

**CLARK COUNTY PROFESSIONAL SERVICES CONTRACT  
FOR TRACK AND HOURLY APPOINTMENTS**

THIS contract entered into between Clark County, State of Nevada, hereinafter called COUNTY, and \_\_\_\_\_, hereinafter called ATTORNEY.

This Contract is specifically for the following appointment types:

Both parties initial where appropriate:	COUNTY	ATTORNEY
A) Track assignment - Adult	_____	_____
B) Track assignment – Juvenile	_____	_____
C) Track assignment - Abuse and Neglect - with hourly appointments to parental termination cases	_____	_____
D) Track assignment - Adult Guardianship - with pre-approved hourly appointments	_____	_____
E) Track assignment – Specialty Courts Adult	_____	_____
F) Hourly Appointments		
1) Capital murder cases	_____	_____
2) Tier 1 - Non-capital murder, sexual assault/lewdness, life, and multiple defendant cases	_____	_____
3) Tier 2 - Life cases and multiple Defendant cases (excluding murder and sexual assault/lewdness)	_____	_____
4) Capital murder appeal/habeas cases	_____	_____
4) Non-capital murder appeal/habeas cases	_____	_____
6) Family Court Matters – GAL; OSC; TPR; guardianship; dependency conflict cases, contempt hearings and appeals	_____	_____

WITNESSETH

WHEREAS, COUNTY requires the services of attorneys qualified to provide counsel for representation of indigent defendants arrested for or charged with felonies, gross misdemeanors, or misdemeanors in Clark County, Nevada, EXCEPT cases involving a possible punishment of death, life without the possibility of parole, or life with the possibility of parole, as well as, provide services for indigents in felony probation violation proceedings, material witness and contempt proceedings and other legal matters involving potential loss of liberty and which require the appointment of legal counsel; and

WHEREAS, COUNTY requires the services of attorneys qualified to provide counsel for representation of indigent defendants arrested for or charged with felonies that carry the potential for a life sentence in Clark County, Nevada, EXCEPT cases involving the charge of murder, sexual assault, or lewdness with a minor; and

WHEREAS, COUNTY requires the services of attorneys qualified to provide counsel for representation of indigent defendants arrested for or charged with murder, sexual assault, or lewdness with a minor in Clark County, Nevada, EXCEPT cases involving a possible punishment of death; and

WHEREAS, COUNTY requires the services of attorneys qualified to provide counsel for representation of indigent defendants arrested for or charged with the offense of open murder in Clark County, Nevada, where the State is seeking the Death Penalty; and

WHEREAS, COUNTY requires the services of attorneys qualified to provide counsel for appellate/post-conviction representation of indigent defendants convicted of either a felony or gross misdemeanor offense; and

WHEREAS, COUNTY requires the services of attorneys qualified to provide counsel for appellate/post-conviction representation of indigent defendants convicted of 1<sup>st</sup> Degree Murder and sentenced to the Death Penalty; and

WHEREAS, COUNTY requires the services of attorneys qualified to provide counsel for representation of juveniles arrested for or charged with felonies, gross misdemeanors, or misdemeanors in Clark County, Nevada, as well as, provide services for juveniles in certification hearings, felony probation violation proceedings, material witness and contempt proceedings and other legal matters involving potential loss of liberty and which require the appointment of legal counsel; and

WHEREAS, COUNTY requires the services of attorneys qualified to provide counsel for representation of indigent individuals in dependency petitions and who are facing termination of parental rights in Clark County, Nevada; and

WHEREAS, COUNTY requires the services of attorneys qualified to provide counsel for representation of the Public Guardian in Clark County, Nevada; and

WHEREAS, COUNTY requires the services of attorneys qualified to provide counsel for representation of indigent individuals in family court matters including guardian ad litem matters, order to show cause hearings, contempt proceedings, conflict dependency matters; termination of parental rights, and appeals; and

WHEREAS, ATTORNEY is an attorney duly licensed to practice law in the State of Nevada and is qualified and willing to provide such services; and

WHEREAS, both parties recognize and acknowledge that, once an ATTORNEY has been assigned to a particular track through the OFFICE OF APPOINTED COUNSEL (OAC), for those attorneys assigned to its' track, the Court has both the initial and continuing appointment authority over ATTORNEY'S provision of services under this Contract; and

WHEREAS, ATTORNEY certifies that he/she is Nevada CLE compliant and is qualified to provide professional legal services under this Contract.

NOW, THEREFORE, the parties hereto agree as follows:

### **ARTICLE I - TERM AND EXTENSION/RENEWAL**

This Contract shall commence \_\_\_\_\_, and shall terminate \_\_\_\_\_, unless sooner terminated or further extended pursuant to the provisions of this Contract. Either party may terminate this contract by serving upon the other party 30-day advance written notice of such intent to terminate. The COUNTY shall have the option to extend this Contract on a continuing year-to-year basis or any time period therein with the understanding of the ATTORNEY that any extension does not guarantee a continuation of the same track assignment. Any modification or extension shall be by formal written amendment executed by the parties hereto.

### **ARTICLE II – SCOPE OF SERVICES**

This Contract establishes the agreement under which the ATTORNEY will provide COUNTY with services in accordance with the attached Exhibit A: Scope of Services

ATTORNEY shall provide COUNTY with the services as defined in this Contract. All services shall comply with Nevada Supreme Court Rule 250, if a capital case, and the performance standards as called for in Nevada Supreme Court Order ADKT #411 filed Jan. 04, 2008, or as same may be amended, attached as Exhibit B; this Supreme Court Order is incorporated into the Contract the same as if set forth in full herein.

### **ARTICLE III - ASSIGNMENT/WITHDRAWAL/SUBSTITUTE REPRESENTATION**

A. Assignment of Track Cases. Appointments and substitution of counsel will be made by the Court from a list of attorneys, approved through the OAC and assigned to that particular track through the OAC. The Court will assign cases on a random rotational basis,

where all attorneys assigned to that particular track should expect approximately equal numbers of appointed cases. ATTORNEY shall accept all assignments made by the Court on this random but equal basis, unless a genuine conflict of interest prevents ATTORNEY from ethically representing the Client. Immediately upon assignment, ATTORNEY shall make every effort to determine whether there is a genuine conflict or other reason, justifying refusal of the appointment, and, if so, shall promptly notify the COUNTY through the OAC as provided in this Article.

B. Assignment of Capital Murder, Murder, Sexual Crimes, Other Life cases, and Appeal/PCR Hourly Cases. The OAC will assign counsel for the Court to appoint where appropriate for all capital murder, murder, sexual assault/lewdness, other life cases, appeal, and multiple defendant cases from the various approved lists generated by the OAC. Each Court, when the occasion arises where appointment of counsel is appropriate, will contact the OAC for the next available qualified attorney. The Court will pass the case until the next appropriate judicial court date for confirmation of counsel. The OAC will be tasked with rotating all appointments through the variety of approved lists equally. ATTORNEY shall accept all appointments made by the Court, through the OAC, unless a genuine conflict of interest prevents ATTORNEY from ethically representing the Client. Immediately upon assignment, ATTORNEY shall make every effort to determine whether there is a genuine conflict or other reason, justifying refusal of the appointment, and, if so, shall promptly notify the COUNTY through the OAC as provided in this Article.

C. Assignment of Parental Termination/Abuse & Neglect Track Cases. Appointments and substitution of counsel will be made by the Court from a list of attorneys, approved through the OAC and assigned to that particular track through the OAC. The Court will assign cases on a random rotational basis, where all attorneys assigned to that particular track should expect approximately equal numbers of appointed cases. ATTORNEY shall accept all assignments made by the Court on this random but equal basis, unless a genuine conflict of interest prevents ATTORNEY from ethically representing the Client. Immediately upon assignment, ATTORNEY shall make every effort to determine whether there is a genuine conflict or other reason, justifying refusal of the appointment, and, if so, shall promptly notify the COUNTY through the OAC as provided in this Article.

D. Assignment of Family Court Matters. The OAC will assign counsel for the Court to appoint where appropriate for all representation of indigent individuals in family court matters including guardian ad litem matters, order to show cause hearings, contempt proceedings, conflict dependency matters; termination of parental rights, and appeals from the various approved lists generated by the OAC. Each Court, when the occasion arises where appointment of counsel is appropriate, will contact the OAC for the next available qualified attorney. The Court will pass the case until the next appropriate judicial court date for confirmation of counsel. The OAC will be tasked with rotating all appointments through the variety of approved lists equally. ATTORNEY shall accept all appointments made by the Court, through the OAC, unless a genuine conflict of interest prevents ATTORNEY from ethically representing the Client. Immediately upon assignment, ATTORNEY shall make every effort to determine whether there is a genuine conflict or

other reason, justifying refusal of the appointment, and, if so, shall promptly notify the COUNTY through the OAC as provided in this Article.

E. Discontinuance of Appointments/Termination of Representation. Both parties recognize and acknowledge that the OAC and the Court have discretion to terminate ATTORNEY'S representation in pending cases for good cause.

F. Withdrawal from Cases. In the event of a conflict of interest or other circumstances, which ATTORNEY believes justifies the reassignment of any appointed case; ATTORNEY shall first notify the OAC before filing a motion with the Court.

G. Substitute Representation. While ATTORNEY may receive assistance from associate attorneys, mentees, or other OAC approved attorneys in carrying out his/her responsibilities; ATTORNEY cannot delegate responsibilities for representation to another attorney. In the case of scheduling conflicts, vacations or other short-term unavailability of ATTORNEY, ATTORNEY may arrange for substitute representation by a competent, duly licensed attorney (as stated above) at no additional cost to the COUNTY. Said substitute representation SHALL be limited to initial arraignments, status checks, continuances, set time certain hearings, and other similar proceedings. Any critical court appearances - i.e. preliminary hearings, motion hearings, evidentiary hearings, sentencing, probation revocation hearings, trials, etc., MUST be handled by ATTORNEY who contracted with COUNTY. If ATTORNEY cannot be available for any critical court appearance that cannot otherwise be continued for ATTORNEY'S presence, prior approval for representation by substitute counsel must be received through the OAC.

#### **ARTICLE IV - REDETERMINATION OF INDIGENCE**

Should ATTORNEY become aware of assets, income, or change in circumstances of a client such that a question exists as to the client's continued eligibility to receive counsel at the public's expense, ATTORNEY shall promptly bring the instance of non-indigence to the attention of the Court. This Article shall not, however, require the disclosure of any privileged information, which is considered a confidential communication under Court Rules or the Nevada Rules of Professional Conduct. The inquiry and decision as to the client's eligibility will be the responsibility of the assigned judge or the Presiding Criminal Judge.

#### **ARTICLE V - COMPENSATION**

A) In consideration for services specified in this Contract, the COUNTY agrees to pay for ATTORNEY services as follows:

**1) Adult Track Assignment**

Monthly fee	<b>\$5,500.00/mth</b>
Rural Track fee	<b>\$4,000.00/mth</b>
Specialty Court Fee	<b>\$ _____/mth</b>
Trial Time in Court	<b>\$130.00/hr</b>
(does not include time spent on trial preparation)	

- a) Habitual Offender cases - Hourly compensation for any work directly related to the habitual sentencing issues shall be paid at **\$130.00/hr** commencing upon the filing of any notice that a sentence of life imprisonment will be sought under NRS 207.010. The balance of the case will be considered compensated as part of the underlying track contract.
- b) Highly Complex or “Extraordinary Cases”- Hourly compensation shall be paid at **\$130.00/hr** on any case that either the OAC or court determines is a case, not normally covered by hourly compensation, yet has such highly complex issues that hourly compensation is appropriate.
- c) If pursuant to NRAP Rule 3C (b) the Track ATTORNEY is required to file a Notice of Appeal, rough draft transcript request form, and fast track statement, said Track ATTORNEY shall be appointed by the Court and compensated at the hourly rate **\$130.00/hr** as well as being Reimbursed for any costs or expenses incurred.

**2) Death Penalty Cases**

Hourly fee **\$155.00/hr**

**3) Tier 1 & 2- Life Cases, Multiple Defendant Cases, Juvenile Cases not covered by Track, Abuse and Neglect Cases not covered by Track, Non-Death Appeals, Family Court Matters**

Hourly fee **\$130.00/hr**

**4) Juvenile Track Assignment**

Monthly fee **\$5,000.00/mth**  
 Certification Cases **\$1,200.00/Case**  
 (Flat Fee)

**5) Abuse and Neglect Cases**

Monthly fee **\$6,500.00/mth**  
 TPR Cases **\$130.00/hr**

**6) Guardianship Cases (Adult)**

Monthly fee **\$8,000.00/mth**  
 Guardianship Cases approved  
 For Hourly Billing **\$130.00/hr**

B) ATTORNEY understands/agrees that the COUNTY reserves the right to evaluate, analyze or withhold final payment upon satisfaction that the terms of this contract have

been met or that the services provided are deemed reasonable and necessary to provide an adequate defense, except to the extent that a denial of payment by the COUNTY, may be reviewed by the appointing court.

C) ATTORNEY is entitled to reimbursement for expenses reasonably and necessarily incurred in the employment of investigators, experts, or other services. Requests for funds for investigators, expert witnesses, or other services shall be made through the OAC. If said request is denied, ATTORNEY may seek review by the Court. Investigation expenses will be compensated based on the usual and normal charges for such investigations in the Eighth Judicial District. This amount may be amended from time to time as necessary and appropriate to insure investigators are reasonably compensated without waste of public resources. Travel time from the investigator's office to the courthouse, jail and lawyer's office is not compensatable. Mitigation, mental health, ballistics, forensics, fingerprint, DNA experts necessary for the defense of the accused shall be compensated based on the usual and normal charges for such experts in the Eighth Judicial District.

Incurring frivolous, unnecessary or improper investigation and/or expert expenses may be a basis for removal of the ATTORNEY from the list of qualified attorneys.

D) ATTORNEY'S shall provide detailed documentation in support of all requested payments.

E) COUNTY reserves the right to question any requests for payment made under this Article and to require reimbursement by setoff or otherwise for payments determined to be improper or contrary to the contract or law.

#### **ARTICLE VI – PRIVATE COMPENSATION**

ATTORNEY shall neither charge nor accept any fee or other compensation for services rendered pursuant to this Contract except as provided for herein. The ATTORNEY may not represent the client for a fee on an appointed case, except as provided for herein, without prior written approval of the OAC. UNDER NO CIRCUMSTANCES MAY ATTORNEY SOLICIT SUCH OUTSIDE COMPENSATION FROM AN APPOINTED CLIENT, THEIR AGENTS, OR ASSIGNS.

#### **ARTICLE VII – GUIDELINES FOR PAYMENT**

The following billing criteria will be applied to bills and request for reimbursement for reasonable expenses incurred in the representation of indigent defendants received by OAC.

#### **EXPENSES:**

All overhead expenses, secretarial expenses, expenses for stationery or supplies, computer time (except for OAC authorized legal research on Westlaw, Lexis, etc), preparation and

review of fee bills and requests for extraordinary expenditures/ancillary expenses, clerical time for photocopying, opening files and calendaring dates, and other items that are a cost of doing business are not compensable.

OAC will not reimburse for facsimiles, cell phone calls, parking fees, or mileage within the Las Vegas Valley.

OAC will reimburse for mileage traveled outside the Las Vegas Valley at the current Government established rate/mile, copies at \$0.10/page, and collect calls from an appointed client from a correctional facility. (All reimbursements must be accompanied by detailed documentation/receipts, etc.) Benchmarks for reasonableness in hourly billing can be found in Exhibit A: Scope of Services.

#### PARALEGAL EXPENSES

Paralegal expenses will be paid at \$50/hour, with prior approval from OAC. ATTORNEY will review the paralegal's billing and certify that the hours billed by the paralegal are reasonable and were expended in the defense of the appointed case

#### INVESTIGATOR EXPENSES

Investigator expenses will be paid at \$55/hour, with prior approval from OAC. ATTORNEY will review the investigator's billing and certify that the hours billed by the investigator are reasonable and were expended in the defense of the appointed case.

#### EXPERT EXPENSES

Expert expenses will be paid at an hourly rate consistent with the particular expertise. ATTORNEY will review the expert's billing and certify that the hours billed by the expert are reasonable and were expended in the defense of the appointed case.

### **ARTICLE VIII- METHOD OF PAYMENT**

A. Procedure. All bills for ATTORNEY'S services and reimbursement under this Contract, including bills submitted for services rendered by expert witnesses, investigators and any other approved vendors, must be submitted to the OAC with appropriate documentation to OAC and must be in accordance with this Contract. OAC will review and verify all bills and back-up documentation and may consult with the Court and request from ATTORNEY additional back-up documentation or explanation. THERE WILL BE NO REIMBURSEMENT FOR UNNECESSARY OR EXCESSIVE FEES AND COSTS.

B. Timely Submission of Pay Claims. ALL PAYMENT REQUESTS SHALL BE SUBMITTED TO THE OAC NO LATER THAN 60 DAYS AFTER TERMINATION OF THE CASE. ATTORNEY understands and agrees that ATTORNEY has no right to payment and the COUNTY will not honor any claim for payment submitted in excess of 60 days after the case has been closed. Termination of a case includes: dismissal with or



without prejudice, not guilty verdict (not liable in dependency cases), acceptance into a diversion program or stayed adjudication, judgment of conviction (order of termination in dependency cases), bench warrant, substitution of attorney, Court or OAC authorized withdraw from representation. Termination for appointments on direct appeal include: Court or OAC authorized withdraw from representation, substitution of counsel, or upon the Supreme Court's final order on the case. Attorney also acknowledges NRS 244.250 wherein any unaudited claim submitted to the County after 6 months will not be paid. Attorney is also responsible for the submittal of claims of the ancillary service providers requested and approved by the County.

If billing has already occurred on a particular hourly case and the case is resurrected because of: bench warrant return, indictment from a dismissal without prejudice, probation revocation, or return from a diversion program or stayed adjudication, ATTORNEY is still responsible for representation and a new hourly billing case will begin.

C. Payment Requests only to be submitted when Case is Terminated. ATTORNEY may only submit for a payment request upon termination of a case unless:

1. The case is a Capital Murder appointment and interim billing is automatically authorized.

2. Upon the request of ATTORNEY, a case may be designated by the OAC as an "extraordinary" case both in terms of workload and complexity and payment may be made intermittently. The OAC reserves the right to make said determination.

#### **ARTICLE IX- AUDIT AND AUDIT DISALLOWANCES**

If the OAC determines that a cost for which payment has been made is a disallowed cost, the OAC shall notify ATTORNEY in writing of the disallowance and of the required course of action, which, at the OAC's option, may be to adjust any future claim submitted by ATTORNEY by the amount of the disallowance or to require ATTORNEY to pay the disallowed amount immediately to COUNTY.

#### **ARTICLE X – INDEMNIFICATION AND INSURANCE**

ATTORNEY acknowledges that he/she is an independent contractor and agrees to hold harmless the COUNTY, its officers, agents and employees and agrees to defend the same against any and all claims arising out of his/her conduct as an attorney in cases assigned. ATTORNEY further agrees that he/she will indemnify the COUNTY, its officers, agents, and employees if they ever suffer any loss in connection with his/her performance under this Contract. By this provision, ATTORNEY does not undertake to defend or indemnify the COUNTY for the COUNTY'S own acts or omissions.

A. ATTORNEY shall obtain and maintain, for the duration of this Contract, the following insurance against claims which may arise from or in connection with the performance of

the work hereunder by ATTORNEY, his or her agents, representatives, employees or Subcontractors.

1. Professional liability or errors and omissions insurance against claims for injuries or damages arising out of the services rendered by ATTORNEY, his or her agents, representatives or employees pursuant to ATTORNEY'S Contract with the COUNTY.
  - a. ATTORNEY shall maintain policy limits of no less than \$1,000,000.00
  - b. "Claims made" insurance coverage must continue for a period of three years beyond the termination of the Contract. Any retroactive date must coincide with or predate the beginning of this Contract and may not be advanced without the consent of the COUNTY.

B. Upon request, ATTORNEY shall provide the COUNTY with proof of insurance as required in Section (A) above. If ATTORNEY fails to maintain the insurance coverage required herein, then the COUNTY will have the option to declare ATTORNEY in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order that the required coverage may be maintained. ATTORNEY is responsible for any expenses paid by the COUNTY to maintain such insurance and the COUNTY may collect the same from ATTORNEY or deduct the amount paid from any sums due the attorney under this Contract.

C. The insurance requirements specified herein do not relieve ATTORNEY of his or her responsibility or limit the amount of his or her liability to the COUNTY or other persons and ATTORNEY is encouraged to purchase such additional insurance as he or she deems necessary.

#### **ARTICLE XI- COMPLIANCE WITH LAWS**

ATTORNEY shall comply with all federal, state, and local laws, rules, regulations, standards and Executive Orders, without limitation to those designated within this Contract. The laws and regulations of the State of Nevada shall govern the rights of the parties, the performance of this Contract, and any disputes hereunder. Any action relating to this Contract shall be brought in a court of the State of Nevada in Clark County. Any changes in the governing laws, rules, and regulations during the terms of this Contract shall apply, but do not require an amendment.

#### **ARTICLE XII- INDEPENDENT CONTRACTOR**

The status of the ATTORNEY shall be that of an independent contractor. Neither ATTORNEY, nor ATTORNEY'S officers, agents or employees shall be considered an employee of COUNTY or be entitled to receive any worker's compensation benefits, or employment-related fringe benefits under the Clark County Merit System. ATTORNEY shall be responsible for payment of all federal, state and local taxes associated with the

compensation received pursuant to this Contract and shall indemnify and hold COUNTY harmless from any and all liability which COUNTY may incur because of ATTORNEY'S failure to pay such taxes.

### **ARTICLE XIII- SUBCONTRACTOR**

ATTORNEY shall be fully responsible for all acts and omissions of any subcontractor and of persons directly or indirectly employed by any subcontractor and of persons for whose acts any of them may be liable to the same extent that the ATTORNEY is responsible for the acts and omissions of persons directly employed by ATTORNEY.

Nothing in this Contract shall create any obligation on the part of COUNTY to pay or see to the payment of any money due any subcontractor, except as may be required by law.

### **ARTICLE IVX- ASSIGNMENT**

ATTORNEY shall not assign its rights to this Contract, in whole or in part, without prior written approval of the COUNTY and any attempt to do so shall be void. Approval may be withheld at the sole discretion of COUNTY.

### **ARTICLE XV - NON-DISCRIMINATION**

ATTORNEY shall not discriminate against any COUNTY employee, Client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin in the course of carrying out ATTORNEY'S duties pursuant to this Contract.

### **ARTICLE XVI- AMERICANS WITH DISABILITIES ACT**

ATTORNEY shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.

### **ARTICLE XVII- AUTHORITY TO CONTRACT**

ATTORNEY warrants his or her right and power to enter into this Contract. If any court or administrative agency determines that COUNTY does not have authority to enter into this Contract, COUNTY shall not be liable to ATTORNEY or any third party by reason of such determination or by reason of this Contract.

### **ARTICLE XVIII- FULL AND COMPLETE PERFORMANCE**

The failure of either party to insist on one or more instances upon the full and complete performance with any of the terms or conditions of this Contract to be performed on the part of the other, or to take any action permitted as a result thereof, shall not be construed as a waiver or relinquishment of the right to insist upon full and complete performance of

the same, or any other covenant or condition, either in the past or in the future. The acceptance by either party of sums less than may be due and owing it at any time shall not be construed as an accord and satisfaction.

**ARTICLE XIX- TERMINATION**

A. Without cause. Both parties reserve the right to terminate this Contract at any time and without cause by serving upon the other party 30 days advance written notice of such intent to terminate. In the event of such termination, the COUNTY'S only obligation to ATTORNEY shall be payment for services rendered prior to the date of termination and any hourly trial compensation due for a case that ATTORNEY takes to trial after termination, but appointment occurred during the contract period. If either party terminates the contract, the OAC will make every effort to ensure that a Track ATTORNEY is not appointed to any new cases during the last 15-days of the termination window.

B. Default. This Contract may be terminated at any time without advance notice and without further obligation to the COUNTY when the ATTORNEY is found by COUNTY to be in default of any provision of this Contract.

C. Non-appropriation. Notwithstanding any other provision in this Contract, this Contract may be terminated if for any reason, there are not sufficient appropriated and available monies for the purpose of maintaining COUNTY or other public entity obligations under this Contract. In the event of such termination, COUNTY shall have no further obligation to ATTORNEY, other than to pay for services rendered prior to termination.

**ARTICLE XX - NOTICE**

Any notice required or permitted to be given under this Contract shall be in writing and shall be served by delivery or by certified mail upon the other party as follows:

CLARK COUNTY

ATTORNEY AND FIRM

Susan K. Bush, Esq.  
Director Office of Appointed Counsel  
500 S. Grand Central Parkway, 6th Floor  
Las Vegas, Nevada 89155

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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**ARTICLE XXI - NON-EXCLUSIVE CONTRACT**

ATTORNEY understands that this Contract is nonexclusive and is for the sole convenience of COUNTY. COUNTY reserves the right to obtain like services from other sources for any reason.

## **ARTICLE XXII - OTHER DOCUMENTS**

ATTORNEY and COUNTY in entering into this Contract have relied upon information provided by ATTORNEY in the application and review process approved by the OAC. These documents are hereby incorporated into and made a part of this Contract as if set forth in full herein, to the extent not inconsistent with the provisions of this Contract.

## **ARTICLE XXIII - REMEDIES**

Either party may pursue any remedies provided by law for the breach of this Contract. No right or remedy is intended to be exclusive of any other right or remedy and each shall be cumulative and in addition to any other right or remedy existing at law or at equity or by virtue of this Contract.

## **ARTICLE XXIV- SEVERABILITY**

Each provision of this Contract stands alone, and any provision of this Contract found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of this Contract.

## **ARTICLE XXV- BOOKS AND RECORDS**

A. ATTORNEY shall keep and maintain proper and complete books, records and accounts and complete files, including final disposition records and itemized time sheets for each hourly case assigned under the contract. All records shall be made available to COUNTY for inspection, audit and copying upon request. ATTORNEY shall keep and preserve each file and all records pertaining thereto on cases referred under this contract, for a period prescribed by the Nevada State Bar Association, or applicable statute or rule. This section shall not require the disclosure of any privileged information which is considered a confidential communication under Court Rules or the Nevada Rules of Professional Conduct.

B. In addition, ATTORNEY shall retain all records relating to this contract at least 7 years after its termination or cancellation or, if later, until any related pending proceeding or litigation has been closed.

## **ARTICLE XXVI- SUSPENSION OR DISBARMENT**

ATTORNEY represents that ATTORNEY has never been convicted of an offense or found liable for an event constituting cause for suspension or disbarment. ATTORNEY shall inform COUNTY if ATTORNEY is or becomes subject to any of the following:

1. a criminal charge, whether due to indictment or complaint,
2. a criminal conviction,

3. an investigation by an agency or organization through which the professional license of ATTORNEY is maintained, which investigation may result in action against the ATTORNEY'S professional license, or
4. suspension, disbarment, or any type of action by another governmental entity disqualifying or prohibiting the ATTORNEY from participating in any procurement.

ATTORNEY'S failure to truthfully and promptly fulfill this continuing duty of disclosure to County shall constitute cause for termination of this Contract and may result in ATTORNEY'S suspension or debarment from receiving any contract award from County as provided in Clark County code. For purposes of this Article, dismissal of any criminal charge following the completion of any type of deferred prosecution program constitutes a conviction on the underlying criminal charge.

**ARTICLE XXVII – DISCLOSURE OF OWNERSHIP FORM**

ATTORNEY agrees to provide the information on the attached Disclosure of Ownership/Principals form prior to any contract and/or contract amendment to be awarded by the Board of County Commissioners.

**ARTICLE XXVIII – LICENSE/REGISTRATION REQUIREMENTS**

ATTORNEY agrees to maintain an active Nevada State Bar License.

ATTORNEY agrees to maintain an active Nevada State Business License.

ATTORNEY agrees that if ATTORNEY'S main office is located in the unincorporated area of Clark County, that ATTORNEY is to maintain a current Clark County Business License. If ATTORNEY is a monthly track attorney and their main office is located in another jurisdiction, ATTORNEY agrees, to maintain a current Clark County Business Registration License.

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**ARTICLE XXIX - ENTIRE AGREEMENT**

This document constitutes the entire Contract between the parties pertaining to the subject matter hereof, and all prior or contemporaneous contracts and understandings, oral or written, are hereby superseded and merged herein. This Contract may be modified, amended, altered or extended only by a written amendment signed by the parties. IN WITNESS WHEREOF, the parties hereto have executed this Contract.

CLARK COUNTY

ATTORNEY

\_\_\_\_\_  
Clark County Manager or Designee

\_\_\_\_\_  
Signature

Date: \_\_\_\_\_

Date: \_\_\_\_\_

APPROVED AS TO FORM

  
Deputy Civil District Attorney

## Exhibit A: Scope of Services (Page 1 of 4)

A. Track Assignment. ATTORNEY shall provide legal assistance and representation to eligible persons appointed by the Court. Assignments shall be made in accordance with the Track System. The Court will appoint ATTORNEY on a random rotational basis with each ATTORNEY assigned to a particular track realizing about the same number of appointed cases. ATTORNEY will be assigned to a particular Justice Court, Hearing Master and/or District Court in Juvenile Court or Dependency Court, and have responsibility for the client through District Court and a notice of appeal to the Nevada Supreme Court, if either a conviction at trial, or the client requests. If pursuant to NRAP Rule 3C (b) the ATTORNEY is required to file a Notice of Appeal, rough draft transcript request form, and fast track statement, said ATTORNEY shall be appointed by the Court and compensated at the hourly rate set forth in this contract, as well as being reimbursed for any costs or expenses incurred. If an appeal is contemplated from a Termination of Parental Rights case – prior approval must be received from the Office of Appointed Counsel before compensation will be considered. Assignments will normally be limited to adult felony, gross misdemeanor, misdemeanor cases, and abuse and neglect cases, but may, from time to time, as required by the Court, include such matters as probation violations, material witness representation, or such other legal matters involving the potential loss of liberty and which require the appointment of legal counsel. This section of the Contract is for defense of felony, gross misdemeanor, and misdemeanor charges, except for those charges that have a possible punishment of death, life without the possibility of parole, or life with the possibility of parole, as well as Abuse and Neglect cases in Dependency Court.

B. Hourly assignment. ATTORNEY shall provide legal assistance and representation to eligible persons appointed by the Court through the OAC. Assignments shall be made in on a rotating basis of all eligible attorneys qualified by the OAC to either take life cases, multiple defendant cases, TPR cases, family court matters or capital cases. ATTORNEY shall be appointed by the Court, through the OAC, and be compensated at the hourly rate set forth in this contract as well as being reimbursed for any costs or expenses incurred.

### BENCHMARKS FOR REASONABLENESS IN HOURLY BILLING

The following is a list of benchmarks that have been adopted by the OAC for use in determining the reasonableness of time and expenses claimed for activities subject to reimbursement under this contract with Clark County. **Please note: these are not to be considered minimums or maximums.** If the time spent or expense incurred falls below the established benchmark for that activity, only the actual time or expense may be claimed. Reasonableness is determined on a case-by-case basis, and claims in excess of the benchmark amounts must be accompanied by an explanation for the deviation.

- Review of discovery/transcripts: 60 pages per hour (specify the number of pages)
- Preparation of boilerplate motions (no legal research) e.g. Motion to Continue, Motion for O/R, or other routine motions: 0.5 Hours (30 minutes)



- Time claimed for leaving a voice message, if any, should not exceed 0.1 hours (6 minutes)
- Time claimed for sending an email – should not exceed 0.1 hours (6 minutes)

All hourly bills submitted must be sufficiently detailed to enable the OAC, or the Court, to assess the reasonableness of the time incurred and who performed the work. ATTORNEY who contracts with OAC is responsible for the work to be performed. If ATTORNEY has an associate perform work – that fact must be listed in the itemized billing and at no time must the work be double billed by both ATTORNEY and associate. ATTORNEY IS CONTRACTUALLY RESPONSIBLE FOR APPEARING AT ANY CRITICAL COURT APPEARANCE. Hours must be reflected in “tenths” of an hour; minutes are not acceptable. EACH SERVICE RENDERED MUST BE LISTED INDIVIDUALLY, DESCRIBED WITH SPECIFICITY, AND HAVE THE TIME SPENT ATTRIBUTED TO IT.

The preferred format is as follows:

<u>Date</u>	<u>Atty</u>	<u>Nature of Service</u>	<u>Hours</u>
- 01/03/14	ABC	T/C to expert witness re: forensic report	0.2 Hours
- 01/03/14	ABC	Mtg. w/client re: plea bargain	1.3 Hours
- 01/04/14	ABC	Review of Discovery (30 Pages)	0.5 Hours
- 01/04/14	DEF	Research re: Brady Material	1.5 Hours
- 01/04/14	ABC	E-mail to D/A re: Trial Continuance	0.1 Hours
- 01/05/14	ABC	Prepare Opening Statement	2.8 Hours
- 01/05/14	ABC	Prepare cross exam of witness Smith	1.4 Hours
- 01/06/14	ABC	Court Appearance – Entry of Plea	1.0 Hours

C. Initial Contact. ATTORNEY or designee shall, within 48 hours of receiving notice of appointment, make either personal or telephonic contact with Client. If telephonic contact is made, the initial personal contact shall be made as soon as practicable and sufficiently before any court proceeding so as to be prepared for that proceeding.

D. Completion of Representation. Once ATTORNEY is appointed, ATTORNEY shall continue representation until substitute counsel has filed a notice of appearance; until an order has been entered allowing or requiring the person represented to proceed pro se; or until the appointment is terminated by court order. If ATTORNEY is relieved, ATTORNEY must assist successor counsel in securing the file and other necessary information to insure that all deadlines are met, including those applicable to post-conviction matters. Additionally, subject only to withdrawal or substitution permitted under the Nevada Rules of Criminal Procedure and the OAC, ATTORNEY’S representation shall be from the date of appointment through every stage of the legal proceedings, including the processing of a notice of appeal and filing of a Fast Track Supreme Court brief or until the charges are terminated, and shall include any status checks, probation revocation proceedings or other hearings set at or subsequent to

sentencing. If requested by Client, ATTORNEY shall file a Notice of Appeal and Designation of Record in all circumstances where the Client has a legal right to appeal.

E. Duty to represent a Client shall survive the expiration date of this Contract. Once appointed, ATTORNEY shall be obligated to conclude all cases assigned to him/her on the track even if such case or cases extend beyond the time period of this contract or if ATTORNEY is assigned to a different track. Once the contract has expired or has been terminated, no additional monthly compensation will be provided; however, hourly compensation will be paid to ATTORNEY for actual trial time, provided the trial case was appointed to ATTORNEY during the contract period.

F. Service After Completion of Representation. ATTORNEY is not entitled to reimbursement for work performed after completion of representation, as described in this Contract, unless such work is expressly authorized by the OAC.

G. Duty to Report Monthly Caseload Summary. ATTORNEY will be required to submit a monthly caseload summary of how many cases ATTORNEY received through appointment, the type of case, the current status of all cases. This information will be reported to the OAC.

H. Contract Administration. This Contract shall be administered by the Office of Appointed Counsel (OAC). ATTORNEY shall:

1. maintain a confidential e-mail address so that the Court and the OAC can send and receive e-mail attachments; and
2. check daily for messages from the OAC sent via e-mail, voice mail, or fax.

I. Interpreters. The Court through the Office of the Court Interpreter shall provide qualified interpreters for non-English speaking Clients for all in-court proceedings and out-of-court interviews. ATTORNEY shall contact the Office of the Court Interpreter (671-4578) to schedule an interpreter for out-of-court interviews.

J. Case Assignment Discretion. No maximum or minimum number of case assignments is anticipated by this Contract. Appointments shall be made at the sole discretion of the Court through the OAC.

K. Mandatory Continuing Legal Education. ATTORNEY shall comply with all mandatory continuing legal education requirements of the State Bar of Nevada and shall attend at least six hours of continuing legal education in the area of criminal law and/or procedure through the office of the Clark County Public Defender during the time period encompassed by this Contract. Proof of attendance shall be furnished to the OAC upon request.

L. Professional Services Pursuant to This Contract. ATTORNEY shall comply with the Nevada Rules of Professional Conduct, state and local court rules, and the written administrative and procedural policies and procedures established by the Court or the OAC and with the Nevada Supreme Court Order ADKT No. 411 filed Jan. 04, 2008, or as same may be amended. ATTORNEY shall devote such time to the cases assigned so as to provide

competent, effective, and timely legal assistance and representation and shall perform the work in accordance with the terms of the Contract to the best of ATTORNEY's ability. Unless extraordinary circumstances exist, ATTORNEY is expected to review and organize all pleadings and disclosure and attend all material witness interviews in cases assigned pursuant to this Contract. If ATTORNEY uses any employee(s) to assist in the performance of professional services under this Contract, said employee(s) shall be suitably trained and skilled professional personnel.