

THE STATE OF TEXAS §

COUNTY OF WILLIAMSON §

**CONTRACT
FOR
INDIGENT DEFENSE
SERVICES SUPPORT
(RFP #1809-263)**

Important Notice: County Purchase Orders and Contracts constitute expenditures of public funds, and all vendors are hereby placed on notice that any quotes, invoices or any other forms that seek to unilaterally impose contractual or quasicontractual terms are subject to the extent authorized by Texas law, including but not limited to Tex. Const. art. XI, § 7, the Texas Government Code, the Texas Local Government Code, the Texas Transportation Code, the Texas Health & Safety Code, and Opinions of the Texas Attorney General relevant to local governmental entities.

THIS CONTRACT is made and entered into by and between **Williamson County, Texas (hereinafter “The County”)**, a political subdivision of the State of Texas, acting herein by and through its governing body, and **Lone Star Justice Alliance, (hereinafter “Program Manager”)**, a Texas non-profit located at 1411 West Avenue, Suite 200, Austin, TX 78701. The County agrees to engage Program Manager as an independent contractor, to assist in providing certain operational services pursuant to the following terms, conditions, and restrictions:

WHEREAS, County applied for and has been awarded a grant from the Texas Indigent Defense Commission (“TIDC”) in the amount of \$385,910 (the “Grant”), pursuant to which \$77,182 will be funded by the County and the remaining \$308,728 will be provided to Williamson County by TIDC;

WHEREAS, the Grant is intended to be used to provide the programs and benefits described in the 2019 Williamson County Discretionary Grant Application Narrative attached hereto as Exhibit A (the “Program”);

WHEREAS, the County has determined that it is in the best interests of the County to accept the Grant and to implement the Program, and, on such basis, the County has accepted the Grant;

WHEREAS, the County desires to contract with Program Manager to manage the Program on the terms and conditions set forth herein and the Program Manager desires to manage the Program on the terms and conditions set forth herein; and

NOW, THEREFORE, the Parties understand and agree as follows:

I.

Services: Program Manager shall provide services *as an independent contractor* pursuant to terms and policies of the Williamson County Commissioners Court. Program Manager expressly acknowledges that he, she or it is not an employee of The County. The services include, but are not limited to the following items in order to complete the project:

As described in Williamson County RFP #1809-263 and Program Manager’s Response/Proposal, dated November 14, 2018, which are incorporated herein as if copied in full.

Should The County choose to add services in addition to those described in in above-referenced documents and Program Manager agree to provide such additional services, such additional services shall be described in a separate written amendment to this Contract wherein the additional services shall be described and the parties shall set forth the amount of compensation to be paid by The County for the additional services. Program Manager shall not begin any additional services and The County shall not be obligated to pay for any additional services unless a written amendment to this Contract has been signed by both parties.

II.

Effective Date and Term: This contract shall be in full force and effect when signed by all parties (“Effective Date”) and terminates on December 31, 2019, unless earlier terminated as provided for herein. The parties acknowledge that the term for the Contract may be extended as determined and agreed by County, Program Manager and TIDC in writing.

III.

Contract Contingent: The parties acknowledge that this Contract is contingent on (a) the County and Program Manager providing written documentation to TIDC that funding has been secured for the program evaluation component of the Program (the “Funding Documentation”), which includes the randomized control trial that is outlined in Section F of the Program, and (b) TIDC providing written confirmation to County and Program Manager that the Funding Documentation is sufficient. Once all written confirmations required by this Section 4 have been obtained by the Parties, this Contract will no longer be contingent and this provision shall be of no further force and effect.

IV.

Consideration and Compensation: In addition to the public benefits obtained through this program, grant funding from the TIDC will be disbursed in the amount of \$385,910 by Williamson County, pursuant to which \$77,182 will be funded by the County and the remaining \$308,728 will be funded by TIDC.

Payment for goods and services shall be governed by Chapter 2251 of the Texas Government Code. An invoice shall be deemed overdue the 31st day after the later of (1) the date The County receives the goods under the contract; (2) the date the performance of the service under the contract is completed; or (3) the date the Williamson County Auditor receives an invoice for the goods or services. Interest charges for any overdue payments shall be paid by The County in accordance with Texas Government Code Section 2251.025. More specifically, the rate of interest that shall accrue on a late payment is the rate in effect on September 1 of The County's fiscal year in which the payment becomes due. The said rate in effect on September 1 shall be equal to the sum of one percent (1%); and (2) the prime rate published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday.

V.

Monitoring: a. Reasonable Monitoring by County. Program Manager agrees to be subject to reasonable monitoring by a duly authorized representative of the County (any such person, a "Monitor") for compliance with the Program terms for the duration of this Contract, subject to Section V(b) below.

b. Access. The Monitor (and any other duly authorized representatives of the County and any duly authorized officials of the U.S. government as provided for in this Contract) shall have access during normal business hours and on reasonable prior written notice to (i) the Program Manager's offices and records dealing with the use of the Funds, and (ii) Program Manager's relevant officers, directors, agents, employees, contractors and subcontractors for the purpose of such monitoring. In the event that Program Manager is in Default pursuant to Section 12 of this Contract, a Monitor may make unannounced monitoring visits at any time while such Default continues.

c. Monitoring Report; Resolution of Deficiencies. After each monitoring visit, County shall promptly provide Program Manager with a written report of the Monitor's findings (the "Monitoring Report"). If the Monitoring Report notes deficiencies in Program Manager's performance, the County will: (i) provide the Program Manager with 10 Business Days (the "Response Period") within which to provide a written response to such deficiencies (the "Deficiency Response"); and (ii) following the Response Period, Program Manager and County shall discuss the Program Manager's Deficiency Response and shall use reasonable efforts to reach agreement on any needed corrections and the time period within which such corrections should be made. So long as Program Manager is

reasonably cooperating with County to address any agreed upon corrections, County shall have no cause for suspension or termination of this Contract.

VI.

Record Keeping and Reporting: a. Retention of Program Manager Records and Reports. Program Manager will retain and provide County with (i) reports required by this Contract, (ii) records related to this Contract and (iii) access to Program files (collectively, (i), (ii) and (iii) are referred to herein as “Program Manager Records and Reports”), in each case, as reasonably requested by County, in writing, for a minimum of 4 years after the end of the Contract term (the “Record Keeping Period”), in all cases, subject to the confidentiality provisions set forth herein. If any claim, litigation, or audit in connection with this Contract is initiated before the expiration of the Record Keeping Period and Program Manager is provided with written notice of the same within 15 business days prior to the end of the Record Keeping Period, Program Manager shall retain the Program Manager Records and Reports until all such claims, litigation or audits have been resolved. This Section shall survive the termination or expiration of this Contract.

b. Access to Records. Subject to Sections V(b), VI(c) and VI(f) of this Contract, duly authorized representatives of the County and any duly authorized officials of the U.S. government will have reasonable access to, and the right to examine, audit, copy, excerpt and/or transcribe any of Program Manager’s records pertaining to all matters covered by this Contract.

c. Client Records. Program Manager will keep Client Reports and client records related thereto for up to 7 years.

d. County Records. County will keep complete and accurate records with respect to the Program and the participants therein. On the written request of Program Manager, County shall provide Program Manager such reasonable information, records and reports as Program Manager may require with respect to the Program and its participants.

e. Cooperation Covenant with Respect to Files and Records. Each Party to this Contract shall use reasonable efforts to cooperate with the other Party in completing, compiling and providing accurate files and records with respect to the Program so that all Parties can timely complete any reporting required by this Contract or the Program.

f. Confidentiality. Except as may be required by law or legal process and subject to XIX below, County will keep all Program Manager Records and Reports strictly confidential and such Program Manager Records and Reports shall be subject to all applicable laws regarding confidentiality and privacy, including the Health Insurance Portability and Accountability Act (“HIPPA”). County acknowledges that both Program Manager Records and Reports and Client Reports may contain client health information that is protected under HIPPA. County agrees that in order to prevent the inadvertent disclosure of any such protected health information, Program Manager may redact or remove Client health information that is protected by HIPPA from any such Client Reports or Program Manager Records and Reports.

g. Reports. On the written request of County, Program Manager will submit to County all reports and documentation described in this Contract, including any requested Client Report. County acknowledges that the ability of Program Manager to keep and maintain appropriate records is dependent on the County providing certain records and information to Program Manager as provided for in Section V.(d) of this Contract. Failure by Program Manager to submit any report or documentation described in this Contract to County within 90 days of its request therefor, shall be a Default under this Contract and County may exercise all of its remedies for default under this Contract; provided that if Program Manager's failure to deliver the requested reporting is a direct result of County's failure to provide the necessary information to Program Manager to complete such reporting, no such Default shall be deemed to have occurred.

h. Change in Reporting Requirements and Forms. County retains the right to request reasonable changes in the reporting requirements applicable to and reporting forms provided by Program Manager. County will notify Program Manager in writing of any such changes at least 60 days in advance.

VII.

Disbursement of Funds; Reimbursement Requests: a. Initial Disbursement For Training and Program Director Costs. On the Effective Date of this Contract (the "Effective Date"), County shall disperse funds to Program Manager in the amount of \$ 26,000, representing payment for the Training and Program Director Costs.

b. Disbursement of Funds for Recurring Expenses. On the first business day of each month (the "Payment Date"), County shall disperse funds to Program Manager in the amount of \$ 27,850, representing payment for all regularly recurring expenses of Program Manager related to the Program and this Contract, which are itemized and detailed on Exhibit B attached hereto (the "Recurring Expenses").

c. Reimbursement Requests for Non-Recurring Expenses. With respect to all other expenses of Program Manager related to the Program and this Contract that are not Recurring Expense (the "Non-Recurring Expenses"), Program Manager shall provide County with a written request for reimbursement (a "Reimbursement Request") that shall include the following:

i. an invoice substantially in the form attached hereto as Exhibit C, detailing the dollar amount requested for reimbursement, as well as the cumulative amount requested to date (inclusive of the current request). The invoice must be signed by Elizabeth A. Henneke, (or such other senior officer of Program Manager reasonably agreed to by the parties) the authorized signatory for the Program Manager and include a representation that all costs and expenses provided for in the invoice are valid, eligible, and consistent with the terms and conditions of this Contract, and the supporting documentation is true and correct in all material respects; and

ii. a written report for each expense requested for reimbursement by Program Manager explaining how each invoiced expense pertains to the Program.

d. Incomplete or Untimely Reimbursement Requests. If any submitted Reimbursement Request is incomplete or otherwise not in compliance with Section VI.(b) of this Contract, County will promptly notify Program Manager in writing of such deficiency. If Program Manager fails to cure the deficiency and resubmit a complete Reimbursement Request within thirty (30) days following the term of this Contract, Program Manager shall hold the funds until such time as Program Manager provides a complete Reimbursement Request, at which point funds shall be disbursed to Program Manager in accordance with Section VI.(d) of this Contract. This provision shall survive the termination of this Contract.

e. Payment of Reimbursement Requests. County shall promptly pay (and, in any event, within days 30 days) any properly submitted and completed Reimbursement Request provided by Program Manager as set forth in Section IV.

VIII.

Insurance: Program Manager shall provide and maintain, until the services covered in this Contract is completed and accepted by The County, the minimum insurance coverage in the minimum amounts as described below. Coverage shall be written on an occurrence basis by companies authorized and admitted to do business in the State of Texas and rated A- or better by A.M. Best Company or otherwise acceptable to The County and name The County as an additional insured.

Type of Coverage	Limits of Liability
a. Worker's Compensation	Statutory
b. Employer's Liability	
Bodily Injury by Accident	\$500,000 Ea. Accident
Bodily Injury by Disease	\$500,000 Ea. Employee
Bodily Injury by Disease	\$500,000 Policy Limit
c. Comprehensive general liability including completed operations and contractual liability insurance for bodily injury, death, or property damages in the following amounts:	

COVERAGE	PER PERSON	PER OCCURRENCE
Comprehensive General Liability <i>(including premises, completed operations)</i>	\$ 500,000	\$ 500,000

and contractual)

Aggregate policy limits: \$1,000,000

Program Manager, as an independent contractor, meets the qualifications of an “Independent Contractor” under Texas Worker’s Compensation Act, Texas Labor Code, Section 406.141, and must provide its employees, agents and sub-subcontractors worker’s compensation coverage. Contactor shall not be entitled to worker’s compensation coverage or any other type of insurance coverage held by The County.

Upon execution of this Contract, Program Manager shall provide The County with insurance certificates evidencing compliance with the insurance requirements of this Contract.

IX.

Entire Contract & Incorporated Documents: This Contract constitutes the entire Contract between the parties and may not be modified or amended other than by a written instrument executed by both parties.

X.

INDEMNIFICATION - EMPLOYEE PERSONAL INJURY CLAIMS: TO THE FULLEST EXTENT PERMITTED BY LAW, THE PROGRAM MANAGER SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS THE COUNTY, AND THE COUNTY’S EMPLOYEES, AGENTS, REPRESENTATIVES, OFFICERS, AND DIRECTORS (COLLECTIVELY, THE “INDEMNITEES”) AND SHALL ASSUME ENTIRE RESPONSIBILITY AND LIABILITY (OTHER THAN AS A RESULT OF INDEMNITEES’ GROSS NEGLIGENCE OR WILLFUL MISCONDUCT) FOR ANY CLAIM OR ACTION BASED ON OR ARISING OUT OF THE PERSONAL INJURY, OR DEATH, OF ANY EMPLOYEE OF THE PROGRAM MANAGER, OR OF ANY SUBCONTRACTOR, WHICH OCCURRED OR WAS ALLEGED TO HAVE OCCURRED ON THE WORK SITE OR SOLELY IN CONNECTION WITH THE PROGRAM MANAGER’S NEGLIGENCE OR WILFUL MISCONDUCT RELATING TO THE PERFORMANCE OF THE WORK. THIS INDEMNIFICATION SHALL NOT BE LIMITED TO DAMAGES, COMPENSATION, OR BENEFITS PAYABLE UNDER INSURANCE POLICIES, WORKERS COMPENSATION ACTS, DISABILITY BENEFITS ACTS, OR OTHER EMPLOYEES BENEFIT ACTS.

INDEMNIFICATION - OTHER THAN EMPLOYEE PERSONAL INJURY CLAIMS: [TO THE FULLEST EXTENT PERMITTED BY LAW,] PROGRAM MANAGER SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS THE COUNTY, AND THE COUNTY’S EMPLOYEES, AGENTS, REPRESENTATIVES, OFFICERS, AND DIRECTORS (COLLECTIVELY, THE “INDEMNITEES”) FROM AND AGAINST THIRD PARTY OUT OF POCKET CLAIMS, DAMAGES, LOSSES AND EXPENSES, INCLUDING BUT NOT LIMITED TO REASONABLE ATTORNEYS’ FEES, ARISING OUT OF OR ALLEGED TO BE RESULTING FROM THE PERFORMANCE OF THIS AGREEMENT OR THE WORK

DESCRIBED HEREIN, TO THE EXTENT CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF PROGRAM MANAGER OR ITS SUBCONTRACTORS, OR ANYONE EMPLOYED BY THEM, [

SETTLEMENT OF INDEMNIFICATION CLAIMS: THE COUNTY MAY NOT SETTLE ANY INDEMNIFICATION CLAIM PURSUANT TO THE FOREGOING WITHOUT THE APPROVAL OF PROGRAM MANAGER, WHICH APPROVAL SHALL NOT BE UNREASONABLY WITHHELD OR DELAYED.

XI.

No Waiver of Sovereign Immunity or Powers: Nothing in this Contract will be deemed to constitute a waiver of sovereign immunity or powers of The County, the Williamson County Commissioners Court, or the Williamson County Judge.

XII.

Compliance with All Laws: Program Manager and The County each agree and will comply with any and all local, state or federal requirements with respect to the services and agreements rendered hereunder.

XIII.

Termination: This Contract may be terminated at any time at the option of either party, without future or prospective liability for performance upon giving sixty (60) days written notice thereof. In the event either party terminates this Contract in accordance with this provision, The County will return Confidential Information as provided for in XIX(d).

XIV.

Venue and Applicable Law: Venue of this Contract shall be Williamson County, Texas, and the laws of the State of Texas shall govern all terms and conditions.

XV.

Severability: In case any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision in this Contract and this Contract shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

XVI.

Survival: Any provision of this Contract that pertains to auditing, monitoring, record keeping and reports, confidentiality, repayment, payment or Grant requirements,

and any default and enforcement provisions necessary to enforce such provisions, shall survive the termination of this Contract for the Record Keeping Period.

XVII.

County Right to Audit: Program Manager agrees that The County or its duly authorized representatives shall, until the expiration of three (3) years after final payment under this Contract, have access to and the right to examine and photocopy any and all books, documents, papers and records of Program Manager which are directly pertinent to the services to be performed under this Contract for the purposes of making audits, examinations, excerpts, and transcriptions. Program Manager agrees that The County shall have access during normal working hours to all necessary Program Manager facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. The County shall give Program Manager reasonable advance notice of intended audits. If such audit raises questions concerning any practice or expenditure, Program Manager must either (a) provide resolution in writing or (b) notice of its intent to contest the findings of the audit, in each case, within 30 business days of receiving notice. If questions are not resolved to County's satisfaction within this period or notice given that such findings are being properly contested, County reserves the right to withhold further funding under this and/or future contract(s) with Program Manager. IF AS A RESULT OF ANY AUDIT IT IS DETERMINED THAT PROGRAM MANAGER HAS FALSIFIED ANY DOCUMENTATION OR MISUSED, MISAPPLIED, OR MISAPPROPRIATED FUNDS OR SPENT FUNDS ON ANY INELIGIBLE ACTIVITIES, PROGRAM MANAGER AGREES TO REIMBURSE COUNTY THE AMOUNT OF SUCH MONIES PLUS THE AMOUNT OF ANY SANCTIONS, PENALTY OR OTHER CHARGE APPROPRIATELY LEVIED AGAINST COUNTY BY THE FEDERAL OR STATE GOVERNMENT BECAUSE OF SUCH ACTIONS.

XVIII.

State and Federal Audit(s): If Program Manager expends more than \$500,000 in state or federal funds within one year, regardless of the source of the award, Program Manager must submit to County an annual audit prepared in accordance with OMB Circular A-133 or in accordance with the State Single Audit Circular issued under Uniform Grant Management Standards. The audit shall cover the Program Manager's fiscal years during which this Contract is in force. The audit must be prepared by an independent certified public accountant, be completed within 6 months following the end of the period being audited and be submitted to County within 30 days of its completion. Entities that expend less than \$500,000 a year in state or federal funds are exempt from audit requirements for that year, but records must be available for review or audit by appropriate officials of the local, state, and federal governments.

XIX.

Confidentiality with respect to Participant Information: Confidential

Information: (a) Program Manager expressly agrees that he or she will not use any incidental confidential information regarding program participants (“Participant Information”) that may be obtained while working in a governmental setting for his or her own benefit, and agrees that he or she will not enter any unauthorized areas or access confidential information and he or she will not disclose any Participant Information to unauthorized third parties, and will take care to guard the security of the information at all times.

(b) For purposes of (c) and (d) the below, “Confidential Information” means the following: (i) any technical and non-technical information related to Project Manager’s business and current, future and proposed services of Project Manager, and Project Manager’s information concerning research, development, program design details, program implementation details and specifications, financial information, procurement requirements, marketing plans and business plans, in each case whether or not marked as “confidential” or “proprietary” and (b) any information that Program Manager has received from others that may be made known to The County and that Project Manager is obligated to treat as confidential or proprietary, whether or not marked as “confidential” or “proprietary.”

(c) The County acknowledges and agrees that Program Manager is the owner of the Confidential Information and that as the owner of the Confidential Information Program Manager may use the Confidential Information in future and ongoing program management and opportunities. The County will not (i) use any Confidential Information for purposes unrelated to the performance of this Agreement or (ii) disseminate or in any way disclose the Confidential Information to any person, firm, business or other governmental agency or department. The County may use the Confidential Information solely to perform its obligations under this Contract with respect to the Program. The County shall treat all Confidential Information with the same degree of care as The County accords to the County’s own confidential information, but in no case shall The County use less than reasonable care. The County shall disclose Confidential Information only to those of The County’s employees who have a need to know the information as necessary for The County to perform this Agreement. The County shall promptly give notice to Company of any unauthorized use or disclosure of the Confidential Information. The County shall assist Program Manager in remedying any the unauthorized use or disclosure of the Confidential Information.

(d) All Confidential Information and any materials and items (including, without limitation, software, equipment, tools, artwork, documents, drawings, papers, diskettes, tapes, models, apparatus, sketches, designs and lists) that Program Manager furnishes to The County, whether delivered to The County by Program Manager or made by Program Manager in the performance of services under this Agreement and whether or not they contain or disclose Confidential Information (collectively, the “Program Manager Property”), are the sole and exclusive property of Program Manager or Program Manager’s suppliers or customers. The County agrees to keep all Program Manager Property at The County’s premises unless otherwise permitted in writing by Program Manager. Within

five (5) days after any request by Program Manager and to the extent permitted by applicable law, The County shall destroy or deliver to Program Manager, at Program Manager's option, (a) all Program Manager Property and (b) all materials and items in The County's possession or control that contain or disclose any Confidential Information.

(e) The provisions of this Section XIX shall be effective while this Agreement and any extensions thereto are in effect and for five (5) years following the expiration or termination of this Agreement for any reason.

XX.

Good Faith: The County and the Program Manager agrees to act in good faith in the performance of this Contract.

XXI.

No Assignment: Neither party may assign this Contract without the prior written consent of the other party.

XXII.

Point of Contact: For the term of this Contract, each Party hereto shall designate an individual to act as a single point of contact for such Party (each such person, a "Point of Contact"), for all written or verbal communications required in connection with this Contract. All written and verbal communications related to issues arising under this Contract shall be directed to the Point of Contact for each Party. Each Point of Contact shall be responsible for coordinating communications with their internal teams and relaying any needed any information or materials back to the appropriate Point of Contact. Initially, the Point of Contact for each Party shall be as follows:

County:
Hon. Bill Gravell (or successor)
Phone: (512) 943-1550
Email: bgravell@wilco.org

Program Manager:
Elizabeth Henneke
Phone: (512) 394-5791
Email: ehenneke@lsja.org

Neither Party shall change the Point of Contact provided for in this Section without the consent, in writing, of the other Party.

XXIII.

Notice: All notices required or permitted by this Contract must be in writing and are deemed delivered on the earlier date of the date actually received or the third day following deposit in a United States Postal Service post office or receptacle; with proper postage, certified mail return receipt requested; and addressed to the other Party at the address set out below or at such other address as the receiving Party designates by proper notice to the sending Party.

County:
Williamson County Judge
710 Main St.
Georgetown, Texas 78626
Attn: Bill Gravell (or successor)

With copy to:
Williamson County General Counsel
710 Main St., Ste. 200
Georgetown, Texas
Attn: Hal Hawes (or successor)

Program Manager:
Lone Star Justice Alliance
1411 West Avenue, Suite 200
Austin, Texas 78701
Attn: Elizabeth Henneke (or successor)

With copy to:
Point of Contact listed in Section XXII, if different from the person listed in the Attn. line above.

XXIV.

County Judge or Presiding Officer Authorized to Sign Contract: The presiding officer of The County's governing body who is authorized to execute this instrument by order duly recorded may execute this Contract on behalf of The County.

[Signature Page Follows on Next Page.]

WITNESS that this Contract shall be effective as of the date of the last party's execution below.

WILLIAMSON COUNTY:

Authorized Signature

Printed Name

Date: _____, 2019

PROGRAM MANAGER:

Elizabeth A. Henneke

Authorized Signature

Elizabeth A. Henneke

Printed Name

Date: *January 11*, 2019

Exhibit(s)

EXHIBIT A

2019 WILLIAMSON COUNTY DISCRETIONARY GRANT APPLICATION NARRATIVE

[See Attached.]

EXHIBIT B

DESCRIPTION OF RECURRING EXPENSES

[See Attached.]

EXHIBIT C

FORM OF INVOICE FOR NON-RECURRING EXPENSES

[See Attached.]