



COCHISE COUNTY PROCUREMENT DEPARTMENT

1415 Melody Lane, Building C, Bisbee, AZ 85603
Phone: (520) 432-8390 | Fax: (520) 432-8397

Professional Services Agreement

CONTRACTED ATTORNEY

23-24-IDC-01

THIS AGREEMENT is made and entered into this July 1, 2023, by and between Katsarelis Law, PLLC, 177 North Church Ave, Tucson, Arizona, 85701, a law firm with attorneys licensed with the State Bar of Arizona (hereinafter referred to as “Attorney”), and Cochise County, a political subdivision of the State of Arizona, through its Indigent Defense Coordinator, 14151 Melody Lane, Bisbee, AZ 85603 (hereinafter referred to as the “County”).

RECITALS

WHEREAS, the pursuant to Arizona Revised Statutes (“A.R.S.”) § 11-584, the County, through its Public Defender, is required to defend advise, and counsel any person who is entitled to counsel as a matter of law and who is not financially able to employ counsel (“indigent adults and juveniles”) in criminal matters and other statutorily mandated proceedings, including Early Resolution Court (“ERC”); and

WHEREAS, the County has been unable to hire a sufficient number of deputies to provide this statutorily mandated legal service despite concerted and diligent efforts; and

WHEREAS, the County is authorized to procure professional services of an attorney as an independent Attorney under A.R.S. §§ 11-201, 11-251 and 11-254.01 for these matters.

WHEREAS, Katsarelis Law, PLLC, is a law firm with attorneys licensed with the State Bar of Arizona, willing to provide such services for to the County for ERC under certain, specified terms: and

WHEREAS, it is in the best interest of the County to contract with and independent law firm to provide these legal services for ERC.

NOW THEREFORE, in consideration of their mutual promises set out herein, Attorney and County agree as follows:

1.0 SCOPE OF SERVICES

Attorney shall provide legal services and expertise necessary in order to perform the services outlined throughout this document and its attachments, specifically those outlined within Attachment 1 – Scope of Work.

2.0 COMPENSATION AND METHOD OF PAYMENT

In consideration for the performance of the services described herein, the County shall pay the Attorney the amounts as described in Attachment 2 – Fee Schedule.

The Attorney shall not commence any billable work or provide services under this Contract until Attorney receives an executed copy of the Professional Service Contract or is otherwise directed to do so in writing by the County Procurement Office. The County will pay the Attorney within thirty (30) days of services rendered following the submission of itemized invoice(s) including the Attorney company name, phone, invoice number, email address, mailing address, itemized accounting of cases, case number, case name, prior County approval and for any services rendered. No payment shall be issued prior to receipt of service and correct invoice. Each payment request must bear written certification by an authorized County representative confirming the services for which payment is requested have been performed and received. All payments, prior to issuance, are presented to the Cochise County Board of Supervisors.

COUNTY: Azlin L. Villa
Indigent Defense Coordinator
Cochise County Indigent Defense Office
520-432-9800
1415 Melody Lane, Building G
Bisbee, Az 85603

COUNTY PROCUREMENT: Anne Coppola
Contract Administrator
Cochise County Procurement Department
(520) 432-8394
ACoppola@cochise.az.gov
1415 W Melody Lane, Building C
Bisbee, AZ 85603

ATTORNEY: Efthymios Katsarelis, Esq.
Katsarelis Law PLLC
520-510-0439
Katsarelislaw@gmail.com
177 North Church Avenue
Tucson, AZ 85701

3.0 DURATION/RENEWALS

This Contract will remain in effect for July 1, 2023, through June 30, 2024, unless terminated or cancelled earlier pursuant to Section 4.0. The County may extend further as deemed necessary. The County may extend this Contract by amendment before the expiration date of this contract.

4.0 TERMINATION/CANCELLATION

The County may cancel this Contract without penalty or further obligation pursuant to A.R.S. §38-511 if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the County is or becomes, at any time while the Contract or any extension of the Contract is in effect any employee of, or Attorney to any other party to this Contract with respect to the subject matter of the Contract. Such cancellation shall be effective when written notice from the County is received by the parties to this Contract, unless the notice specifies a later time.

This Contract may also be terminated at any time by mutual written consent, or by the County, with or without cause, upon giving the thirty (30) days written notice to the Attorney. The County at its convenience, by written notice, may terminate this Contract, in whole or in part. If this Contract is terminated, the County shall be liable only for payment under the payment provisions of this Contract for services rendered and accepted material received by the County before the effective date of termination.

The County reserves the right to cancel the whole or any part of this Contract due to failure of the Attorney to carry out any term, promise or condition of the Contract. If the County intends to terminate the contract for cause, the County will issue a written ten (10) day notice of default to the Attorney.

Attorney warrants that he is licensed to practice law in the State of Arizona, in good standing with the Arizona State Bar, and is competent to handle matters contemplated by this Contract in a prompt and professional manner of behalf of his clients.

Suspension or disbarment of Attorney from the practice of law during the term of this Contract shall constitute a material breach of contract, entitling the County to terminate this Agreement immediately with or without notice.

5.0 ENFORCEMENT, LAWS, AND ORDINANCES

This contract shall be enforced under the laws of the State of Arizona. Attorney must comply with all applicable federal, state, and local laws, ordinances, and regulations. Attorney shall ensure payment of all taxes, licenses, permits, and other expenses of any nature associated with the provision of services herein. Attorney shall remain current with all Federal, State and Local licenses and permits required for the operation of the business conducted by the Attorney.

6.0 INDEPENDENT CONTRACTOR CONTRACT

It is clearly understood that each party shall act in its individual capacity and not as an agent, employee, partner, joint ventures, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other party for any purpose whatsoever. The Attorney shall be solely responsible for the acts and omissions of his/her officer, agents, servants, and employees, The Attorney is responsible for providing all workers' compensation insurance required by law.

The Attorney's professional duty is the representation if the indigent juvenile and adult clients in ERC. Neither the County nor IDC may exercise control over the professional judgment of the Attorney regarding the assigned ERC cases.

The Attorney is advised that taxes or social security payments shall not be withheld from a County payment issued hereunder and that Attorney should make arrangements to directly pay such expenses, if any. The County will not provide any insurance coverage to the Attorney including Workmen's Compensation coverage.

7.0 MODIFICATIONS

This Contract may be modified unilaterally or bilaterally. A unilateral modification shall only require the signature of an authorized representative of the County Procurement Department and shall only be used to enforce statutes, and/or regulations or to correct administrative errors. A bilateral modification shall require a contract through a written modification signed by an authorized representative of the County Procurement Department and an authorized representative for the Attorney.

8.0 WAIVER

The failure of either party of this Contract to take affirmative action with respect to any conduct of the other which is in violation of the terms of this Contract shall not be construed as a waiver thereof, or of any future breach or subsequent wrongful conduct.

9.0 INDEMNIFICATION

To the extent allowed by law, Attorney shall indemnify, defend, and hold harmless Cochise County, and its officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses, including court costs, attorneys' fees, and costs of claim processing, investigation and litigation (hereinafter referred to as "Claims") for bodily injury (including death), personal injury, or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the acts or omissions of Attorney or any of its owners, officers, directors, agents, employees or subAttorneys.

This indemnity includes any claim or amount arising out of, or recovered under, the Workers' Compensation Law or arising out of the failure of such Attorney to conform to any federal, state, or local law, statute, ordinance, rule, regulation, or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Attorney from and against any and all claims. It is agreed that Attorney will be responsible for primary loss investigation, defense, and judgment costs where this indemnification is applicable. In consideration of the award of this Contract, the Attorney agrees to waive all rights of subrogation against Cochise County, its officers, officials, agents, and employees for losses arising from the work performed by the Attorney for Cochise County. The scope of this indemnity will not be limited by the Insurance Requirements contained herein.

10.0 INSURANCE

Attorney shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract, insurance against claims for injury to persons or damage to property arising from, or in connection with, the performance of the work hereunder by the Attorney, its agents, representatives, and/or employees.

The insurance requirements herein are minimum requirements for this Contract and in no way, limit the indemnity covenants contained in this Contract. The County of Cochise in no way warrants that the minimum limits contained herein are sufficient to protect the Attorney from liabilities that might arise out of the performance of the work under this contract by the Attorney, his/her agents, representatives, employees and Attorney is free to purchase additional insurance as may be determined necessary.

10.1 MINIMUM SCOPE AND LIMITS OF INSURANCE

Attorney shall provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that

the coverage is written on a “following form” basis.

10.1.1 PROFESSIONAL LIABILITY (ERRORS AND OMISSION LIABILITY)

The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Services of this contract.

Each Claim	\$1,000,000
Annual Aggregate	\$1,000,000

In the event that the Professional Liability insurance required by this Contract is written on a claims-made basis, Attorney warrants that any retroactive date under the policy shall precede the effective date of this Contract and, either continuous coverage will be maintained, or an extended discovery period will be exercised, for a period of two (2) years beginning at the time work under this contract is completed. The policy shall cover professional misconduct or negligent acts for those positions defined in the Scope of Work of this contract.

10.1.2 WORKER’S COMPENSATION AND EMPLOYER’S LIABILITY.

<u>Workers' Compensation</u>	<u>Statutory Employers' Liability</u>
Each Accident	\$1,000,000
Disease – Each Employee	\$1,000,000
Disease – Policy Limit	\$1,000,000

This requirement shall not apply when an Attorney is exempt under A.R.S. 23-901, and when such Attorney executes the appropriate sole proprietor waiver form.

10.2 ADDITIONAL INSURANCE REQUIREMENTS

The policies shall include, or be endorsed to include the following provisions:

1. On insurance policies where the County of Cochise is named as an additional insured, the County of Cochise shall be an additional insured to the full limits of liability purchased by the Attorney even if those limits of liability are in excess of those required by this Contract.
- 1 The Attorneys insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.
3. Coverage provided by the Attorney shall not be limited to the liability assumed under the indemnification provisions of this Contract.

10.3 NOTICE OF CANCELLATION

Applicable to all insurance policies required within the Insurance Requirements of this Contract, Attorney’s insurance shall not be permitted to expire, be suspended, be canceled, or be materially changed for any reason without thirty (30) days prior written notice to the County of Cochise. Within two (2) business days of receipt, Attorney must provide notice to the County of Cochise if they receive notice of a policy that has been or will be suspended, canceled, materially changed for any reason, has expired, or will be expiring. Such notice shall be sent directly to the Cochise County Procurement Department, Attn: [PSA Number], 1415 Melody Lane, Building C, Bisbee, Arizona 85603.

10.4 ACCEPTABILITY OF INSURERS

Attorney's insurance shall be placed with companies licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers shall have an "A.M. Best" rating of not less than A- VII. The County of Cochise in no way warrants that the above-required minimum insurer rating is sufficient to protect the Attorney from potential insurer insolvency.

10.5 VERIFICATION OF COVERAGE

Attorney shall furnish the County with certificates of insurance (valid ACORD form or equivalent approved by the County) evidencing that Attorney has the insurance as required by this Contract. An authorized representative of the insurer shall sign the certificates.

All such certificates of insurance and policy endorsements must be received by the County before work commences. The County's receipt of any certificates of insurance or policy endorsements that do not comply with this written contract shall not waive or otherwise affect the requirements of this contract.

Each insurance policy required by this Contract must be in effect at, or prior to, commencement of work under this Contract. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this Contract shall be sent directly to:

Cochise County
Procurement Department
1415 Melody Lane Building C
Bisbee, Arizona 85603

The County project/contract number and project description shall be noted on the certificate of insurance. The County reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time. DO NOT SEND CERTIFICATES OF INSURANCE TO THE COUNTY'S RISK MANAGEMENT DIVISION.

10.6 APPROVAL AND MODIFICATIONS

Any modification or variation from the insurance requirements in this Contract shall be made by the Contracting Agency in consultation with the Risk Management Department, whose decision shall be final. Such action will not require a formal Contract amendment but may be made by administrative action.

11.0 LEGAL ARIZONA WORKERS ACT COMPLIANCE

Attorney hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to Attorney's employment of its employees, and with the requirements of A.R.S. § 23-214(A) (together the "State and Federal Immigration Laws"). The County shall have the right at any time to inspect the books and records of the Attorney in order to verify such party's compliance with the State and Federal Immigration Laws.

Any breach of the Attorney's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, shall be deemed to be a material breach of this Contract subjecting the Attorney to penalties up to and including suspension or termination of this Contract.

Any additional costs attributable directly or indirectly to remedial action under this Section shall be responsibility of the Attorney. In the event that remedial action under this Section results in delay to one or more tasks on the critical path of the Attorney's approved construction or critical milestones schedule, such period of delay shall be deemed excusable delay for which the Attorney shall be entitled to an extension of time, but not costs.

12.0 CERTIFICATION PURSUANT TO A.R.S. § 35-393.01: If Contractor engages in for-profit activity and has 10 or more employees, and if this Agreement has a value of \$100,000 or more, Contractor certifies it is not currently engaged in, and agrees for the duration of this Contract to not engage in, a boycott of goods or services from Israel. This certification does not apply to a boycott prohibited by 50 U.S.C. § 4842 or a regulation issued pursuant to 50 U.S.C. § 4842

13.0 LEGAL REMEDIES

If the Attorney and Cochise County are unable to mutually resolve disputes arising under this contract, all disputes arising under or relating to this Contract shall be settled by binding Arbitration. Any decision or award as a result of any such arbitration proceeding shall be in writing and shall provide an explanation for all conclusions of law and fact and shall include the assessment of costs, expenses, and reasonable attorneys' fees. Any such Arbitration shall be conducted by an experienced and knowledgeable Arbitrator(s) and shall include a written record of the Arbitration hearing. If the Attorney and Cochise County can mutually agree upon an Arbitrator, that Arbitrator shall be selected. If not, the Attorney and Cochise County shall each select an Arbitrator and those two Arbitrators shall select a third Arbitrator (or the Attorney and Cochise County shall request a third Arbitrator from the Arizona Arbitration Association). All Arbitrations will be held in the State of Arizona and under the Arizona Rules of Arbitration. All claims and controversies shall be subject to A.R.S. § 12-1518 et. seq.

14.0 APPLICABLE LAW

The Law of the State of Arizona shall govern this Contract, and suits pertaining to this Contract shall be brought only in Federal or State Courts in the State of Arizona. This provision does not supersede or invalidate the arbitration requirement in Paragraph XIV. titled Legal Remedies.

15.0 ATTACHMENTS

The following documents

1. Attachment 1 – Scope of Work
2. Attachment 2 – Pricing Schedule

16.0 AUTHORIZATION

The following parties are authorized to enter into legally binding contracts/contracts, respective to the organization they represent. Therefore, by signing below, all parties agree to the terms and conditions outlined herein, those incorporated by reference, as well as any attachments to this contract. This Contract represents the entire contract between the COUNTY and the ATTORNEY relating to this requirement and shall prevail over any and all previous verbal and written contracts.

APPROVED BY:

ATTORNEY

COCHISE COUNTY

Attorney Signature

Anne Coppola
Contracts Administrator

Attorney Printed Name

Date

Date