



Staff Report

Agenda Item: **Independent Contractor Agreement for Spanish Interpreter Services - Approval of Independent Contractor Agreement with Jonohn Cole for Spanish Interpreter Services.**

Staff Contact: Kathy Bainbridge, Town Clerk

Meeting Date: March 10, 2009

Background: Judge Cipriano has decided to pursue a contractual arrangement with a Spanish language interpreter who happens to also be a Clarkdale resident. Currently, when our Court requires the services of an interpreter, without having another option available we use the interpreter provided by the County. Those services currently come at a cost of \$40 per hour. Judge Cipriano has cultivated a relationship with another individual who has served as an interpreter during his proceedings recently and this person is willing to also be available to the Clarkdale Court on an as-needed basis at a rate of \$20 per hour. We would still need to utilize the County's "certified" interpreter for pleas and items of a more serious nature. The overall savings for not utilizing those County services as frequently will not be significant, but it does add to the efforts of all departments looking at every opportunity to cut costs. For quite some time we have solicited volunteer help for a Spanish interpreter for the Court, but have not been successful in doing so. Council should be seeing the proposed agreement coming before them for consideration soon.

The contract was written so that the Town could utilize Ms. Cole's services as needed for other Town meetings or functions.

Recommendation: Approval of Independent Contractor Agreement with Jonohn Cole for Spanish Interpreter Services.

PO BOX 823 * CLARKDALE, AZ 86324
PHONE (928) 821-1567 * E-MAIL - JONOHN@HOTMAIL.COM

JONOHN COLE

OBJECTIVE

To find a permanent part time position in which to employ my abilities and skills to the benefit of my employer.

QUALIFICATIONS

- Hardworking & Industrious
- Personable & Customer Service Oriented
- Analytical, Retentive, & Computer Literate
- Honest and Trustworthy
- Bilingual, fluent in Spanish and familiar with Latin culture
- Enjoys learning new skills and taking on challenges

WORK EXPERIENCE

- | | |
|---|----------------------------|
| 2008 | Language Line Interpreters |
| <i>Spanish Interpreter</i> | |
| ▪ Interpretation of calls immediately from English to Spanish and Spanish to English. Variety of scenarios including 911 Emergency, Financial (Credit Card, Mortgage), and Government (SSI, Medicaid). Quick thinking, excellent retention and note taking required for accuracy. Ability to solve problems and calm heated situations. | |

**TOWN OF CLARKDALE
INDEPENDENT CONTRACTOR AGREEMENT**

THIS INDEPENDENT CONTRACTOR AGREEMENT ("Agreement") is made and entered into as of this 10th day of March, 2009, by and between the Town of Clarkdale ("Town") and Jonohn Cole ("Contractor").

RECITALS

WHEREAS, the Contractor has expertise and skill in an area of work desired by the Town and is willing to provide consulting services to the Town; and

WHEREAS, the Town is willing to engage Contractor as an Independent Contractor, and not as an employee, on the terms and conditions set forth in this Agreement.

AGREEMENT

ARTICLE I - SCOPE OF SERVICE

The Contractor agrees to provide the professional services specified in the Scope of Services defined in Exhibit "A."

ARTICLE II - CONTRACTOR IS AN INDEPENDENT CONTRACTOR

This Agreement does not create an employee/employer relationship between the parties. It is the parties' intention that the Contractor will be an independent contractor and not an employee of the Town for all purposes, including, but not limited to, the Fair Labor Standards Act, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the Internal Revenue Code (and any other Arizona income tax laws), the Arizona state workers' compensation laws, the Arizona State unemployment insurance laws and any of the Town's benefit plans for the Town's employees. Contractor agrees that it is a separate and independent enterprise from the Town, that it has a full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill necessary to perform any work performed for the Town. This Agreement shall not be construed as creating any joint employment relationship between Contractor and the Town and the Town will not be liable for any obligation incurred by the Contractor, including but not limited to unpaid minimum wages and/or overtime premiums. This Agreement shall not be construed to authorize the Contractor to act as an agent for the Town in any manner.

ARTICLE III - TIME OF PERFORMANCE

Work shall commence on April 1, 2009, and will be expire on June 30, 2011. The Town has an option to renew the contract on a month to month basis at the expiration date of this contract. The contract shall automatically renew on a month to month basis unless written notice to the contrary is filed with either party not later than the last business day (Monday through Thursday) of the calendar month preceding the calendar month in which the current contract period expires.

ARTICLE IV - TOWN RESPONSIBILITIES

The Town shall accomplish the following:

Assist the Contactor by placing at its disposal all available information pertinent to the Scope of Services for the project.

Use its best efforts to secure release of other data necessary for the Contactor to perform the Scope of Services held by others.

Give prompt written notice to the Contactor whenever the Town observes, or otherwise becomes aware of, any fault or defect in the project or non-conformance with this Agreement.

ARTICLE V - CONTACTOR RESPONSIBILITIES

The Contactor shall accomplish the following:

Give prompt written notice to the Town whenever the Contactor observes, or otherwise becomes aware of, any fault or deficit in the project or any non-conformance with the Agreement.

Observe strict confidentiality in relations with all other parties regarding all of the Town's proprietary information and regarding any other information obtained in connection with the representation of the Town.

Contactor specifically agrees to indemnify, defend and hold harmless the Town and all of its officers, employees and officials from all claims of damages, costs or expenses in law and equity, including any wage or overtime claims made by any of Contactor's employees, and including reasonable attorney's fees and costs of suit that may arise out of or be related to any claims of damages, injury or harm to property or persons received or suffered as a result of the negligent errors, acts or omission of the Contactor or any or its agents, officers, employees and/or subcontractors engaged in the performance of services under the terms of this contract to the full extent permitted by law.

ARTICLE VI – COMPENSATION

The Contactor shall be compensated for services in accordance with the fee schedules in Exhibit "A."

It is further agreed that the Contactor shall not bill the Town, and Town shall not be liable to pay, any costs in excess of this amount without specific written authorization to do so from the Town Magistrate or the Town Clerk of the Town of Clarkdale, in accordance with the amendment procedure described in Article VIII hereunder.

The parties further agree and acknowledge that the Town is engaging Contactor as an independent contractor to provide services to the Town under the terms of this agreement and that the Town shall not be required, under any circumstance(s), to assume liability for the direct payment of any salary, wage, or other compensation to any person employed by the Contactor before, during, or after this agreement is in effect.

ARTICLE VII - INCOME TAX DESIGNATION AND INDEMNIFICATION

The Town shall not withhold from sums becoming payable to the Contactor under this Agreement any amounts for federal, state or local taxes, including federal or state income taxes, employment taxes (including Social Security and Medicare taxes), and unemployment taxes. The Town shall report all payments to Contactor on Internal Revenue Service Form 1099. The Contactor agrees that any tax obligation of Contactor arising from the payments made under this Agreement will be the Contactor's sole responsibility. The Contactor will indemnify the Town for any tax liability, interest, and/or penalties imposed upon the Town by any taxing authority based upon the Town's failure to withhold any amount from the payments for tax purposes.

ARTICLE VIII - METHOD AND SCHEDULE OF PAYMENT

The Contactor will invoice the Town bi-monthly for services rendered through the end of the previous two week period, and the Town agrees to pay within fifteen (15) days of receipt of a valid invoice. A valid invoice shall consist of a daily account with a description of work performed, a detailed accounting of the relative time involved in each billable circumstance, as well as an itemization of all reimbursable expenses, which must be documented with copies of receipts whenever possible.

ARTICLE IX – TERMINATION

Either party may cancel or terminate this Agreement at any time, with or without cause, by giving thirty (30) days written notice to the other party. The Town also may terminate this Agreement pursuant to the requirements of A.R.S. § 38-511. In the event such termination occurs prior to completion of the Scope of Services provided herein, the Town agrees to pay the Contactor for work actually performed in accordance with the terms of this Agreement through the cancellation date.

ARTICLE X – CHANGES

The Town may, from time to time, require changes in the Scope of Services by the Contactor to be performed hereunder. Such changes which are mutually agreed upon by and between the Town and the Contactor shall be incorporated by written amendment to this Agreement. No payment shall be made by the Town to the Contactor for any work that does not have such an amendment incorporated into his Contract by mutual signed agreement. There shall be no oral modifications of this Agreement.

ARTICLE XI – AUTHORITY

This Agreement shall be governed by the laws of the State of Arizona and all applicable ordinances, rules and regulations of the Town of Clarkdale. Any actions arising out of or relating to this Agreement shall be brought in Yavapai County, Arizona.

ARTICLE XII - THIRD PARTY CONTRACTS

The Contactor shall have no authority to bind the Town in any way with third parties without the prior written consent of the Town.

ARTICLE XIII - ENTIRE AGREEMENT

This Agreement contains the entire understanding and agreement between the parties hereto with respect to its subject matter and supersedes any prior or contemporaneous written or oral agreements, representations or warranties between them respecting the subject matter hereof.

ARTICLE XIV – SEVERABILITY

If any term, provision, covenant or condition of this Agreement, or the application thereof, shall be held by a court of competent jurisdiction to be invalid, unenforceable or void, the remainder of this Agreement shall remain in full force and effect.

ARTICLE XV – ASSIGNMENT

This Agreement may not be assigned by the Contactor without the express written permission of the Town.

IN WITNESS THEREOF, the parties hereto have executed this Agreement in duplicate originals on the day and year here above written.

TOWN OF CLARKDALE

By: _____
Gayle Mabery, Town Manager

By: _____
Jonohn Cole

Approved as to Form:

By: _____
Robert S. Pecharich, Town Attorney

ATTEST:

Kathy Bainbridge, Town Clerk/Finance Director

Mail all invoices to:

Town of Clarkdale
PO Box 308
Clarkdale, AZ 86324-0308
Attn: Accounts Payable

EXHIBIT "A"

SCOPE OF SERVICES

Jonohn Cole, Contactor will provide Spanish Interpreter services for the Clarkdale Magistrate and/or the Town of Clarkdale on an as needed basis.

Contactor will be required to work closely with the Clarkdale Magistrate Court, the Town of Clarkdale, the Town of Clarkdale elected officials and town staff.

The Town Magistrate or Town Clerk will assign all duties and responsibilities to Contactor.

Any required reports will be determined by the Town Magistrate or Town Clerk and assigned on an as needed basis. Services as the Spanish Interpreter Contactor shall be provided on a part-time basis as needed at the Town of Clarkdale work site.

Contactor will provide a vehicle for the Contactor's transportation during working hours.

Products or services purchased or developed as part of this agreement is owned solely by the Town. Upon cancellation of this agreement all work products will be left in Town's possession.

Equipment, office supplies, computers and any tools necessary for the Contactor to perform the Scope of Services identified in this contract, will remain the property of the Town and will be returned to the Town upon termination of this agreement.

FEE AND BILLING

Contactor will be compensated at the rate of \$20.00 per hour with a one hour minimum charge.

Contactor will be compensated for mileage at the federal mileage rate (presently \$.585/mile) for any trips required at the direction and approval of the Town for the purpose of conducting business for the Town. The mileage to and from the Town for the purpose of reporting for daily work and mileage within the Town for routine work shall not be eligible for reimbursement.

Contactor will be compensated for any approved travel expenses, necessary to conduct business for the Town of Clarkdale in accordance with any existing travel policies of the Town.

A bi-monthly invoice shall be submitted to the Town. After review and approval the entire amount due each invoice shall be paid (15) fifteen days after submission of bi-monthly invoice.