



**HENDERSON COUNTY, TEXAS CONTRACT FOR LEGAL SERVICES
FOR INDIGENT DEFENDANTS**

This Contract is authorized by Texas Code of Criminal Procedure 26.04 and the Texas Administrative Code Title I, Part 8, chapter 174, and is made by and between the parties identified below for the purpose of providing legal services to Indigent Defendants in the District Courts of Henderson County, Texas.

NOW THEREFORE, the Parties agree as follows:

I. Definitions

- a. **Cases.** A case is defined as the representation of one defendant per criminal transaction/episode regardless of the number of criminal charges a defendant may have received during that criminal transaction/episode. It is contemplated that a single defendant may have more than one criminal episodes/transactions being prosecuted simultaneously; therefore, one defendant can count toward the Contract Attorney's maximum caseload more than once.
- b. **Parties.** The Parties are the Appointing Authority, Contracting Authority, and Contract Attorney.
- c. **Appointing Authority** shall mean the District Court Judges of Henderson County, Texas who have authority to establish an Indigent Defense Plan and approve attorneys to represent Indigent Defendants in criminal cases under Article 26.04, Code of Criminal Procedure.
- d. **Contracting Authority** shall mean Henderson County, Texas, acting by and through her duly elected County Judge and Commissioners Court.
- e. **Contract Attorney** shall mean _____, SB#_____

II. Term of Contract

- a. The initial term of this contract shall be for twenty-four months beginning on January 1st, 2024 and ending on December 31st, 2025, unless sooner terminated as set forth herein.
- b. This term shall automatically renew beyond its initial period for additional 12-month terms unless notice of intent to terminate is submitted by a party to the other parties no later than 90 days prior to the expiration of any term or for cause as described below.

III. Compensation

- a. The Contract Attorney shall receive the sum of **\$110,000.00** (*One Hundred Ten Thousand and no/100 Dollars*) every twelve-month period for the term of the contract, payable in 12 equal monthly payments, unless the Contract is terminated sooner.

- b. The Contract Attorney shall receive as additional compensation the applicable Henderson County Texas Attorney Fee Voucher daily rate in effect at the time of trial for active jury trial participation as approved by the Appointing Authorities.
- c. In the event this contract is terminated or a party opts not to renew, monthly compensation shall cease upon the effective date of the termination.
- d. Upon termination of this Contract, any remaining unresolved cases still assigned to the Contract Attorney will be compensated in accordance with the Henderson County Texas Attorney Fee Voucher in effect at the time of the resolution.

IV. **Contract Attorney Qualifications**

- a. By signing this Contract, the Contract Attorney represents to the Appointing Authority that he or she meets the following minimum qualifications:
 - i. The Contract Attorney maintains the minimum qualifications to practice law in the State of Texas and will immediately inform the Appointing Authority of any change in status or disciplinary actions with the State Bar of Texas;
 - ii. The Contract Attorney is familiar with the Texas Penal Code, the Texas Code of Criminal Procedure, the Texas Rules of Evidence, Texas Disciplinary Rules of Professional Conduct, Texas case law and the local rules of practice for the criminal courts of Henderson County, Texas;
 - iii. Consistently demonstrates a commitment to provide effective assistance of counsel and quality representation to criminal defendants;
 - iv. Consistently demonstrates professionalism, proficiency, and reliability in representing criminal defendants, and in dealing with the courts and opposing counsel;
 - v. Is of sound mind, as well as good moral and ethical character;
 - vi. Has not been sanctioned by a court for failure to appear;
 - vii. Has not been sanctioned by a court for any type of unprofessional conduct or abusive
 - viii. Maintains his or her principal office in Henderson County, Texas (A principal office is the commercial location where the Contract Attorney conducts the majority of his or her criminal law practice, and does not include a post office address);
 - ix. Maintains a secretary, receptionist, answering service or daily monitored answering machine or voice mail system at his or her principal office;
 - x. Maintains a functioning fax machine on a dedicated telephone line or digital equivalent and an email address, available 24 hours a day and monitored on a daily basis during regularly scheduled business hours (i.e. 9 AM through 5 PM., Monday through Friday);
 - xi. Files with the Appointing Authority a complete, accurate sworn "Application for Felony Court-Appointments," including all required attachments; and

- xii. Contract Attorney qualifications shall equal or exceed the qualifications provided in the Henderson County Fair Defense Plan for the District and County Courts at Law.

V. **Caseload**

- a. The Contract Attorney may be appointed to represent a maximum of 200 cases including Felonies and Motions to Revoke or Proceed at any one time. The Contract shall include appointments for representation in First, Second, Third and State Jail Felonies, but **shall not** include appointment for representation in Civil Asset Forfeiture, Appellate matters, Capital Felonies or Misdemeanor offenses. **In no event shall the Contract Attorney's active caseload exceed 200 cases.** If the Contract Attorney is appointed to 200 cases at any time, He or She shall be required to notify the Appointing Authority immediately so that Contract Attorney will not receive further appointments. If a contract term is extended beyond its initial period, the number of cases actively being represented by the Contract Attorney at the expiration of the prior term shall be included in the calculation of the Contract Attorney's caseload maximum stated above.

VI. **Compensation for Expenses**

- a. The Contract Attorney shall be reimbursed for reasonable and necessary expenses, including expense for investigation and for mental health and other experts with prior court approval.
- b. The Contract Attorney shall file with the court a pretrial request for advance payment of investigative and/or expert witness expenses to investigate potential defenses. In the discretion of the Contract Attorney, this request may be filed as an ex parte confidential request.
- c. Any requests for approval of expenses must state the type of investigation to be conducted or the type of expert witness to be retained, must set out specific facts that suggest the investigation will result in admissible evidence or that the services of an expert witness are reasonably necessary to assist in the preparation of a potential defense, and shall include an itemized list of anticipated expenses for each investigator and/or expert witness.
- d. The judge may grant the request for payment of expenses in whole or in part as far as the request is reasonable.

VII. **Independent Contractor**

- a. The Contract Attorney is not an employee of Henderson County, the Contracting Authority or the Appointing Authority. At most, the Contract Attorney is an independent contractor who shall complete the requirements of this Contract by the Contract Attorney's own means and methods of work, and in accordance with the Contract Attorney's professional legal judgment, which shall be in the exclusive charge and control of the Contract Attorney, and is not subject to control or supervision of the Appointing Authority or the Contracting Authority except as specified in this Contract.

AN INDIGENT DEFENDANT ASSIGNED TO THE CONTRACT ATTORNEY IS THE CLIENT OF THE CONTRACT ATTORNEY, AND NOT THE CLIENT OF EITHER THE CONTRACTING AUTHORITY OR THE APPOINTING AUTHORITY.

IT IS THE DUTY OF THE CONTRACT ATTORNEY AT ALL TIMES TO PROVIDE COMPETENT, ZEALOUS LEGAL SERVICES TO EACH CLIENT IN ACCORDANCE WITH RESPONSIBILITIES UNDER TEXAS LAW, INCLUDING BUT NOT LIMITED TO THE TEXAS CODE OF CRIMINAL PROCEDURE AND THE TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT.

ONCE THE ATTORNEY-CLIENT RELATIONSHIP HAS BEEN ESTABLISHED, THE CONTRACT ATTORNEY WILL REFRAIN FROM ATTEMPTING TO WITHDRAW FROM REPRESENTATION OF THE CLIENT UNLESS SUCH WITHDRAWAL IS REQUIRED BY THE TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT OR A THE CLIENT DEMANDS THE CONTRACT ATTORNEY'S WITHDRAWAL, IF SUCH A WITHDRAWAL BECOMES NECESSARY, UPON SHOWING OF GOOD CAUSE, THE APPOINTING AUTHORITY SHALL RELIEVE THE CONTRACT ATTORNEY FROM REPRESENTATION AND SEEK TO APPOINT THE INDIGENT DEFENDANT NEW REPRESENTATION IN THE EVENT THE DEFENDANT REMAINS INDIGENT.

VIII. **Standard of Performance**

- a. The Contract Attorney shall, for the consideration expressed above, provide legal services to each person for whom he or she is appointed as follows:
 - i. Provide quality, effective, competent, zealous legal representation to all clients in a professional, skilled manner consistent with the attorney's responsibilities under the Texas Disciplinary Rules of Professional Conduct, the Texas Code of Criminal Procedure, and all applicable laws;
 - ii. Make every reasonable effort to contact any court-appointed client as soon as practicable after the Contract Attorney is appointed in accordance with the then current Henderson County Fair Defense Plan for the District and County Courts at Law. Said contact may be in any reasonable form, including face-to-face, electronic, written, or telephonic;
 - iii. Ensure continuity of representation of the client unless relieved or replaced in accordance with Texas Code of Criminal Procedure article 26.04(j)(2);
 - iv. The Contract Attorney shall not assign, subcontract, or delegate any part of the services to be provided by the Attorney under this Contract;
 - v. The Contract Attorney shall not accept any payments from a client or third-party for legal services provided in a case assigned under this Contract;
 - vi. The Contract Attorney shall not release confidential attorney-client information or work product related to any case assigned under this Contract, except when authorized by the Texas Disciplinary Rule of Professional Conduct.
 - vii. The Contract Attorney shall not represent any defendant when to do so would create a conflict of interest. In the event of a conflict of interest, The Contract Attorney shall present evidence to the Appointing Authority, and if so ordered, be allowed to withdraw from representation of that defendant.
- b. Continuing Requirements. In addition to the foregoing qualifications and performance standards, The Contract Attorney shall:

- i. Submit a monthly report to be approved by the Appointing Authority and in accordance with Texas Code of Criminal Procedure 26.05.
- ii. Submit an annual report regarding percentage of practice time dedicated to appointed cases in Henderson County. The report shall be in the form electronically promulgated by the Texas Commission on Indigent Defense Business Services.
- iii. Maintain the minimum qualifications to practice law in the State of Texas and must immediately inform the Appointing Authority of any change in the status of the Attorney's law license. Upon request, The Contract Attorney shall provide Appointing Authority with proof of licensure in good standing.

IX. Termination of Contract.

- a. This Contract may be terminated by notice provided in accordance herein of intent not to renew by the Appointing Authority or for the following reasons:
 - i. The Appointing Authority may terminate this Contract if the Contract Attorney closes his or her active office for the practice of law in Henderson County, Texas;
 - ii. The Appointing Authority may terminate this Contract if the Contract Attorney fails to perform the duties set forth in this Contract.
 - iii. This Contract may be terminated by the Contract Attorney by notice as provided in accordance herein of intent not to renew by the Contract Attorney or for the following reasons:
 - iv. The Contract Attorney may terminate this Contract if the Contracting Authority fails to make timely payments as specified herein.
 - v. The Contract Attorney may terminate this Contract if, for reasons beyond the control of Contract Attorney, the Contract Attorney is unable to perform the duties required hereunder.
 - vi. The Appointing Authority and the Contract Attorney may mutually terminate the Contract for force majeure or any change in the applicable or authorizing law, which renders the Contract moot. Further, either Party may terminate the contract by forwarding to the other party a written intent not to renew no later than 90 days prior to the end of any given term.

X. Effect of Termination Upon the Attorney-Client Relationship.

- a. The attorney-client relationship commences upon the appointment of the Contract Attorney to represent any person under this Contract. In the event of termination of the Contract, the attorney-client relationship shall continue until the conclusion of the matter for which the Contract Attorney was appointed or the Contract Attorney is relieved by Order of the Presiding Judge. Compensation post termination will be made in accordance with the provisions contained in Paragraph III. d. above. In the event that the Contract Attorney is no longer able or is legally not qualified to conclude any such matter, the Appointing Authority shall consider whether the client remains indigent, and if so, make such other appointment as may be necessary to provide effective legal representation for the indigent person.

XI. Disputes

- a. Venue of any dispute arising under or with regard to this Contract shall be in a court of competent jurisdiction in Henderson County, Texas.

XII. Fraudulent Misrepresentation/Falsification

- a. Knowingly providing false information in an application for appointment under this Contract shall be grounds for immediate termination of the Contract.
- b. Intentional falsification of any report, billing documentation or other submission by the Attorney will be grounds for immediate termination of the Contract. In addition, such actions may subject the Contract Attorney to professional discipline and/or criminal prosecution.

Appointing Authority

_____	_____
Dan Moore, Judge, 173rd Judicial District Court	Date

_____	_____
Mark Calhoon, Judge, 3rd District Court	Date

_____	_____
R. Scott McKee, Judge, 392nd District Court	Date

Contracting Authority

_____	_____
Wade McKinney, Henderson County Judge	Date

Contract Attorney

_____	_____
(Name)	Date