

**MEMORANDUM OF UNDERSTANDING  
BETWEEN NYE COUNTY AND THE FIFTH JUDICIAL DISTRICT COURT  
REGARDING DESIGNATION OF COURT ADMINISTRATOR AS CLERK OF THE  
COURT, DIVISION OF DEPUTY CLERKS BETWEEN NYE COUNTY AND THE  
FIFTH JUDICIAL DISTRICT COURT, AND ADMINISTRATIVE SERVICES FOR  
THE DEPUTY COURT CLERKS OF THE FIFTH JUDICIAL DISTRICT COURT**

**WHEREAS**, pursuant to the constitutional separation of powers mandated by the Constitution of the State of Nevada, the respective inherent powers of the Judicial, Executive, and Legislative Departments, and the Nevada Supreme Court precedent set forth in *City of Sparks v. Sparks Mun. Court*, 129 Nev. 348, 302 P.3d 1118 (2013), and *Harvey v. Second Judicial District Court*, 117 Nev. 754, 32 P.3d 1263 (2001), the Fifth Judicial District Court (“Court”) and Nye County (“County”) believe that it is in the best interests of the Court and the County for the Court to assume control of the Clerk of the Court functions, that certain personnel be designated under the supervision and direction of the County Clerk and the Clerk of the Court respectively, that each entity be able to request assistance from the other, and such assistance will be rendered in specific circumstances, and to outline herein the relative responsibilities of the Court and County when such requests are made.

**NOW THEREFORE, IT IS MUTUALLY AGREED** by and between the County and the Court through this Memorandum of Understanding (“Agreement”) as follows:

**1. DESIGNATION OF THE COURT ADMINISTRATOR AS THE CLERK OF COURT.** The Court Administrator shall serve as Clerk of the Court pursuant to such designation denominated by the Court. By court rule, the Court Administrator as the Clerk of the Court will be responsible for carrying out all statutory duties and the execution of necessary documents required of clerks of the court previously performed by the Nye County Clerk. The Nye County Clerk shall by such designation relinquish any and all authority or requirement to perform the statutory duties of clerk of the court.

**2. DIVISION OF PERSONNEL.** The County and the Court recognize and desire to avoid disruption of services to the citizens of the County. Therefore, the Court and the County agree to the following procedure to staff the needs of the Court.

a. Six (6) deputy court clerk positions shall be transferred to the Court to serve under the control and supervision of the Court as follows:

Pahrump Clerk's Office:	Deputy Court Clerk III (1 Position)
	Deputy Court Clerk II (2 Positions)
	Deputy Court Clerk I (1 Position)

Tonopah Clerk's Office	Deputy Court Clerk III (1 Position)
	Deputy Court Clerk I (1 Position)

b. The current deputy county clerks will be given the opportunity to transfer to the position of deputy court clerk by signing a transfer bid sheet. The final decision as to who will become deputy court clerks, among those desiring to transfer to such position, will be determined by the Court. The Court reserves the right to reject the transfer request of any deputy county clerk.

c. In the event there are not enough current personnel to meet the foregoing requirements, the Court may seek to hire employees in the respective positions of deputy court clerk. The decision as to whom to hire as a deputy court clerk will be made by the Court.

d. The District Court submits it is not a party to any collective bargaining agreement negotiated by and between Nye County and the various employee labor organizations and as such declares that all district court clerks shall serve at the pleasure of the District Court.

**3. SUPERVISION OF DEPUTY COURT CLERKS.** Deputy court clerks are under the complete jurisdiction, supervision, and control of the District Court Judges and the Court Administrator/Clerk of the Court.

**4. SHARED DUTIES OF DEPUTY COURT CLERK(S) ASSIGNED TO TONOPAH.** The County and the Court recognize that due to substantial differences in workloads, the majority of the deputy court clerks will be assigned to work in Pahrump, Nevada. In view of the limited resources and personnel available to perform services in Tonopah, Nevada, the County and the Clerk agree that the deputy court clerk(s) assigned to Tonopah, Nevada may from time-to-time be requested to perform the duties of the deputy county clerk(s) when such deputy county clerk(s) are absent from work or otherwise unavailable. Similarly, there may be times when the deputy county clerk(s) are requested to perform the duties of the deputy court clerk(s) when such deputy court clerk(s) are absent from work or otherwise unavailable. During those limited circumstances, the deputy court clerk will receive direction from the County Clerk relative only to County business. Similarly, the deputy county clerk will receive direction from the Court Administrator/District Judges only to court business. The County Clerk will have no authority to discipline a deputy court clerk and the Court Administrator/District Judges will have no authority to discipline a deputy county clerk.

**5. ELECTION ASSISTANCE TO BE RENDERED BY DEPUTY COURT CLERKS.** In view of the limited personnel and resources available to the County and the Court, the parties agree that the deputy court clerks will render requested assistance to the County Clerk and deputy county clerks as needed to ensure the proper and successful completion of the election which assistance will be determined by mutual consent of the parties. During such assistance, the deputy court clerks will receive direction from the County Clerk relative only to the election. The County Clerk will have no authority to discipline a deputy court clerk. Notwithstanding the foregoing, the County and the Court agree that at least one (1) deputy court clerk will be prohibited from participating in the election assistance to prevent the appearance of impropriety should any legal action be filed regarding the election. Said deputy court clerk(s) will be designated to perform all deputy court clerk functions for any such legal action.

## **6. EMPLOYEE COMPENSATION AND BENEFITS**

a. The County shall perform all administrative functions related to the processing and issuing of payroll for all employees associated with the District Court and shall maintain all records associated with payroll and other employee benefits. The County will provide the Court Administrator with all records associated with payroll and other employee benefits upon request.

b. All employees designated for transfer to a Deputy Court Clerk position shall retain their current paygrade and steps and shall be entitled to step increases as provided for other regular employees of Nye County.

c. The Court has the right to add additional employees, eliminate, and/or to reclassify deputy court clerks, subject to budget constraints. The Court and the County will engage in appropriate discussions of such matters as part of budgetary discussions and negotiations.

d. Deputy district court clerks shall be entitled to continue participation or otherwise enroll in any medical, dental, vision, life insurance or such other employee benefit as is made available to employees of Nye County as may be changed from time to time. Deputy Court Clerks shall also be covered by such workers' compensation policies or other insurance coverages provided to Nye County employees.

## **7. DEPUTY COURT CLERK PERSONNEL FUNCTIONS AND EMPLOYEE FILES.**

a. The Court is solely responsible for all personnel functions for the deputy court clerks and its employees not addressed in the Agreement.

b. The County will provide to the Court the original master personnel files, including confidential files, of all persons who are current deputy county clerks and who are transferring to the deputy court clerk positions. The Court will securely store existing files and those created in the future as additional employees are hired. These files will include the originals of all documents to the extent that document was/is created or received in the course of the employee's hire and employment. The County shall upon request from the Court provide copies of any records relating to employee payroll, workers compensation claims, PERS benefits, tax forms, or other benefit enrollment documents except as may be prohibited by Federal or State law.

## **8. DEPUTY COURT CLERK VACANCIES.**

a. The Court reserves decision-making authority when filling open positions for deputy court clerks and shall present offers of employment to prospective deputy court clerks.

b. Upon notification from the Court, the Human Resources Department will assist the Court with filling the position, including but not limited to managing availability and processing of applications and advertising job vacancies on the Nye County website. The Court will discuss whether the open position needs to be advertised or posted by any other means. The Court will be responsible for creating and/or providing all information it seeks to have included in the advertisement(s)/posting for the position. Any costs associated with advertising will be the responsibility of the Court.

c. The Human Resources Department will request that an applicant complete an employment application on a form created by the Court and provided to the County. The Human Resources Department will provide all original applications for open positions to the Court Administrator.

d. When requested by the Court, the County will assist with background checks on deputy court clerk candidates. All routine expenses incurred shall be paid by the County.

e. Once the Court makes the final hiring decision for a deputy court clerk, the Court will communicate this fact to the Human Resources Department. The Court will then notify the

applicant to be hired and, if the job is accepted, notify the Human Resources Department and provide the Human Resources Department with the necessary new employee documentation. The Human Resources Department shall provide typical services for the orientation of new employees regarding benefits and resources available through the County.

## 9. GENERAL PROVISIONS.

a. This Agreement supersedes any and all previous agreements between the parties and any existing Administrative Orders or personnel rules relating to the personnel administration of deputy court clerks.

b. Any and all amendments to this Agreement must be in writing and properly executed by the District Court Judges and County.

c. The parties mutually recognize the constitutional principles of the separation of powers of co-equal branches of government. The County shall not interfere with any activities involving the direct control over the court clerk's function. The Court, likewise, shall not expend funds outside of the budgetary process and negotiations with the County, except in unforeseen or emergency circumstances where pre-approval for an expenditure outside of the assigned budget is not feasible. In those circumstances, the Court will promptly notify the County of the unforeseen or emergency expenditure. Any unresolved dispute over disagreements regarding the usurpation of constitutional powers, including an intent to terminate this Agreement, shall be resolved through mediation with the assistance of the Nevada Supreme Court. If the parties reach an impasse in mediation, the unresolved dispute or disagreement will be resolved through litigation.

d. If any provision of this Agreement is found to be contrary to law, the remaining provisions shall be construed as valid and in full force and effect.

**IN WITNESS HEREOF, the parties have executed this Memorandum of Understanding as of the dates set forth below.**

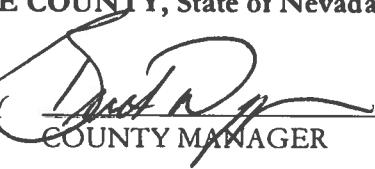
**FIFTH JUDICIAL DISTRICT COURT, NYE COUNTY, State of Nevada**  
Nye and Esmeralda Counties, State of

Nevada

By: 

**HON. KIMBERLY A. WANKER**  
DISTRICT JUDGE

Dated: 12/12/2011

By: 

**COUNTY MANAGER**

Dated: 11/12/2011

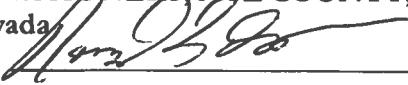
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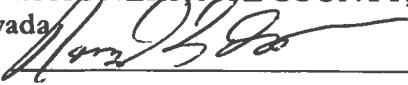
Nevada

By: 

**HON. ROBERT W. LANE**  
DISTRICT JUDGE

Dated: 12/12/2011

**BOARD OF COUNTY COMMISSIONERS, NYE COUNTY, State of Nevada**  


By: 

**RON BOSKOVICH**  
CHAIR

Dated: 11/12/2011