

**WILLIAMSON COUNTY
TRANSFORMATIVE JUSTICE PROGRAM
AGREEMENT FOR LEGAL SERVICES**

This Agreement for Legal Services (“Agreement”) is by and between Williamson County (“County”) and Jo Poenitzsch (“Defense Counsel”).

1. Purpose

1.1 The purpose of this Agreement is to provide the terms, conditions, covenants and compensation relating to Defense Counsel’s provision of legal representation to participants who are accepted and receiving services (“Program Services”) in the Williamson County Transformative Justice Program (“the Program”).

2. Term and Termination

2.1 Term. The Term of this Agreement shall be from October 1, 2020 until September 30, 2021, unless terminated earlier under this Agreement.

2.2 Termination for Convenience. Either party may terminate this Agreement for convenience and without cause or further liability upon thirty (30) calendar day’s written notice to the other party. In the event of termination for convenience, it is understood and agreed that only the amounts due to Defense Counsel for services provided up to and including the date of termination, will be due and payable. No penalty will be assessed for a party’s termination of this Agreement for convenience.

2.3 Termination for Cause. If either party commits an Event of Breach (a breach of any of the covenants, terms and/or conditions of this Agreement), the non-breaching party shall deliver written notice of such Event of Breach to the breaching party. Such notice must specify the nature of the Event of Breach and inform the breaching party that unless the Event of Breach is cured within three (3) business days of receipt of the notice, additional steps may be taken to terminate this Agreement. If the breaching party begins a good faith attempt to cure the Event of Breach within three (3) business days, then and in that instance, the three (3) business day period may be extended by the non-breaching party, so long as the breaching party continues to prosecute a cure diligently to completion and continues to make a good faith attempt to cure the Event of Breach. If, in the opinion of the non-breaching party, the breaching party does not cure the breach within three (3) business days or otherwise fails to make any diligent attempt to correct the Event of Breach, the breaching party shall be deemed to be in breach and the non-breaching party may, in addition to seeking the remedies available hereunder and under the law, terminate this Agreement.

Termination for breach under this section does not waive either party's claim for direct damages resulting from the breach, and the non-breaching party may, among other remedies, withhold from compensation owed the breaching party an amount necessary to satisfy its claim against the breaching party.

3. Scope of Representation

3.1 Defense Counsel agrees to provide legal representation to participants regarding their pending Program eligible criminal offense including the following:

- a) Review of probable cause and intake documents in order to advise client regarding their voluntary participation in the Program;
- b) Request and review any/all evidence regarding the pending offense made available to the Defense Counsel throughout the participant's enrollment in the Program;
- c) Communicate with, and advise the participant at all stages of the representation regarding the evidence in their case throughout the participant's enrollment in the Program;
- d) Communicate with the prosecutor, and advocate for the participant, regarding the evidence in the case and any mitigating evidence determined by defense counsel throughout the participant's enrollment in the Program;
- e) Attend and advocate for the participant, at all Case Management, Multi Disciplinary Team meetings, Criminal Justice Team meetings, or any other scheduled meetings regarding the status of the participant throughout the participant's enrollment in the Program;
- f) Attend any training requested or required by the Program;
- g) Appear and represent participant at all court hearings throughout the participant's enrollment in the Program;
- h) Upon successful completion of the Program and Dismissal of the pending charge, Defense Counsel shall file the necessary documents to seek expunction of the criminal records for the participant's Program offense.

3.2 Under this Agreement, the legal services provided by Defense Counsel SHALL NOT INCLUDE any legal representation for Misdemeanor criminal charges, any criminal offenses involving a Program participant that occur outside of Williamson County, Texas, or any criminal matters that are not directly related to the Program eligible offense pending against the participant.

3.3 Upon the signing of an Order of Expunction in a Program participant's case, any further obligation of Defense Counsel to provide legal services to the Program participant shall be terminated.

3.4 At any time the participant is unsuccessfully terminated from the Program and his/her pending criminal case is prosecuted through the traditional criminal justice system of Williamson County, Texas, Defense Counsel's legal representation of participant will also terminate.

4. Compensation

4.1 County agrees to pay Defense Counsel a flat rate of \$4750 per month, for up to 100 hrs/month of the legal services provided to participants as described in Paragraph 3.

4.2 Defense Counsel agrees to submit an invoice to County once per month on the last day of the invoiced month. Each invoice shall be submitted electronically to the Williamson County Juvenile Services' Director of Operations at jpelczar@wilco.org, or as otherwise designated, in writing, by County.

4.3 County's payment hereunder shall be governed by Chapter 2251 of the Texas Government Code. Invoices shall be paid by County within thirty (30) days from the date of the Williamson County Auditor's receipt of an invoice. Interest charges for any late payments shall be paid by 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 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. In the event that a discrepancy arises in relation to an invoice, such as an incorrect amount on an invoice or a lack of documentation that is required to be attached to an invoice to evidence the amount claimed to be due, County shall notify Defense Counsel of such an invoice of the discrepancy. Following County's notification of any discrepancy as to an invoice, Defense Counsel must resolve the discrepancy and resubmit a corrected or revised invoice, which includes all required support documentation, to the Williamson County Auditor. County shall pay the invoice within thirty (30) days from the date of the Williamson County Auditor's receipt of the corrected or revised invoice. County's payment of an invoice that contains a discrepancy shall not be considered late, nor shall any interest begin to accrue until the thirty-first (31st) day following the Williamson County Auditor's receipt of the corrected or revised invoice.

5. Independent Contractor

5.1 It is expressly acknowledged that Defense Counsel is an independent contractor and that nothing in this Agreement is intended or shall be construed to create an employer/employee relationship between County and Defense Counsel. Defense Counsel acknowledges and agrees that he/she will not be entitled to any benefits generally provided by the County to its employees (including, without limitation, health insurance, retirement, severance, vacation, and disability) or any compensation other than what is set forth herein.

It is understood and agreed that Defense Counsel shall pay all taxes, licenses, and fees levied or assessed on Defense Counsel in connection with or incident to the performance of this Agreement by any governmental agency, including, without limitation, unemployment compensation insurance, old age benefits, social security, or any other taxes upon fees or wages of Defense Counsel, Defense Counsel's agents, employees, and representatives. Defense Counsel agrees to reimburse the County on demand for all such taxes or governmental charges, state or federal, which the County may be required or deem it necessary to pay on account of employees of Defense Counsel. Defense Counsel agrees to furnish the County with the information required to enable it to make the necessary reports and pay such taxes or charges. At its election, the County is authorized to deduct all sums so paid for such taxes and governmental charges from any fee or amounts that may be or become due to Defense Counsel.

5.2 Defense Counsel shall not be deemed or construed to be an agent or representative of County for any purposes whatsoever and Defense Counsel hereby agrees to not hold himself/herself out as a representative or agent of County. In this respect, Defense Counsel acknowledges and agrees that he/she shall have no right or authority to commit or obligate the County in any way to any third party or parties unless specifically authorized to do so by the Williamson County Commissioners Court.

5.3 During the term of this agreement, Defense Counsel may provide other legal representation for individuals or entities so long as said representation does not interfere with the obligations under this Agreement.

6. Representations and Warranties

6.1 Defense Counsel represents and warrants that:

- a) Defense Counsel has the authority to sign and be bound by the terms of this Agreement;
- b) Defense Counsel is licensed by the State Bar of Texas and in good standing; and
- c) All legal representation provided by Defense Counsel shall be performed for participants in accordance with the professional standards applicable under the Rules of Professional Responsibility.

7. Responsibility for Acts and Omissions

7.1 Defense Counsel is responsible for providing the services under this Agreement. TO THE FULLEST EXTENT PERMITTED BY LAW, DEFENSE COUNSEL SHALL INDEMNIFY, DEFEND (WITH COUNSEL OF COUNTY'S CHOOSING), AND HOLD HARMLESS COUNTY, AND COUNTY'S EMPLOYEES, AGENTS, REPRESENTATIVES, PARTNERS, OFFICERS, AND DIRECTORS (COLLECTIVELY, THE "INDEMNITEES") FROM AND AGAINST CLAIMS, DAMAGES, LOSSES AND EXPENSES, INCLUDING BUT NOT LIMITED TO 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 NEGLIGENCE, ACTS, ERRORS, OR OMISSIONS OF DEFENSE COUNSEL OR ITS SUBCONTRACTORS, ANYONE EMPLOYED BY THEM OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE, REGARDLESS OF WHETHER OR NOT SUCH CLAIM, DAMAGE, LOSS OR EXPENSE IS CAUSED IN WHOLE OR IN PART BY A PARTY INDEMNIFIED HEREUNDER.

7.2 Defense Counsel expressly waives rights or claims of subrogation Defense Counsel may have against County.

8. General Terms

8.1 If the party obligated to perform is prevented from performance by an act of war, order of legal authority, act of God, or other unavoidable cause not attributable to the fault or negligence of said party, the other party shall grant such party relief from the performance of this Agreement. The burden of proof for the need of such relief shall rest upon the party obligated to perform. To

obtain release based on force majeure, the party obligated to perform shall file a written request with the other party.

8.2 This Agreement shall be binding upon and inure to the benefit of parties hereto and their respective successors and assigns. No party to this Agreement may assign or transfer its interest in or obligations under this Agreement without the prior written consent of all parties to this Agreement.

8.3 Each party to this Agreement hereby agrees and acknowledges that venue and jurisdiction of any suit, right, or cause of action arising out of or in connection with this Agreement shall lie exclusively in Williamson County, Texas, and the parties hereto expressly consent and submit to such jurisdiction. Furthermore, except to the extent that this Agreement is governed by the laws of the United States, this Agreement shall be governed by and construed in accordance with the laws of the State of Texas, excluding, however, its choice of law rules.

8.4 No provision of this Agreement is intended to waive County's sovereign/governmental immunity, including but not limited to immunity from suit or immunity from liability, as provided by Title 5, Texas Civil Practice & Remedies Code, and other applicable law.

8.5 No provision of this Agreement is intended to create any third-party beneficiary.

8.6 Each party to this Agreement shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this Agreement, including, without limitation, Worker's Compensation laws, salary and wage statutes and regulations, licensing laws and regulations. When required, Defense Counsel shall furnish the County with certification of compliance with said laws, statutes, ordinances, rules, regulations, orders, and decrees above specified.

8.7 If any provision included in this Agreement is determined to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceable provision shall not affect any other provision and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been included.

8.8 Written notice or communication required by or related to this Contract shall be provided to the following party representatives:

County
Attn: County Judge
710 Main Street
Suite 101
Georgetown, Texas 78626

Defense Counsel
Jo Poenitzsch, Attorney at Law
1112 South Rock Street
Georgetown, Texas 78626

With Copy To:

Williamson County Juvenile Services

Attn: Scott Matthew, MBA
Executive Director
1821 SE Inner Loop
Georgetown, Texas 78626

8.9 Defense Counsel agrees that County or its duly authorized representatives shall, until the expiration of three (3) years after final payment under this Agreement, have access to and the right to examine and photocopy any and all books, documents, papers and records of Defense Counsel which are directly pertinent to the services to be performed under this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions. Defense Counsel agrees that County shall have access during normal working hours to all necessary Defense Counsel facilities and shall be provided adequate and appropriate workspace in order to conduct audits in compliance with the provisions of this section. County shall give Defense Counsel reasonable advance notice of intended audits.

8.10 Defense Counsel acknowledges that the funding to be paid to Defense Counsel is from a grant. The obligations of the County under this Agreement do not constitute a general obligation or indebtedness of County for which the County is obligated to levy, pledge, or collect any form of taxation. It is understood and agreed that County shall have the right to terminate this Agreement if the grant funding source does not appropriate sufficient grant funds to fund the Program in the future. County may effect such termination by giving written notice of termination to Defense Counsel immediately upon notice that any such grant funding is terminated and, in such case, County shall pay Defense Counsel for all amounts incurred and earned up to date of the termination of grant funding.

8.11 This Agreement represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations, or agreements, either oral or written. This Agreement may be amended only by written instrument signed by each party to this Agreement. NO OFFICIAL, EMPLOYEE, AGENT, OR REPRESENTATIVE OF THE COUNTY HAS ANY AUTHORITY, EITHER EXPRESS OR IMPLIED, TO AMEND THIS AGREEMENT, EXCEPT PURSUANT TO SUCH EXPRESS AUTHORITY AS MAY BE GRANTED BY THE WILLIAMSON COUNTY COMMISSIONERS COURT.

IN WITNESS WHEREOF, the parties have duly executed and delivered this Agreement on the date set forth above, to be effective as of October 1, 2020.

WILLIAMSON COUNTY

DEFENSE COUNSEL

By: _____

By:  _____

Printed Name: _____

Printed Name: Jo Poenitzsch

Title: Presiding Officer of Williamson
County Commissioners Court

Title: Attorney at Law