or information that is owned by or in possession of DIDS, whether embodied in writing or other physical form or communicated or disclosed in any other manner, which is protected by attorney-client privilege, attorney work product, or is otherwise treated by DIDS as confidential. “Confidential Information” includes, without limitation: information that is legally protected by privilege, privacy, or confidentiality laws, regulations, or rules, or that relates to the finances, policies, services, clients, employees, residences, criminal history, or defense theories of DIDS, an indigent person receiving indigent defense services under the Plan, the indigent persons’ attorney, or any other agent, employee, or department of DIDS, or any person or agency to whom DIDS owes a fiduciary duty.

Nancy Paulson, City Manager
Designee

Marcie Ryba,
Department of Indigent Defense

Stephanie Hicks, Deputy City Manager
Designee