

**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract ("Agreement") is between Montgomery County, Texas ("the County"), acting by and through its Commissioners Court, and Chris Allen, a licensed attorney in the State of Texas ("Contract Attorney") for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the "Program").

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the "Act") and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments ("Local Rules");
2. Maintain valid license in good standing to practice law in the State of Texas;
3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;

8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;

9. Maintain a demeanor which is professional and conducive to effective representation;

10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;

11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;

12. Appear in court punctually and keep the court apprised of his or her whereabouts;

13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;

14. Be of sound mind; and

15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

#### B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;

2. Contract Attorney shall zealously represent a defendant until charges are dismissed, the defendant is acquitted, or the attorney is permitted or ordered by the court to withdraw as counsel;

3. Contract Attorney shall perform the attorney's duty owed to the defendant in accordance with the adopted procedures of this Program, the requirements of law, and the Texas Disciplinary Rules of Professional Conduct;

4. Contract Attorney shall appear prepared and on time for all hearings;

5. Contract Attorney shall inform the judge when any of the following occurs:

(a) Counsel/Contract Attorney is unable to appear to discharge his or her duties; or

(b) Counsel/Contract Attorney cannot represent an indigent defendant because of a legal or ethical conflict.

6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

D. The MCOCA shall provide the following appointment information data to the District Judges trying felony criminal cases on a regular basis: (1) the number of pending appointments per attorney in their respective court; (2) the number of new appointments received during the report period; (3) the number of pending defendants per attorney in their respective courts; and (4) the number of defendants per individual attorney as a ratio to the maximum number of 95 per term. MCOCA shall also provide a report contrasting individual attorney caseloads in relation to the maximum caseloads proposed by the Texas Indigent Defense Commission. This information shall also be readily available to Contract Attorney.

## **II. OBLIGATION TO REPORT CERTAIN OCCURRENCES**

Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## **III. TERMS**

A. **Term:** This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. **Fees and Payment:** Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

D. Termination:

1. Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party specifying the date of termination which shall be not less than thirty (30) days from receipt of the notice of termination.

2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.

3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.

4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.

5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current



information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

6. The parties further agree that the appointing judge may substitute counsel if:

(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

B. Time. Time is of the essence in all things pertaining to the performance of this Agreement.

C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "legal holiday" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney:

Chris Allen  
430 N. Main  
Conroe, Tx 77301  
Telephone: 936) 539-5522  
Email: Chrisallenlaw@gmail.com

To the County:

Office of Court Administration  
Attn: Chad Peace, Director  
301 N. Main, Suite 304  
Conroe, Texas 77301  
Telephone: (936) 538-8173  
Email: Chad.Peace@mctx.org

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.

F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.

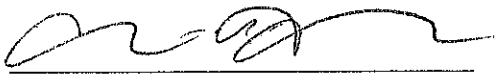
G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.

H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY

MONTGOMERY COUNTY, TEXAS



By:



MARK J. KEOUGH, COUNTY JUDGE

Signed on August 17, 2021.

Signed on Sept. 14, 2021.

**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract ("Agreement") is between Montgomery County, Texas ("the County"), acting by and through its Commissioners Court, and Lisa K Andrews, a licensed attorney in the State of Texas ("Contract Attorney") for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the "Program").

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the "Act") and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments ("Local Rules");
2. Maintain valid license in good standing to practice law in the State of Texas;
3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;

8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;

9. Maintain a demeanor which is professional and conducive to effective representation;

10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;

11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;

12. Appear in court punctually and keep the court apprised of his or her whereabouts;

13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;

14. Be of sound mind; and

15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

#### B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;

2. Contract Attorney shall zealously represent a defendant until charges are dismissed, the defendant is acquitted, or the attorney is permitted or ordered by the court to withdraw as counsel;

3. Contract Attorney shall perform the attorney's duty owed to the defendant in accordance with the adopted procedures of this Program, the requirements of law, and the Texas Disciplinary Rules of Professional Conduct;

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C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

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Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## **III. TERMS**

A. **Term:** This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. **Fees and Payment:** Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

D. Termination:

1. Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party specifying the date of termination which shall be not less than thirty (30) days from receipt of the notice of termination.
2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.
3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.
4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.
5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current

information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

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(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

B. Time. Time is of the essence in all things pertaining to the performance of this Agreement.

C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "legal holiday" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney:

Lisa K Andrews  
1207 S. Shepherd & 8505 Technology  
Houston, TX 77019 Forest Place,  
Telephone: 713 523-7878 Suite 104  
Email: [lisa@lisaandrewslaw.com](mailto:lisa@lisaandrewslaw.com) The Woodlands,  
TX 77381

To the County:

Office of Court Administration  
Attn: Chad Peace, Director  
301 N. Main, Suite 304  
Conroe, Texas 77301  
Telephone: (936) 538-8173  
Email: [Chad.Peace@mctx.org](mailto:Chad.Peace@mctx.org)

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.

F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.

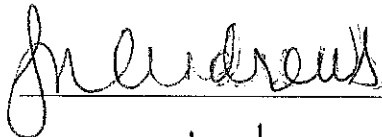
G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.


H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY

MONTGOMERY COUNTY, TEXAS

  
\_\_\_\_\_

By:   
MARK J. KEOUGH, COUNTY JUDGE

Signed on 8/23/21, 2021.

Signed on Sept. 14, 2021.



**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract ("Agreement") is between Montgomery County, Texas ("the County"), acting by and through its Commissioners Court, and Benton Baker IV, a licensed attorney in the State of Texas ("Contract Attorney") for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the "Program").

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the "Act") and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

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3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
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9. Maintain a demeanor which is professional and conducive to effective representation;
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13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;
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15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;
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6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

D. The MCOCA shall provide the following appointment information data to the District Judges trying felony criminal cases on a regular basis: (1) the number of pending appointments per attorney in their respective court; (2) the number of new appointments received during the report period; (3) the number of pending defendants per attorney in their respective courts; and (4) the number of defendants per individual attorney as a ratio to the maximum number of 95 per term. MCOCA shall also provide a report contrasting individual attorney caseloads in relation to the maximum caseloads proposed by the Texas Indigent Defense Commission. This information shall also be readily available to Contract Attorney.

## **II. OBLIGATION TO REPORT CERTAIN OCCURRENCES**

Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## **III. TERMS**

A. **Term:** This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. **Fees and Payment:** Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

D. Termination:

1. Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party specifying the date of termination which shall be not less than thirty (30) days from receipt of the notice of termination.

2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.

3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.

4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.

5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current

information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

6. The parties further agree that the appointing judge may substitute counsel if:

(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

B. Time. Time is of the essence in all things pertaining to the performance of this Agreement.

C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "*legal holiday*" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney:

Benton Baker IV  
308 N. Main St  
Conroe, Tx 77301  
Telephone: 936/494-2444  
Email: bbaker@bakerylaw.com

To the County:

Office of Court Administration  
Attn: Chad Peace, Director  
301 N. Main, Suite 304  
Conroe, Texas 77301  
Telephone: (936) 538-8173  
Email: Chad.Peace@mctx.org

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.


F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.

G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.


H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY

  
\_\_\_\_\_  
Signed on 17 AUGUST, 2021.

MONTGOMERY COUNTY, TEXAS

By:   
\_\_\_\_\_  
MARK J. KEOUGH, COUNTY JUDGE  
Signed on Sept. 14, 2021.

**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract ("Agreement") is between Montgomery County, Texas ("the County"), acting by and through its Commissioners Court, and Wendy BAKER, a licensed attorney in the State of Texas ("Contract Attorney") for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the "Program").

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the "Act") and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments ("Local Rules");
2. Maintain valid license in good standing to practice law in the State of Texas;
3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;

8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;

9. Maintain a demeanor which is professional and conducive to effective representation;

10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;

11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;

12. Appear in court punctually and keep the court apprised of his or her whereabouts;

13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;

14. Be of sound mind; and

15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

#### B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;

2. Contract Attorney shall zealously represent a defendant until charges are dismissed, the defendant is acquitted, or the attorney is permitted or ordered by the court to withdraw as counsel;

3. Contract Attorney shall perform the attorney's duty owed to the defendant in accordance with the adopted procedures of this Program, the requirements of law, and the Texas Disciplinary Rules of Professional Conduct;

4. Contract Attorney shall appear prepared and on time for all hearings;

5. Contract Attorney shall inform the judge when any of the following occurs:

(a) Counsel/Contract Attorney is unable to appear to discharge his or her duties; or



(b) Counsel/Contract Attorney cannot represent an indigent defendant because of a legal or ethical conflict.

6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

D. The MCOCA shall provide the following appointment information data to the District Judges trying felony criminal cases on a regular basis: (1) the number of pending appointments per attorney in their respective court; (2) the number of new appointments received during the report period; (3) the number of pending defendants per attorney in their respective courts; and (4) the number of defendants per individual attorney as a ratio to the maximum number of 95 per term. MCOCA shall also provide a report contrasting individual attorney caseloads in relation to the maximum caseloads proposed by the Texas Indigent Defense Commission. This information shall also be readily available to Contract Attorney.

## **II. OBLIGATION TO REPORT CERTAIN OCCURRENCES**

Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## **III. TERMS**

A. **Term:** This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. **Fees and Payment:** Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

D. Termination:

1. Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party specifying the date of termination which shall be not less than thirty (30) days from receipt of the notice of termination.
2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.
3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.
4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.
5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current

information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

6. The parties further agree that the appointing judge may substitute counsel if:

(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

B. Time. Time is of the essence in all things pertaining to the performance of this Agreement.

C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "*legal holiday*" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney:

*Wendy Baker*  
*8505 Technology Forest #104*  
*The Woodlands TX 77381*  
Telephone: *713 489-7551*  
Email: *Wbaker@wendybakerlaw.com*

To the County:

Office of Court Administration  
Attn: Chad Peace, Director  
301 N. Main, Suite 304  
Conroe, Texas 77301  
Telephone: (936) 538-8173  
Email: [Chad.Peace@mctx.org](mailto:Chad.Peace@mctx.org)

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.

F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.

G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.

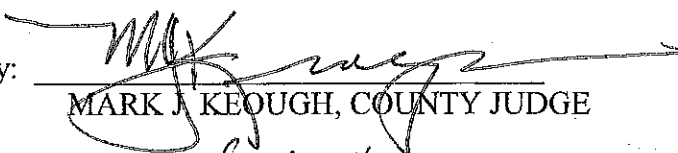
H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY

MONTGOMERY COUNTY, TEXAS



By:   
MARK J. KEOUGH, COUNTY JUDGE

Signed on 8/21/2021, 2021.

Signed on Sept. 14, 2021.

**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract ("Agreement") is between Montgomery County, Texas ("the County"), acting by and through its Commissioners Court, and Robbie Barker, a licensed attorney in the State of Texas ("Contract Attorney") for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the "Program").

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the "Act") and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments ("Local Rules");
2. Maintain valid license in good standing to practice law in the State of Texas;
3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;

8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;

9. Maintain a demeanor which is professional and conducive to effective representation;

10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;

11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;

12. Appear in court punctually and keep the court apprised of his or her whereabouts;

13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;

14. Be of sound mind; and

15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

#### B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;

2. Contract Attorney shall zealously represent a defendant until charges are dismissed, the defendant is acquitted, or the attorney is permitted or ordered by the court to withdraw as counsel;

3. Contract Attorney shall perform the attorney's duty owed to the defendant in accordance with the adopted procedures of this Program, the requirements of law, and the Texas Disciplinary Rules of Professional Conduct;

4. Contract Attorney shall appear prepared and on time for all hearings;

5. Contract Attorney shall inform the judge when any of the following occurs:

(a) Counsel/Contract Attorney is unable to appear to discharge his or her duties; or

(b) Counsel/Contract Attorney cannot represent an indigent defendant because of a legal or ethical conflict.

6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

D. The MCOCA shall provide the following appointment information data to the District Judges trying felony criminal cases on a regular basis: (1) the number of pending appointments per attorney in their respective court; (2) the number of new appointments received during the report period; (3) the number of pending defendants per attorney in their respective courts; and (4) the number of defendants per individual attorney as a ratio to the maximum number of 95 per term. MCOCA shall also provide a report contrasting individual attorney caseloads in relation to the maximum caseloads proposed by the Texas Indigent Defense Commission. This information shall also be readily available to Contract Attorney.

## **II. OBLIGATION TO REPORT CERTAIN OCCURRENCES**

Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## **III. TERMS**

A. **Term:** This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. **Fees and Payment:** Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

D. Termination:

1. Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party specifying the date of termination which shall be not less than thirty (30) days from receipt of the notice of termination.
2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.
3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.
4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.
5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current



information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

6. The parties further agree that the appointing judge may substitute counsel if:

(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

B. Time. Time is of the essence in all things pertaining to the performance of this Agreement.

C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "*legal holiday*" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney:

Robbie Barker  
208 W. Davis  
Conroe, TX 77301  
Telephone: 936-900-9580  
Email: attorneyrobby@yahoo.com

To the County:

Office of Court Administration  
Attn: Chad Peace, Director  
301 N. Main, Suite 304  
Conroe, Texas 77301  
Telephone: (936) 538-8173  
Email: Chad.Peace@mctx.org

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.

F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.

G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.

H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY

MONTGOMERY COUNTY, TEXAS

Rechie Barker

By:

Mark J. Keough  
MARK J. KEOUGH, COUNTY JUDGE

Signed on August 14, 2021.

Signed on Sept. 14, 2021.

**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract ("Agreement") is between Montgomery County, Texas ("the County"), acting by and through its Commissioners Court, and Robert S. Barton, a licensed attorney in the State of Texas ("Contract Attorney") for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the "Program").

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the "Act") and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments ("Local Rules");
2. Maintain valid license in good standing to practice law in the State of Texas;
3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;

8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;

9. Maintain a demeanor which is professional and conducive to effective representation;

10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;

11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;

12. Appear in court punctually and keep the court apprised of his or her whereabouts;

13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;

14. Be of sound mind; and

15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

#### B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;

2. Contract Attorney shall zealously represent a defendant until charges are dismissed, the defendant is acquitted, or the attorney is permitted or ordered by the court to withdraw as counsel;

3. Contract Attorney shall perform the attorney's duty owed to the defendant in accordance with the adopted procedures of this Program, the requirements of law, and the Texas Disciplinary Rules of Professional Conduct;

4. Contract Attorney shall appear prepared and on time for all hearings;

5. Contract Attorney shall inform the judge when any of the following occurs:

(a) Counsel/Contract Attorney is unable to appear to discharge his or her duties; or

(b) Counsel/Contract Attorney cannot represent an indigent defendant because of a legal or ethical conflict.

6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

D. The MCOCA shall provide the following appointment information data to the District Judges trying felony criminal cases on a regular basis: (1) the number of pending appointments per attorney in their respective court; (2) the number of new appointments received during the report period; (3) the number of pending defendants per attorney in their respective courts; and (4) the number of defendants per individual attorney as a ratio to the maximum number of 95 per term. MCOCA shall also provide a report contrasting individual attorney caseloads in relation to the maximum caseloads proposed by the Texas Indigent Defense Commission. This information shall also be readily available to Contract Attorney.

## **II. OBLIGATION TO REPORT CERTAIN OCCURRENCES**

Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## **III. TERMS**

A. **Term:** This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. **Fees and Payment:** Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

D. Termination:

1. Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party specifying the date of termination which shall be not less than thirty (30) days from receipt of the notice of termination.
2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.
3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.
4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.
5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current

information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

6. The parties further agree that the appointing judge may substitute counsel if:

(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

B. Time. Time is of the essence in all things pertaining to the performance of this Agreement.

C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "*legal holiday*" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney: Robert S. Barthel  
1103 N. 1st  
Conroe, Tx. 77301  
Telephone: 936.756.7144  
Email: r.barthel@liva.com

To the County: Office of Court Administration  
Attn: Chad Peace, Director  
301 N. Main, Suite 304  
Conroe, Texas 77301  
Telephone: (936) 538-8173  
Email: Chad.Peace@mctx.org

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.

F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.

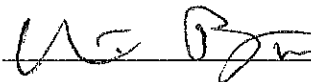
G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.

H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY

MONTGOMERY COUNTY, TEXAS

  
\_\_\_\_\_

By:   
MARK J. KEOUGH, COUNTY JUDGE

Signed on Aug 23, 2021.

Signed on Sept. 14, 2021.



**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract ("Agreement") is between Montgomery County, Texas ("the County"), acting by and through its Commissioners Court, and Christopher A. Beck, a licensed attorney in the State of Texas ("Contract Attorney") for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the "Program").

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the "Act") and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments ("Local Rules");
2. Maintain valid license in good standing to practice law in the State of Texas;
3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;

8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;

9. Maintain a demeanor which is professional and conducive to effective representation;

10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;

11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;

12. Appear in court punctually and keep the court apprised of his or her whereabouts;

13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;

14. Be of sound mind; and

15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

#### B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;

2. Contract Attorney shall zealously represent a defendant until charges are dismissed, the defendant is acquitted, or the attorney is permitted or ordered by the court to withdraw as counsel;

3. Contract Attorney shall perform the attorney's duty owed to the defendant in accordance with the adopted procedures of this Program, the requirements of law, and the Texas Disciplinary Rules of Professional Conduct;

4. Contract Attorney shall appear prepared and on time for all hearings;

5. Contract Attorney shall inform the judge when any of the following occurs:

(a) Counsel/Contract Attorney is unable to appear to discharge his or her duties; or

(b) Counsel/Contract Attorney cannot represent an indigent defendant because of a legal or ethical conflict.

6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

D. The MCOCA shall provide the following appointment information data to the District Judges trying felony criminal cases on a regular basis: (1) the number of pending appointments per attorney in their respective court; (2) the number of new appointments received during the report period; (3) the number of pending defendants per attorney in their respective courts; and (4) the number of defendants per individual attorney as a ratio to the maximum number of 95 per term. MCOCA shall also provide a report contrasting individual attorney caseloads in relation to the maximum caseloads proposed by the Texas Indigent Defense Commission. This information shall also be readily available to Contract Attorney.

## **II. OBLIGATION TO REPORT CERTAIN OCCURRENCES**

Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## **III. TERMS**

A. **Term:** This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. **Fees and Payment:** Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

D. Termination:

1. Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party specifying the date of termination which shall be not less than thirty (30) days from receipt of the notice of termination.
2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.
3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.
4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.
5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current

information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

6. The parties further agree that the appointing judge may substitute counsel if:

(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

B. Time. Time is of the essence in all things pertaining to the performance of this Agreement.

C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "*legal holiday*" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney:

*Christopher A. Beale*  
*308 N. Main Street*  
*Conroe TX 77301*  
Telephone: *936 494 2444*  
Email: *LMUNOZ@bakerbeck.net*

To the County:

Office of Court Administration  
Attn: Chad Peace, Director  
301 N. Main, Suite 304  
Conroe, Texas 77301  
Telephone: (936) 538-8173  
Email: [Chad.Peace@mctx.org](mailto:Chad.Peace@mctx.org)

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.


F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.

G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.


H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY

  
\_\_\_\_\_  
Signed on Aug 23, 2021.

MONTGOMERY COUNTY, TEXAS

By:   
\_\_\_\_\_  
MARK J. KEDOUGH, COUNTY JUDGE  
Signed on Sept. 14, 2021.

**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract (“Agreement”) is between Montgomery County, Texas (“the County”), acting by and through its Commissioners Court, and J. Celeste Blackburn, a licensed attorney in the State of Texas (“Contract Attorney”) for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the “Program”).

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the “Act”) and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments (“Local Rules”);
2. Maintain valid license in good standing to practice law in the State of Texas;
3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;

8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;

9. Maintain a demeanor which is professional and conducive to effective representation;

10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;

11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;

12. Appear in court punctually and keep the court apprised of his or her whereabouts;

13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;

14. Be of sound mind; and

15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

#### B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;

2. Contract Attorney shall zealously represent a defendant until charges are dismissed, the defendant is acquitted, or the attorney is permitted or ordered by the court to withdraw as counsel;

3. Contract Attorney shall perform the attorney's duty owed to the defendant in accordance with the adopted procedures of this Program, the requirements of law, and the Texas Disciplinary Rules of Professional Conduct;

4. Contract Attorney shall appear prepared and on time for all hearings;

5. Contract Attorney shall inform the judge when any of the following occurs:

(a) Counsel/Contract Attorney is unable to appear to discharge his or her duties; or



(b) Counsel/Contract Attorney cannot represent an indigent defendant because of a legal or ethical conflict.

6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

D. The MCOCA shall provide the following appointment information data to the District Judges trying felony criminal cases on a regular basis: (1) the number of pending appointments per attorney in their respective court; (2) the number of new appointments received during the report period; (3) the number of pending defendants per attorney in their respective courts; and (4) the number of defendants per individual attorney as a ratio to the maximum number of 95 per term. MCOCA shall also provide a report contrasting individual attorney caseloads in relation to the maximum caseloads proposed by the Texas Indigent Defense Commission. This information shall also be readily available to Contract Attorney.

## **II. OBLIGATION TO REPORT CERTAIN OCCURRENCES**

Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## **III. TERMS**

A. Term: This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. Fees and Payment: Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

D. Termination:

1. Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party specifying the date of termination which shall be not less than thirty (30) days from receipt of the notice of termination.
2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.
3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.
4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.
5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current

information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

6. The parties further agree that the appointing judge may substitute counsel if:

(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

B. Time. Time is of the essence in all things pertaining to the performance of this Agreement.

C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "*legal holiday*" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney: Celeste Blackburn  
10655 Six Pines, Suite 230  
The Woodlands, Texas 77380  
Telephone: 936-703-5000  
Email: Celestebblackburn@gmail.com

To the County: Office of Court Administration  
Attn: Chad Peace, Director  
301 N. Main, Suite 304  
Conroe, Texas 77301  
Telephone: (936) 538-8173  
Email: Chad.Peace@mctx.org

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.

F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.

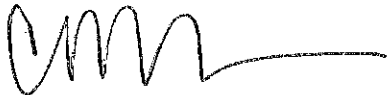
G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.

H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY

MONTGOMERY COUNTY, TEXAS



J. Celeste Blackburn

By:

MARK J. KEOUGH, COUNTY JUDGE

Signed on August 13, 2021.

Signed on Sept. 14, 2021.

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SEP 14 2021

**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract ("Agreement") is between Montgomery County, Texas ("the County"), acting by and through its Commissioners Court, and Dylan T. Blackwell, a licensed attorney in the State of Texas ("Contract Attorney") for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the "Program").

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the "Act") and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments ("Local Rules");
2. Maintain valid license in good standing to practice law in the State of Texas;
3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;

8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;

9. Maintain a demeanor which is professional and conducive to effective representation;

10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;

11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;

12. Appear in court punctually and keep the court apprised of his or her whereabouts;

13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;

14. Be of sound mind; and

15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

#### B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;

2. Contract Attorney shall zealously represent a defendant until charges are dismissed, the defendant is acquitted, or the attorney is permitted or ordered by the court to withdraw as counsel;

3. Contract Attorney shall perform the attorney's duty owed to the defendant in accordance with the adopted procedures of this Program, the requirements of law, and the Texas Disciplinary Rules of Professional Conduct;

4. Contract Attorney shall appear prepared and on time for all hearings;

5. Contract Attorney shall inform the judge when any of the following occurs:

(a) Counsel/Contract Attorney is unable to appear to discharge his or her duties; or

(b) Counsel/Contract Attorney cannot represent an indigent defendant because of a legal or ethical conflict.

6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

D. The MCOCA shall provide the following appointment information data to the District Judges trying felony criminal cases on a regular basis: (1) the number of pending appointments per attorney in their respective court; (2) the number of new appointments received during the report period; (3) the number of pending defendants per attorney in their respective courts; and (4) the number of defendants per individual attorney as a ratio to the maximum number of 95 per term. MCOCA shall also provide a report contrasting individual attorney caseloads in relation to the maximum caseloads proposed by the Texas Indigent Defense Commission. This information shall also be readily available to Contract Attorney.

## **II. OBLIGATION TO REPORT CERTAIN OCCURRENCES**

Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## **III. TERMS**

A. Term: This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. Fees and Payment: Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

D. Termination:

1. Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party specifying the date of termination which shall be not less than thirty (30) days from receipt of the notice of termination.

2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.

3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.

4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.

5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current



information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

6. The parties further agree that the appointing judge may substitute counsel if:

(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

B. Time. Time is of the essence in all things pertaining to the performance of this Agreement.

C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "legal holiday" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney:

Dylan T. Blackwell  
709 N. San Jacinto St.  
Conroe, TX 77301

Telephone: 936-756-6555

For Appointments:

Email: dto\_appts@duckworthandray.com

Direct E-mail:

dylan@duckworthandray.com

To the County:

Office of Court Administration

Attn: Chad Peace, Director

301 N. Main, Suite 304

Conroe, Texas 77301

Telephone: (936) 538-8173

Email: Chad.Peace@mctx.org

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.

F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.

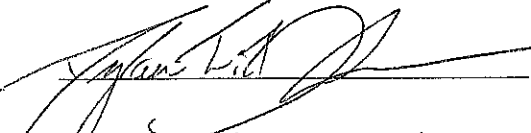
G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.

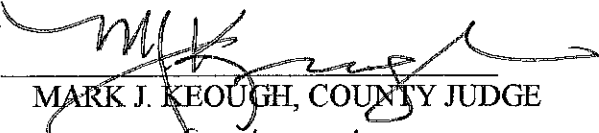
H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY

MONTGOMERY COUNTY, TEXAS

  
Signed on Aug. 24<sup>th</sup>, 2021.

By:   
MARK J. KEOUGH, COUNTY JUDGE  
Signed on Sept. 14, 2021.

**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract (“Agreement”) is between Montgomery County, Texas (“the County”), acting by and through its Commissioners Court, and E. Tay Bond, a licensed attorney in the State of Texas (“Contract Attorney”) for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the “Program”).

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the “Act”) and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments (“Local Rules”);
2. Maintain valid license in good standing to practice law in the State of Texas;
3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;

8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;

9. Maintain a demeanor which is professional and conducive to effective representation;

10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;

11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;

12. Appear in court punctually and keep the court apprised of his or her whereabouts;

13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;

14. Be of sound mind; and

15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

#### B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;

2. Contract Attorney shall zealously represent a defendant until charges are dismissed, the defendant is acquitted, or the attorney is permitted or ordered by the court to withdraw as counsel;

3. Contract Attorney shall perform the attorney's duty owed to the defendant in accordance with the adopted procedures of this Program, the requirements of law, and the Texas Disciplinary Rules of Professional Conduct;

4. Contract Attorney shall appear prepared and on time for all hearings;

5. Contract Attorney shall inform the judge when any of the following occurs:

(a) Counsel/Contract Attorney is unable to appear to discharge his or her duties; or

(b) Counsel/Contract Attorney cannot represent an indigent defendant because of a legal or ethical conflict.

6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

D. The MCOCA shall provide the following appointment information data to the District Judges trying felony criminal cases on a regular basis: (1) the number of pending appointments per attorney in their respective court; (2) the number of new appointments received during the report period; (3) the number of pending defendants per attorney in their respective courts; and (4) the number of defendants per individual attorney as a ratio to the maximum number of 95 per term. MCOCA shall also provide a report contrasting individual attorney caseloads in relation to the maximum caseloads proposed by the Texas Indigent Defense Commission. This information shall also be readily available to Contract Attorney.

## **II. OBLIGATION TO REPORT CERTAIN OCCURRENCES**

Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## **III. TERMS**

A. **Term:** This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. **Fees and Payment:** Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

D. Termination:

1. Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party specifying the date of termination which shall be not less than thirty (30) days from receipt of the notice of termination.

2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.

3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.

4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.

5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current

information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

6. The parties further agree that the appointing judge may substitute counsel if:

(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

B. Time. Time is of the essence in all things pertaining to the performance of this Agreement.

C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "*legal holiday*" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney: E. Tay Bond  
200 West Davis Street  
Conroe, Texas 77301  
Telephone: 936-539-1007  
Email: etaybond@gmail.com

To the County: Office of Court Administration  
Attn: Chad Peace, Director  
301 N. Main, Suite 304  
Conroe, Texas 77301  
Telephone: (936) 538-8173  
Email: Chad.Peace@mctx.org

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.

F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.

G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.

H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY

MONTGOMERY COUNTY, TEXAS



By:



MARK J. KEOUGH, COUNTY JUDGE

Signed on August 18, 2021.

Signed on Sept. 14, 2021.



**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract (“Agreement”) is between Montgomery County, Texas (“the County”), acting by and through its Commissioners Court, and KESTEN BROWN, a licensed attorney in the State of Texas (“Contract Attorney”) for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the “Program”).

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the “Act”) and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments (“Local Rules”);
2. Maintain valid license in good standing to practice law in the State of Texas;
3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;

8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;

9. Maintain a demeanor which is professional and conducive to effective representation;

10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;

11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;

12. Appear in court punctually and keep the court apprised of his or her whereabouts;

13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;

14. Be of sound mind; and

15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

#### B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;

2. Contract Attorney shall zealously represent a defendant until charges are dismissed, the defendant is acquitted, or the attorney is permitted or ordered by the court to withdraw as counsel;

3. Contract Attorney shall perform the attorney's duty owed to the defendant in accordance with the adopted procedures of this Program, the requirements of law, and the Texas Disciplinary Rules of Professional Conduct;

4. Contract Attorney shall appear prepared and on time for all hearings;

5. Contract Attorney shall inform the judge when any of the following occurs:

(a) Counsel/Contract Attorney is unable to appear to discharge his or her duties; or

(b) Counsel/Contract Attorney cannot represent an indigent defendant because of a legal or ethical conflict.

6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

D. The MCOCA shall provide the following appointment information data to the District Judges trying felony criminal cases on a regular basis: (1) the number of pending appointments per attorney in their respective court; (2) the number of new appointments received during the report period; (3) the number of pending defendants per attorney in their respective courts; and (4) the number of defendants per individual attorney as a ratio to the maximum number of 95 per term. MCOCA shall also provide a report contrasting individual attorney caseloads in relation to the maximum caseloads proposed by the Texas Indigent Defense Commission. This information shall also be readily available to Contract Attorney.

## **II. OBLIGATION TO REPORT CERTAIN OCCURRENCES**

Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## **III. TERMS**

A. **Term:** This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. **Fees and Payment:** Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

D. Termination:

1. Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party specifying the date of termination which shall be not less than thirty (30) days from receipt of the notice of termination.
2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.
3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.
4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.
5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current

information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

6. The parties further agree that the appointing judge may substitute counsel if:

(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

B. Time. Time is of the essence in all things pertaining to the performance of this Agreement.

C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "legal holiday" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney:

10655 Six Pines Dr.  
Suite 230

The Woodlands, TX 77380

Telephone: 936-777-1774

Email: Kristen E. Kristen.Mbrown.COMV

To the County:

Office of Court Administration

Attn: Chad Peace, Director

301 N. Main, Suite 304

Conroe, Texas 77301

Telephone: (936) 538-8173

Email: Chad.Peace@mctx.org

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.

F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.

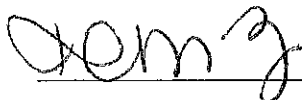
G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.

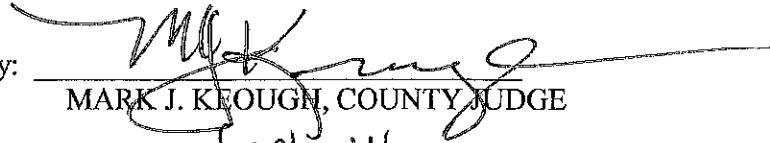
H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY

MONTGOMERY COUNTY, TEXAS

  
\_\_\_\_\_

By:   
\_\_\_\_\_

MARK J. KEOUGH, COUNTY JUDGE

Signed on August 16, 2021.

Signed on Sept. 14, 2021.

**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract ("Agreement") is between Montgomery County, Texas ("the County"), acting by and through its Commissioners Court, and GRIAN CAEN, a licensed attorney in the State of Texas ("Contract Attorney") for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the "Program").

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the "Act") and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments ("Local Rules");
2. Maintain valid license in good standing to practice law in the State of Texas;
3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;

8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;

9. Maintain a demeanor which is professional and conducive to effective representation;

10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;

11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;

12. Appear in court punctually and keep the court apprised of his or her whereabouts;

13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;

14. Be of sound mind; and

15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

#### B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;

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(a) Counsel/Contract Attorney is unable to appear to discharge his or her duties; or



(b) Counsel/Contract Attorney cannot represent an indigent defendant because of a legal or ethical conflict.

6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

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(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

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C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "*legal holiday*" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney:

BREAN CAEN  
122 W. DAVIS ST. STE 101  
CONROE TX 77301  
Telephone: 936.539.1011  
Email: 936.539.1002

To the County:

Office of Court Administration  
Attr: Chad Peace, Director  
301 N. Main, Suite 304  
Conroe, Texas 77301  
Telephone: (936) 538-8173  
Email: [Chad.Peace@mctx.org](mailto:Chad.Peace@mctx.org)

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.

F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.


G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.

H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY

MONTGOMERY COUNTY, TEXAS

  
\_\_\_\_\_

By:   
\_\_\_\_\_

MARK J. KEOUGH, COUNTY JUDGE

Signed on 8/23, 2021.

Signed on Sept. 14, 2021.

**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract (“Agreement”) is between Montgomery County, Texas (“the County”), acting by and through its Commissioners Court, and Inger Chandier, a licensed attorney in the State of Texas (“Contract Attorney”) for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the “Program”).

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the “Act”) and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments (“Local Rules”);
2. Maintain valid license in good standing to practice law in the State of Texas;
3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

- including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;
8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;
  9. Maintain a demeanor which is professional and conducive to effective representation;
  10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;
  11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;
  12. Appear in court punctually and keep the court apprised of his or her whereabouts;
  13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;
  14. Be of sound mind; and
  15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;
2. Contract Attorney shall zealously represent a defendant until charges are dismissed, the defendant is acquitted, or the attorney is permitted or ordered by the court to withdraw as counsel;
3. Contract Attorney shall perform the attorney's duty owed to the defendant in accordance with the adopted procedures of this Program, the requirements of law, and the Texas Disciplinary Rules of Professional Conduct;
4. Contract Attorney shall appear prepared and on time for all hearings;
5. Contract Attorney shall inform the judge when any of the following occurs:
  - (a) Counsel/Contract Attorney is unable to appear to discharge his or her duties; or

(b) Counsel/Contract Attorney cannot represent an indigent defendant because of a legal or ethical conflict.

6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

D. The MCOCA shall provide the following appointment information data to the District Judges trying felony criminal cases on a regular basis: (1) the number of pending appointments per attorney in their respective court; (2) the number of new appointments received during the report period; (3) the number of pending defendants per attorney in their respective courts; and (4) the number of defendants per individual attorney as a ratio to the maximum number of 95 per term. MCOCA shall also provide a report contrasting individual attorney caseloads in relation to the maximum caseloads proposed by the Texas Indigent Defense Commission. This information shall also be readily available to Contract Attorney.

## **II. OBLIGATION TO REPORT CERTAIN OCCURRENCES**

Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## **III. TERMS**

A. **Term:** This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. **Fees and Payment:** Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

D. Termination:

1. Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party specifying the date of termination which shall be not less than thirty (30) days from receipt of the notice of termination.
2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.
3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.
4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.
5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current



information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

6. The parties further agree that the appointing judge may substitute counsel if:

(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

B. Time. Time is of the essence in all things pertaining to the performance of this Agreement.

C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "*legal holiday*" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney: Inger Chandler  
5529 Louetta Road, Suite A  
Spring, Texas 77379  
Telephone: 713.970.1060  
Email: inger@ingerchandlerlaw.com

To the County: Office of Court Administration  
Attn: Chad Peace, Director  
301 N. Main, Suite 304  
Conroe, Texas 77301  
Telephone: (936) 538-8173  
Email: Chad.Peace@mctx.org

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.

F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.

G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.

H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY

MONTGOMERY COUNTY, TEXAS



By:



MARK J. KEOUGH, COUNTY JUDGE

Signed on August 24, 2021.

Signed on SEPT. 14, 2021.

**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract (“Agreement”) is between Montgomery County, Texas (“the County”), acting by and through its Commissioners Court, and IVAN CRESPO under FNC CONSULTANTS PLLC., a licensed attorney in the State of Texas (“Contract Attorney”) for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the “Program”).

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the “Act”) and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments (“Local Rules”);
2. Maintain valid license in good standing to practice law in the State of Texas;
3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;

8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;

9. Maintain a demeanor which is professional and conducive to effective representation;

10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;

11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;

12. Appear in court punctually and keep the court apprised of his or her whereabouts;

13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;

14. Be of sound mind; and

15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

#### B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;

2. Contract Attorney shall zealously represent a defendant until charges are dismissed, the defendant is acquitted, or the attorney is permitted or ordered by the court to withdraw as counsel;

3. Contract Attorney shall perform the attorney's duty owed to the defendant in accordance with the adopted procedures of this Program, the requirements of law, and the Texas Disciplinary Rules of Professional Conduct;

4. Contract Attorney shall appear prepared and on time for all hearings;

5. Contract Attorney shall inform the judge when any of the following occurs:

(a) Counsel/Contract Attorney is unable to appear to discharge his or her duties; or

(b) Counsel/Contract Attorney cannot represent an indigent defendant because of a legal or ethical conflict.

6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

D. The MCOCA shall provide the following appointment information data to the District Judges trying felony criminal cases on a regular basis: (1) the number of pending appointments per attorney in their respective court; (2) the number of new appointments received during the report period; (3) the number of pending defendants per attorney in their respective courts; and (4) the number of defendants per individual attorney as a ratio to the maximum number of 95 per term. MCOCA shall also provide a report contrasting individual attorney caseloads in relation to the maximum caseloads proposed by the Texas Indigent Defense Commission. This information shall also be readily available to Contract Attorney.

## **II. OBLIGATION TO REPORT CERTAIN OCCURRENCES**

Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## **III. TERMS**

A. **Term:** This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. **Fees and Payment:** Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

D. Termination:

1. Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party specifying the date of termination which shall be not less than thirty (30) days from receipt of the notice of termination.

2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.

3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.

4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.

5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current

information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

6. The parties further agree that the appointing judge may substitute counsel if:

(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

B. Time. Time is of the essence in all things pertaining to the performance of this Agreement.

C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "*legal holiday*" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney: FNC Consultants PLLC  
PO BOX. 3445  
Conroe TX 77305  
Telephone: 936-333-8820  
Email: fncconsultants@gmail.com

To the County: Office of Court Administration  
Attn: Chad Peace, Director  
301 N. Main, Suite 304  
Conroe, Texas 77301  
Telephone: (936) 538-8173  
Email: Chad.Peace@mctx.org

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.

F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.

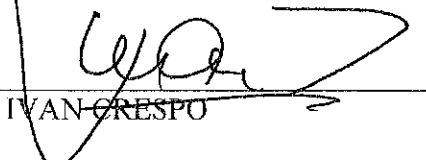
G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.

H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY

MONTGOMERY COUNTY, TEXAS

  
\_\_\_\_\_  
IVAN CRESPO

By:   
\_\_\_\_\_  
MARK J. KEOUGH, COUNTY JUDGE

Signed on August 16, 2021.

Signed on Sept. 14, 2021.



**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract (“Agreement”) is between Montgomery County, Texas (“the County”), acting by and through its Commissioners Court, and Charles W. Crowl, III, a licensed attorney in the State of Texas (“Contract Attorney”) for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the “Program”).

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the “Act”) and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments (“Local Rules”);
2. Maintain valid license in good standing to practice law in the State of Texas;
3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;

8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;

9. Maintain a demeanor which is professional and conducive to effective representation;

10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;

11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;

12. Appear in court punctually and keep the court apprised of his or her whereabouts;

13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;

14. Be of sound mind; and

15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

#### B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;

2. Contract Attorney shall zealously represent a defendant until charges are dismissed, the defendant is acquitted, or the attorney is permitted or ordered by the court to withdraw as counsel;

3. Contract Attorney shall perform the attorney's duty owed to the defendant in accordance with the adopted procedures of this Program, the requirements of law, and the Texas Disciplinary Rules of Professional Conduct;

4. Contract Attorney shall appear prepared and on time for all hearings;

5. Contract Attorney shall inform the judge when any of the following occurs:

(a) Counsel/Contract Attorney is unable to appear to discharge his or her duties; or

(b) Counsel/Contract Attorney cannot represent an indigent defendant because of a legal or ethical conflict.

6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

D. The MCOCA shall provide the following appointment information data to the District Judges trying felony criminal cases on a regular basis: (1) the number of pending appointments per attorney in their respective court; (2) the number of new appointments received during the report period; (3) the number of pending defendants per attorney in their respective courts; and (4) the number of defendants per individual attorney as a ratio to the maximum number of 95 per term. MCOCA shall also provide a report contrasting individual attorney caseloads in relation to the maximum caseloads proposed by the Texas Indigent Defense Commission. This information shall also be readily available to Contract Attorney.

## **II. OBLIGATION TO REPORT CERTAIN OCCURRENCES**

Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## **III. TERMS**

A. **Term:** This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. **Fees and Payment:** Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

D. Termination:

1. Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party specifying the date of termination which shall be not less than thirty (30) days from receipt of the notice of termination.
2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.
3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.
4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.
5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current

information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

6. The parties further agree that the appointing judge may substitute counsel if:

(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

B. Time. Time is of the essence in all things pertaining to the performance of this Agreement.

C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "*legal holiday*" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney:                    Charles Crowl  
    804 W. Dallas, Ste 7  
    Conroe, TX 77318  
    Telephone: (936) 537-0814  
    Email: chad@crowlandcrowl.com

To the County:                                Office of Court Administration  
    Attn: Chad Peace, Director  
    301 N. Main, Suite 304  
    Conroe, Texas 77301  
    Telephone: (936) 538-8173  
    Email: Chad.Peace@mctx.org

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.

F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.

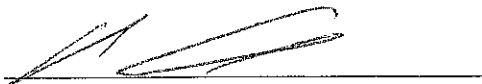
G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.

H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

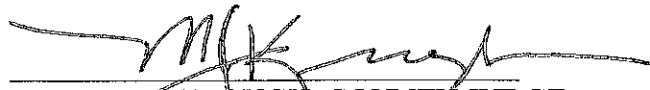
Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY

MONTGOMERY COUNTY, TEXAS



By:



MARK J. KEOUGH, COUNTY JUDGE

Signed on August 16<sup>th</sup>, 2021.

Signed on Sept. 14, 2021.

**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract ("Agreement") is between Montgomery County, Texas ("the County"), acting by and through its Commissioners Court, and Kyle Crowl, a licensed attorney in the State of Texas ("Contract Attorney") for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the "Program").

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the "Act") and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments ("Local Rules");
2. Maintain valid license in good standing to practice law in the State of Texas;
3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;

8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;

9. Maintain a demeanor which is professional and conducive to effective representation;

10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;

11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;

12. Appear in court punctually and keep the court apprised of his or her whereabouts;

13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;

14. Be of sound mind; and

15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

#### B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;

2. Contract Attorney shall zealously represent a defendant until charges are dismissed, the defendant is acquitted, or the attorney is permitted or ordered by the court to withdraw as counsel;

3. Contract Attorney shall perform the attorney's duty owed to the defendant in accordance with the adopted procedures of this Program, the requirements of law, and the Texas Disciplinary Rules of Professional Conduct;

4. Contract Attorney shall appear prepared and on time for all hearings;

5. Contract Attorney shall inform the judge when any of the following occurs:

(a) Counsel/Contract Attorney is unable to appear to discharge his or her duties; or



(b) Counsel/Contract Attorney cannot represent an indigent defendant because of a legal or ethical conflict.

6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

D. The MCOCA shall provide the following appointment information data to the District Judges trying felony criminal cases on a regular basis: (1) the number of pending appointments per attorney in their respective court; (2) the number of new appointments received during the report period; (3) the number of pending defendants per attorney in their respective courts; and (4) the number of defendants per individual attorney as a ratio to the maximum number of 95 per term. MCOCA shall also provide a report contrasting individual attorney caseloads in relation to the maximum caseloads proposed by the Texas Indigent Defense Commission. This information shall also be readily available to Contract Attorney.

## **II. OBLIGATION TO REPORT CERTAIN OCCURRENCES**

Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## **III. TERMS**

A. Term: This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. Fees and Payment: Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

D. Termination:

1. Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party specifying the date of termination which shall be not less than thirty (30) days from receipt of the notice of termination.
2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.
3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.
4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.
5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current

information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

6. The parties further agree that the appointing judge may substitute counsel if:

(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

B. Time. Time is of the essence in all things pertaining to the performance of this Agreement.

C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "legal holiday" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney: Kyle Crowl  
804 West Dallas St, Suite 7  
Conroe TX 77301  
Telephone: 936-647-2631  
Email: Kyle@Crowl and Crowl.com

To the County: Office of Court Administration  
Attn: Chad Peace, Director  
301 N. Main, Suite 304  
Conroe, Texas 77301  
Telephone: (936) 538-8173  
Email: Chad.Peace@mctx.org

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.

F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.

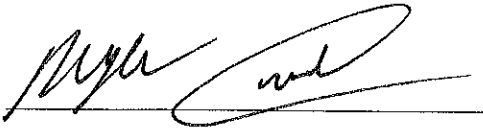
G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.

H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY

MONTGOMERY COUNTY, TEXAS



By:   
MARK J. KEOUGH, COUNTY JUDGE

Signed on August 17, 2021.

Signed on Sept. 14, 2021.

**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract (“Agreement”) is between Montgomery County, Texas (“the County”), acting by and through its Commissioners Court, and Nicole Czajkowski, a licensed attorney in the State of Texas (“Contract Attorney”) for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the “Program”).

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the “Act”) and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments (“Local Rules”);
2. Maintain valid license in good standing to practice law in the State of Texas;
3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;

8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;

9. Maintain a demeanor which is professional and conducive to effective representation;

10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;

11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;

12. Appear in court punctually and keep the court apprised of his or her whereabouts;

13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;

14. Be of sound mind; and

15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

#### B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;

2. Contract Attorney shall zealously represent a defendant until charges are dismissed, the defendant is acquitted, or the attorney is permitted or ordered by the court to withdraw as counsel;

3. Contract Attorney shall perform the attorney's duty owed to the defendant in accordance with the adopted procedures of this Program, the requirements of law, and the Texas Disciplinary Rules of Professional Conduct;

4. Contract Attorney shall appear prepared and on time for all hearings;

5. Contract Attorney shall inform the judge when any of the following occurs:

(a) Counsel/Contract Attorney is unable to appear to discharge his or her duties; or

(b) Counsel/Contract Attorney cannot represent an indigent defendant because of a legal or ethical conflict.

6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

D. The MCOCA shall provide the following appointment information data to the District Judges trying felony criminal cases on a regular basis: (1) the number of pending appointments per attorney in their respective court; (2) the number of new appointments received during the report period; (3) the number of pending defendants per attorney in their respective courts; and (4) the number of defendants per individual attorney as a ratio to the maximum number of 95 per term. MCOCA shall also provide a report contrasting individual attorney caseloads in relation to the maximum caseloads proposed by the Texas Indigent Defense Commission. This information shall also be readily available to Contract Attorney.

## **II. OBLIGATION TO REPORT CERTAIN OCCURRENCES**

Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## **III. TERMS**

A. **Term:** This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. **Fees and Payment:** Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

D. Termination:

1. Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party specifying the date of termination which shall be not less than thirty (30) days from receipt of the notice of termination.
2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.
3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.
4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.
5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current



information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

6. The parties further agree that the appointing judge may substitute counsel if:

(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

B. Time. Time is of the essence in all things pertaining to the performance of this Agreement.

C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "legal holiday" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney:

Nicole Czajkowski  
336 1/2 North Main St.  
Conroe, Tx 77301

Telephone: 936-701-1010

Email: office@conroebestlawyerever.com

To the County:

Office of Court Administration

Attn: Chad Peace, Director

301 N. Main, Suite 304

Conroe, Texas 77301

Telephone: (936) 538-8173

Email: Chad.Peace@mctx.org

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.

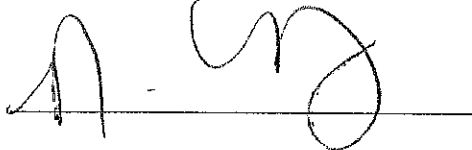
F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.

G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.

H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

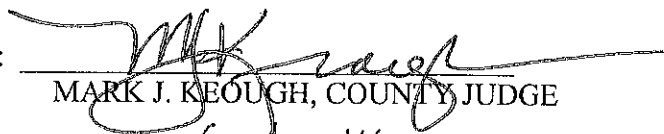
CONTRACT ATTORNEY



Signed on 8-26, 2021.

MONTGOMERY COUNTY, TEXAS

By:



MARK J. KEOUGH, COUNTY JUDGE

Signed on Sept. 14, 2021.

**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract ("Agreement") is between Montgomery County, Texas ("the County"), acting by and through its Commissioners Court, and Jessica Day, a licensed attorney in the State of Texas ("Contract Attorney") for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the "Program").

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the "Act") and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments ("Local Rules");
2. Maintain valid license in good standing to practice law in the State of Texas;
3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;

8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;

9. Maintain a demeanor which is professional and conducive to effective representation;

10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;

11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;

12. Appear in court punctually and keep the court apprised of his or her whereabouts;

13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;

14. Be of sound mind; and

15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

#### B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;

2. Contract Attorney shall zealously represent a defendant until charges are dismissed, the defendant is acquitted, or the attorney is permitted or ordered by the court to withdraw as counsel;

3. Contract Attorney shall perform the attorney's duty owed to the defendant in accordance with the adopted procedures of this Program, the requirements of law, and the Texas Disciplinary Rules of Professional Conduct;

4. Contract Attorney shall appear prepared and on time for all hearings;

5. Contract Attorney shall inform the judge when any of the following occurs:

(a) Counsel/Contract Attorney is unable to appear to discharge his or her duties; or

(b) Counsel/Contract Attorney cannot represent an indigent defendant because of a legal or ethical conflict.

6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

D. The MCOCA shall provide the following appointment information data to the District Judges trying felony criminal cases on a regular basis: (1) the number of pending appointments per attorney in their respective court; (2) the number of new appointments received during the report period; (3) the number of pending defendants per attorney in their respective courts; and (4) the number of defendants per individual attorney as a ratio to the maximum number of 95 per term. MCOCA shall also provide a report contrasting individual attorney caseloads in relation to the maximum caseloads proposed by the Texas Indigent Defense Commission. This information shall also be readily available to Contract Attorney.

## **II. OBLIGATION TO REPORT CERTAIN OCCURRENCES**

Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## **III. TERMS**

A. **Term:** This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. **Fees and Payment:** Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

D. Termination:

1. Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party specifying the date of termination which shall be not less than thirty (30) days from receipt of the notice of termination.
2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.
3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.
4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.
5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current

information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

6. The parties further agree that the appointing judge may substitute counsel if:

(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

B. Time. Time is of the essence in all things pertaining to the performance of this Agreement.

C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "legal holiday" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney:

Law Office of Jessica Day  
318 N. Main St  
Conroe, TX 77301  
Telephone: 281 677 8152  
Email: Jessica@debright.com

To the County:

Office of Court Administration  
Attn: Chad Peace, Director  
301 N. Main, Suite 304  
Conroe, Texas 77301  
Telephone: (936) 538-8173  
Email: Chad.Peace@mctx.org

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.

F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.

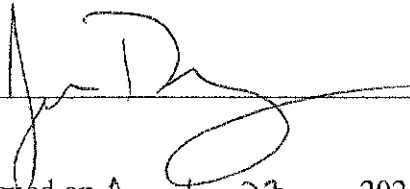
G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.


H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY

MONTGOMERY COUNTY, TEXAS

  
Signed on August 23, 2021.

By:   
MARK J. KEOUGH, COUNTY JUDGE  
Signed on Sept. 14, 2021.



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SEP 14 2021

**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract (“Agreement”) is between Montgomery County, Texas (“the County”), acting by and through its Commissioners Court, and Stevie Dennis, a licensed attorney in the State of Texas (“Contract Attorney”) for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the “Program”).

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the “Act”) and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments (“Local Rules”);
2. Maintain valid license in good standing to practice law in the State of Texas;
3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;

8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;

9. Maintain a demeanor which is professional and conducive to effective representation;

10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;

11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;

12. Appear in court punctually and keep the court apprised of his or her whereabouts;

13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;

14. Be of sound mind; and

15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

#### B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;

2. Contract Attorney shall zealously represent a defendant until charges are dismissed, the defendant is acquitted, or the attorney is permitted or ordered by the court to withdraw as counsel;

3. Contract Attorney shall perform the attorney's duty owed to the defendant in accordance with the adopted procedures of this Program, the requirements of law, and the Texas Disciplinary Rules of Professional Conduct;

4. Contract Attorney shall appear prepared and on time for all hearings;

5. Contract Attorney shall inform the judge when any of the following occurs:

(a) Counsel/Contract Attorney is unable to appear to discharge his or her duties; or

(b) Counsel/Contract Attorney cannot represent an indigent defendant because of a legal or ethical conflict.

6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

D. The MCOCA shall provide the following appointment information data to the District Judges trying felony criminal cases on a regular basis: (1) the number of pending appointments per attorney in their respective court; (2) the number of new appointments received during the report period; (3) the number of pending defendants per attorney in their respective courts; and (4) the number of defendants per individual attorney as a ratio to the maximum number of 95 per term. MCOCA shall also provide a report contrasting individual attorney caseloads in relation to the maximum caseloads proposed by the Texas Indigent Defense Commission. This information shall also be readily available to Contract Attorney.

## **II. OBLIGATION TO REPORT CERTAIN OCCURRENCES**

Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## **III. TERMS**

A. **Term:** This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. **Fees and Payment:** Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

D. Termination:

1. Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party specifying the date of termination which shall be not less than thirty (30) days from receipt of the notice of termination.
2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.
3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.
4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.
5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current

information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

6. The parties further agree that the appointing judge may substitute counsel if:

(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

B. Time. Time is of the essence in all things pertaining to the performance of this Agreement.

C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "legal holiday" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney:

Steve Dennis  
223 S. Martin  
Conroe, TX 77301  
Telephone: 936-539-1234  
Email: stevedennis@mcjg.com

To the County:

Office of Court Administration  
Attn: Chad Peace, Director  
301 N. Main, Suite 304  
Conroe, Texas 77301  
Telephone: (936) 538-8173  
Email: Chad.Peace@mctx.org

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.

F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.

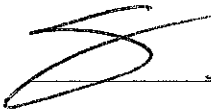
G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.

H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY

MONTGOMERY COUNTY, TEXAS

 Steve Annis

By:   
MARK J. KEOUGH, COUNTY JUDGE

Signed on 8-18, 2021.

Signed on Sept. 14, 2021.

**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract ("Agreement") is between Montgomery County, Texas ("the County"), acting by and through its Commissioners Court, and Anthony Duckworth, a licensed attorney in the State of Texas ("Contract Attorney") for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the "Program").

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the "Act") and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments ("Local Rules");
2. Maintain valid license in good standing to practice law in the State of Texas;
3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;

8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;

9. Maintain a demeanor which is professional and conducive to effective representation;

10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;

11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;

12. Appear in court punctually and keep the court apprised of his or her whereabouts;

13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;

14. Be of sound mind; and

15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

#### B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;

2. Contract Attorney shall zealously represent a defendant until charges are dismissed, the defendant is acquitted, or the attorney is permitted or ordered by the court to withdraw as counsel;

3. Contract Attorney shall perform the attorney's duty owed to the defendant in accordance with the adopted procedures of this Program, the requirements of law, and the Texas Disciplinary Rules of Professional Conduct;

4. Contract Attorney shall appear prepared and on time for all hearings;

5. Contract Attorney shall inform the judge when any of the following occurs:

(a) Counsel/Contract Attorney is unable to appear to discharge his or her duties; or



(b) Counsel/Contract Attorney cannot represent an indigent defendant because of a legal or ethical conflict.

6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

D. The MCOCA shall provide the following appointment information data to the District Judges trying felony criminal cases on a regular basis: (1) the number of pending appointments per attorney in their respective court; (2) the number of new appointments received during the report period; (3) the number of pending defendants per attorney in their respective courts; and (4) the number of defendants per individual attorney as a ratio to the maximum number of 95 per term. MCOCA shall also provide a report contrasting individual attorney caseloads in relation to the maximum caseloads proposed by the Texas Indigent Defense Commission. This information shall also be readily available to Contract Attorney.

## **II. OBLIGATION TO REPORT CERTAIN OCCURRENCES**

Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## **III. TERMS**

A. **Term:** This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. **Fees and Payment:** Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

D. Termination:

1. Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party specifying the date of termination which shall be not less than thirty (30) days from receipt of the notice of termination.
2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.
3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.
4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.
5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current

information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

6. The parties further agree that the appointing judge may substitute counsel if:

(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

B. Time. Time is of the essence in all things pertaining to the performance of this Agreement.

C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "legal holiday" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney:

Anthony Duckworth  
709 N. Sahajacinto St.  
Conroe, Texas 77301  
Telephone: 936.756.1555

Email: duck@duckworthmandray.com

Direct

Appts: td - appts@duckworthmandray.com

To the County:

Office of Court Administration

Attn: Chad Peace, Director

301 N. Main, Suite 304

Conroe, Texas 77301

Telephone: (936) 538-8173

Email: Chad.Peace@mctx.org

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.

F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.

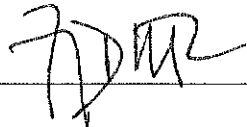
G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.

H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY

MONTGOMERY COUNTY, TEXAS

  
\_\_\_\_\_

By:   
\_\_\_\_\_

MARK J. KEOUGH, COUNTY JUDGE

Signed on August 24, 2021.

Signed on Sept. 14, 2021.

**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract ("Agreement") is between Montgomery County, Texas ("the County"), acting by and through its Commissioners Court, and Kevin S. Dunn, a licensed attorney in the State of Texas ("Contract Attorney") for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the "Program").

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the "Act") and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments ("Local Rules");
2. Maintain valid license in good standing to practice law in the State of Texas;
3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;

8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;

9. Maintain a demeanor which is professional and conducive to effective representation;

10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;

11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;

12. Appear in court punctually and keep the court apprised of his or her whereabouts;

13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;

14. Be of sound mind; and

15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

#### B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;

2. Contract Attorney shall zealously represent a defendant until charges are dismissed, the defendant is acquitted, or the attorney is permitted or ordered by the court to withdraw as counsel;

3. Contract Attorney shall perform the attorney's duty owed to the defendant in accordance with the adopted procedures of this Program, the requirements of law, and the Texas Disciplinary Rules of Professional Conduct;

4. Contract Attorney shall appear prepared and on time for all hearings;

5. Contract Attorney shall inform the judge when any of the following occurs:

(a) Counsel/Contract Attorney is unable to appear to discharge his or her duties; or

(b) Counsel/Contract Attorney cannot represent an indigent defendant because of a legal or ethical conflict.

6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

D. The MCOCA shall provide the following appointment information data to the District Judges trying felony criminal cases on a regular basis: (1) the number of pending appointments per attorney in their respective court; (2) the number of new appointments received during the report period; (3) the number of pending defendants per attorney in their respective courts; and (4) the number of defendants per individual attorney as a ratio to the maximum number of 95 per term. MCOCA shall also provide a report contrasting individual attorney caseloads in relation to the maximum caseloads proposed by the Texas Indigent Defense Commission. This information shall also be readily available to Contract Attorney.

## **II. OBLIGATION TO REPORT CERTAIN OCCURRENCES**

Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## **III. TERMS**

A. Term: This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. Fees and Payment: Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

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3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.
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(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

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D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney:

Kevin S. Dunn  
101 W Phillips St. Ste. D  
Conroe, TX 77301  
Telephone: 936-760-3300  
Email: gatorlaw@consolidated.net

To the County:

Office of Court Administration  
Attn: Chad Peace, Director  
301 N. Main, Suite 304  
Conroe, Texas 77301  
Telephone: (936) 538-8173  
Email: Chad.Peace@mctx.org

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

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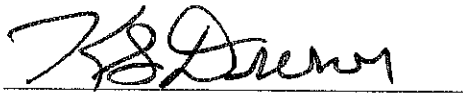
F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.

G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.

H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY



Signed on 8/16, 2021.

MONTGOMERY COUNTY, TEXAS

By: 

MARK J. KEOUGH, COUNTY JUDGE

Signed on Sept. 14, 2021.

**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract ("Agreement") is between Montgomery County, Texas ("the County"), acting by and through its Commissioners Court, and Blake Edwin Enay, a licensed attorney in the State of Texas ("Contract Attorney") for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the "Program").

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the "Act") and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments ("Local Rules");
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3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
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6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;

8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;

9. Maintain a demeanor which is professional and conducive to effective representation;

10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;

11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;

12. Appear in court punctually and keep the court apprised of his or her whereabouts;

13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;

14. Be of sound mind; and

15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

#### B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;

2. Contract Attorney shall zealously represent a defendant until charges are dismissed, the defendant is acquitted, or the attorney is permitted or ordered by the court to withdraw as counsel;

3. Contract Attorney shall perform the attorney's duty owed to the defendant in accordance with the adopted procedures of this Program, the requirements of law, and the Texas Disciplinary Rules of Professional Conduct;

4. Contract Attorney shall appear prepared and on time for all hearings;

5. Contract Attorney shall inform the judge when any of the following occurs:

(a) Counsel/Contract Attorney is unable to appear to discharge his or her duties; or

(b) Counsel/Contract Attorney cannot represent an indigent defendant because of a legal or ethical conflict.

6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

D. The MCOCA shall provide the following appointment information data to the District Judges trying felony criminal cases on a regular basis: (1) the number of pending appointments per attorney in their respective court; (2) the number of new appointments received during the report period; (3) the number of pending defendants per attorney in their respective courts; and (4) the number of defendants per individual attorney as a ratio to the maximum number of 95 per term. MCOCA shall also provide a report contrasting individual attorney caseloads in relation to the maximum caseloads proposed by the Texas Indigent Defense Commission. This information shall also be readily available to Contract Attorney.

## **II. OBLIGATION TO REPORT CERTAIN OCCURRENCES**

Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## **III. TERMS**

A. Term: This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. Fees and Payment: Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

D. Termination:

1. Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party specifying the date of termination which shall be not less than thirty (30) days from receipt of the notice of termination.
2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.
3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.
4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.
5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current

information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

6. The parties further agree that the appointing judge may substitute counsel if:

(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

B. Time. Time is of the essence in all things pertaining to the performance of this Agreement.

C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "legal holiday" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney: Blake Enax  
412 W. Phillips, Suite 123  
Conroe, TX 77301  
Telephone: 281-598-8997 / Cell: 281-635-4862  
Email: blake.enax@enaxlawfirm.com

To the County: Office of Court Administration  
Attn: Chad Peace, Director  
301 N. Main, Suite 304  
Conroe, Texas 77301  
Telephone: (936) 538-8173  
Email: Chad.Peace@mctx.org

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.

F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.


G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.

H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY

MONTGOMERY COUNTY, TEXAS

  
\_\_\_\_\_

By:   
\_\_\_\_\_

MARK J. KEOUGH, COUNTY JUDGE

Signed on Aug. 17, 2021.

Signed on Sept. 14, 2021.



**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract (“Agreement”) is between Montgomery County, Texas (“the County”), acting by and through its Commissioners Court, and Jeremy D. Finch, a licensed attorney in the State of Texas (“Contract Attorney”) for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the “Program”).

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the “Act”) and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments (“Local Rules”);
2. Maintain valid license in good standing to practice law in the State of Texas;
3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;

8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;

9. Maintain a demeanor which is professional and conducive to effective representation;

10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;

11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;

12. Appear in court punctually and keep the court apprised of his or her whereabouts;

13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;

14. Be of sound mind; and

15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

#### B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;

2. Contract Attorney shall zealously represent a defendant until charges are dismissed, the defendant is acquitted, or the attorney is permitted or ordered by the court to withdraw as counsel;

3. Contract Attorney shall perform the attorney's duty owed to the defendant in accordance with the adopted procedures of this Program, the requirements of law, and the Texas Disciplinary Rules of Professional Conduct;

4. Contract Attorney shall appear prepared and on time for all hearings;

5. Contract Attorney shall inform the judge when any of the following occurs:

(a) Counsel/Contract Attorney is unable to appear to discharge his or her duties; or

(b) Counsel/Contract Attorney cannot represent an indigent defendant because of a legal or ethical conflict.

6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

D. The MCOCA shall provide the following appointment information data to the District Judges trying felony criminal cases on a regular basis: (1) the number of pending appointments per attorney in their respective court; (2) the number of new appointments received during the report period; (3) the number of pending defendants per attorney in their respective courts; and (4) the number of defendants per individual attorney as a ratio to the maximum number of 95 per term. MCOCA shall also provide a report contrasting individual attorney caseloads in relation to the maximum caseloads proposed by the Texas Indigent Defense Commission. This information shall also be readily available to Contract Attorney.

## **II. OBLIGATION TO REPORT CERTAIN OCCURRENCES**

Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## **III. TERMS**

A. **Term:** This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. **Fees and Payment:** Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

D. Termination:

1. Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party specifying the date of termination which shall be not less than thirty (30) days from receipt of the notice of termination.
2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.
3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.
4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.
5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current

information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

6. The parties further agree that the appointing judge may substitute counsel if:

(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

B. Time. Time is of the essence in all things pertaining to the performance of this Agreement.

C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "*legal holiday*" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney:

Jeremy D. Finch  
204 W. Davis St.  
Conroe, Texas 77301  
Telephone: (936) 756-7297  
Email: [jdfinchlaw@gmail.com](mailto:jdfinchlaw@gmail.com)

To the County:

Office of Court Administration  
Attn: Chad Peace, Director  
301 N. Main, Suite 304  
Conroe, Texas 77301  
Telephone: (936) 538-8173  
Email: [Chad.Peace@mctx.org](mailto:Chad.Peace@mctx.org)

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.

F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.

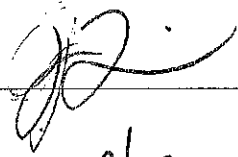
G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.

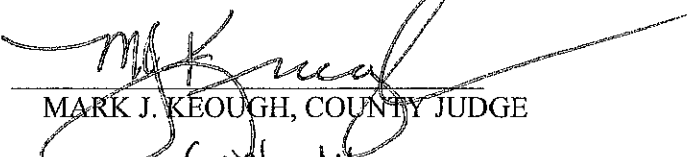
H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY

MONTGOMERY COUNTY, TEXAS

  
\_\_\_\_\_

By:   
\_\_\_\_\_

MARK J. KEOUGH, COUNTY JUDGE

Signed on 8/17, 2021.

Signed on Sept. 14, 2021.

**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract ("Agreement") is between Montgomery County, Texas ("the County"), acting by and through its Commissioners Court, and JUSTA FAWLES, a licensed attorney in the State of Texas ("Contract Attorney") for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the "Program").

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the "Act") and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments ("Local Rules");
2. Maintain valid license in good standing to practice law in the State of Texas;
3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

- including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;
8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;
  9. Maintain a demeanor which is professional and conducive to effective representation;
  10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;
  11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;
  12. Appear in court punctually and keep the court apprised of his or her whereabouts;
  13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;
  14. Be of sound mind; and
  15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;
2. Contract Attorney shall zealously represent a defendant until charges are dismissed, the defendant is acquitted, or the attorney is permitted or ordered by the court to withdraw as counsel;
3. Contract Attorney shall perform the attorney's duty owed to the defendant in accordance with the adopted procedures of this Program, the requirements of law, and the Texas Disciplinary Rules of Professional Conduct;
4. Contract Attorney shall appear prepared and on time for all hearings;
5. Contract Attorney shall inform the judge when any of the following occurs:
  - (a) Counsel/Contract Attorney is unable to appear to discharge his or her duties; or



(b) Counsel/Contract Attorney cannot represent an indigent defendant because of a legal or ethical conflict.

6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

D. The MCOCA shall provide the following appointment information data to the District Judges trying felony criminal cases on a regular basis: (1) the number of pending appointments per attorney in their respective court; (2) the number of new appointments received during the report period; (3) the number of pending defendants per attorney in their respective courts; and (4) the number of defendants per individual attorney as a ratio to the maximum number of 95 per term. MCOCA shall also provide a report contrasting individual attorney caseloads in relation to the maximum caseloads proposed by the Texas Indigent Defense Commission. This information shall also be readily available to Contract Attorney.

## **II. OBLIGATION TO REPORT CERTAIN OCCURRENCES**

Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## **III. TERMS**

A. **Term:** This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. **Fees and Payment:** Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

D. Termination:

1. Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party specifying the date of termination which shall be not less than thirty (30) days from receipt of the notice of termination.
2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.
3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.
4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.
5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current

information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

6. The parties further agree that the appointing judge may substitute counsel if:

(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

B. Time. Time is of the essence in all things pertaining to the performance of this Agreement.

C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "legal holiday" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney:

Justin Fowles 936-235-2058 (fax)  
804 W. Dallas St., Ste. 8  
Conroe, TX 77301  
Telephone: 713-553-4214  
Email: justin@thefowleslawfirm.com

To the County:

Office of Court Administration  
Attn: Chad Peace, Director  
301 N. Main, Suite 304  
Conroe, Texas 77301  
Telephone: (936) 538-8173  
Email: Chad.Peace@mctx.org

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.

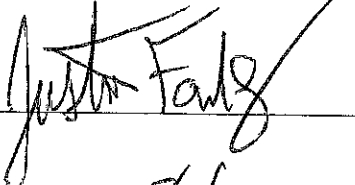
F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.

G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.


H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY

  
\_\_\_\_\_  
Signed on 8/27, 2021.

MONTGOMERY COUNTY, TEXAS

By:   
\_\_\_\_\_  
MARK J. KEOUGH, COUNTY JUDGE  
Signed on Sept. 14, 2021.

**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract ("Agreement") is between Montgomery County, Texas ("the County"), acting by and through its Commissioners Court, and Gregory L. Gaines, a licensed attorney in the State of Texas ("Contract Attorney") for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the "Program").

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the "Act") and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments ("Local Rules");
2. Maintain valid license in good standing to practice law in the State of Texas;
3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;

8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;

9. Maintain a demeanor which is professional and conducive to effective representation;

10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;

11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;

12. Appear in court punctually and keep the court apprised of his or her whereabouts;

13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;

14. Be of sound mind; and

15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

#### B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;

2. Contract Attorney shall zealously represent a defendant until charges are dismissed, the defendant is acquitted, or the attorney is permitted or ordered by the court to withdraw as counsel;

3. Contract Attorney shall perform the attorney's duty owed to the defendant in accordance with the adopted procedures of this Program, the requirements of law, and the Texas Disciplinary Rules of Professional Conduct;

4. Contract Attorney shall appear prepared and on time for all hearings;

5. Contract Attorney shall inform the judge when any of the following occurs:

(a) Counsel/Contract Attorney is unable to appear to discharge his or her duties; or

(b) Counsel/Contract Attorney cannot represent an indigent defendant because of a legal or ethical conflict.

6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

D. The MCOCA shall provide the following appointment information data to the District Judges trying felony criminal cases on a regular basis: (1) the number of pending appointments per attorney in their respective court; (2) the number of new appointments received during the report period; (3) the number of pending defendants per attorney in their respective courts; and (4) the number of defendants per individual attorney as a ratio to the maximum number of 95 per term. MCOCA shall also provide a report contrasting individual attorney caseloads in relation to the maximum caseloads proposed by the Texas Indigent Defense Commission. This information shall also be readily available to Contract Attorney.

## **II. OBLIGATION TO REPORT CERTAIN OCCURRENCES**

Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## **III. TERMS**

A. **Term:** This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. **Fees and Payment:** Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

D. Termination:

1. Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party specifying the date of termination which shall be not less than thirty (30) days from receipt of the notice of termination.
2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.
3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.
4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.
5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current



information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

6. The parties further agree that the appointing judge may substitute counsel if:

(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

B. Time. Time is of the essence in all things pertaining to the performance of this Agreement.

C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "legal holiday" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney:

Gregory Lee Gaines  
322 N. Main St.  
Conroe, TX 77301  
Telephone: 936 539 1100  
Email: gregory.gaines.law@gmail.com

To the County:

Office of Court Administration  
Attn: Chad Peace, Director  
301 N. Main, Suite 304  
Conroe, Texas 77301  
Telephone: (936) 538-8173  
Email: Chad.Peace@mctx.org

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.

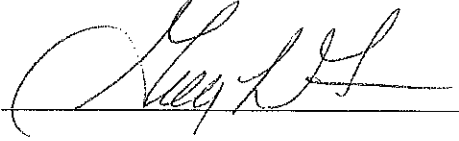
F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.

G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.

H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY



Signed on 8/17, 2021.

MONTGOMERY COUNTY, TEXAS

By:



MARK J. KEOUGH, COUNTY JUDGE

Signed on Sept. 14, 2021.

**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract (“Agreement”) is between Montgomery County, Texas (“the County”), acting by and through its Commissioners Court, and Chester DeAndre Gibbs, a licensed attorney in the State of Texas (“Contract Attorney”) for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the “Program”).

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the “Act”) and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments (“Local Rules”);
2. Maintain valid license in good standing to practice law in the State of Texas;
3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;

8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;

9. Maintain a demeanor which is professional and conducive to effective representation;

10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;

11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;

12. Appear in court punctually and keep the court apprised of his or her whereabouts;

13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;

14. Be of sound mind; and

15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

#### B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;

2. Contract Attorney shall zealously represent a defendant until charges are dismissed, the defendant is acquitted, or the attorney is permitted or ordered by the court to withdraw as counsel;

3. Contract Attorney shall perform the attorney's duty owed to the defendant in accordance with the adopted procedures of this Program, the requirements of law, and the Texas Disciplinary Rules of Professional Conduct;

4. Contract Attorney shall appear prepared and on time for all hearings;

5. Contract Attorney shall inform the judge when any of the following occurs:

(a) Counsel/Contract Attorney is unable to appear to discharge his or her duties; or

(b) Counsel/Contract Attorney cannot represent an indigent defendant because of a legal or ethical conflict.

6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

D. The MCOCA shall provide the following appointment information data to the District Judges trying felony criminal cases on a regular basis: (1) the number of pending appointments per attorney in their respective court; (2) the number of new appointments received during the report period; (3) the number of pending defendants per attorney in their respective courts; and (4) the number of defendants per individual attorney as a ratio to the maximum number of 95 per term. MCOCA shall also provide a report contrasting individual attorney caseloads in relation to the maximum caseloads proposed by the Texas Indigent Defense Commission. This information shall also be readily available to Contract Attorney.

## II. OBLIGATION TO REPORT CERTAIN OCCURRENCES

Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## III. TERMS

A. **Term:** This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. **Fees and Payment:** Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

D. Termination:

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2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.
3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.
4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.
5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current

information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

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(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

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C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "*legal holiday*" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney: Law Office of C. D. Gibbs  
318 North Main St.  
Conroe, Texas 77301  
Telephone: (936) 756-7134  
Email: gibche1@yahoo.com

To the County: Office of Court Administration  
Attn: Chad Peace, Director  
301 N. Main, Suite 304  
Conroe, Texas 77301  
Telephone: (936) 538-8173  
Email: Chad.Peace@mctx.org

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.

F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.

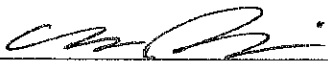
G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.

H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY

MONTGOMERY COUNTY, TEXAS

  
\_\_\_\_\_  
C. DeAndre' Gibbs, Attorney

By:   
\_\_\_\_\_  
MARK J. KEOUGH, COUNTY JUDGE

Signed on \_\_\_\_\_, 2021.

Signed on Sept. 14, 2021.



**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract ("Agreement") is between Montgomery County, Texas ("the County"), acting by and through its Commissioners Court, and John Harley, a licensed attorney in the State of Texas ("Contract Attorney") for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the "Program").

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the "Act") and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments ("Local Rules");
2. Maintain valid license in good standing to practice law in the State of Texas;
3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;

8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;

9. Maintain a demeanor which is professional and conducive to effective representation;

10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;

11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;

12. Appear in court punctually and keep the court apprised of his or her whereabouts;

13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;

14. Be of sound mind; and

15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

#### B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;

2. Contract Attorney shall zealously represent a defendant until charges are dismissed, the defendant is acquitted, or the attorney is permitted or ordered by the court to withdraw as counsel;

3. Contract Attorney shall perform the attorney's duty owed to the defendant in accordance with the adopted procedures of this Program, the requirements of law, and the Texas Disciplinary Rules of Professional Conduct;

4. Contract Attorney shall appear prepared and on time for all hearings;

5. Contract Attorney shall inform the judge when any of the following occurs:

(a) Counsel/Contract Attorney is unable to appear to discharge his or her duties; or

(b) Counsel/Contract Attorney cannot represent an indigent defendant because of a legal or ethical conflict.

6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

D. The MCOCA shall provide the following appointment information data to the District Judges trying felony criminal cases on a regular basis: (1) the number of pending appointments per attorney in their respective court; (2) the number of new appointments received during the report period; (3) the number of pending defendants per attorney in their respective courts; and (4) the number of defendants per individual attorney as a ratio to the maximum number of 95 per term. MCOCA shall also provide a report contrasting individual attorney caseloads in relation to the maximum caseloads proposed by the Texas Indigent Defense Commission. This information shall also be readily available to Contract Attorney.

## **II. OBLIGATION TO REPORT CERTAIN OCCURRENCES**

Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## **III. TERMS**

A. **Term:** This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. **Fees and Payment:** Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

D. Termination:

1. Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party specifying the date of termination which shall be not less than thirty (30) days from receipt of the notice of termination.
2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.
3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.
4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.
5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current

information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

6. The parties further agree that the appointing judge may substitute counsel if:

(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

B. Time. Time is of the essence in all things pertaining to the performance of this Agreement.

C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "legal holiday" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney:

John C. Hafley  
318 N. Main St.  
Conroe, TX 77301  
Telephone: 936 703 5190  
Email: john@hafleylaw.com

To the County:

Office of Court Administration  
Attn: Chad Peace, Director  
301 N. Main, Suite 304  
Conroe, Texas 77301  
Telephone: (936) 538-8173  
Email: [Chad.Peace@mctx.org](mailto:Chad.Peace@mctx.org)

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.

F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.

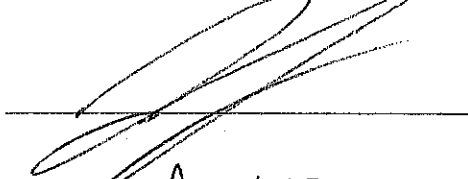
G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.

H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY

MONTGOMERY COUNTY, TEXAS



By:   
MARK J. KEOUGH, COUNTY JUDGE

Signed on August 18, 2021.

Signed on Sept. 14, 2021.

**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract ("Agreement") is between Montgomery County, Texas ("the County"), acting by and through its Commissioners Court, and William E. Harrison, a licensed attorney in the State of Texas ("Contract Attorney") for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the "Program").

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the "Act") and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments ("Local Rules");
2. Maintain valid license in good standing to practice law in the State of Texas;
3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;

8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;

9. Maintain a demeanor which is professional and conducive to effective representation;

10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;

11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;

12. Appear in court punctually and keep the court apprised of his or her whereabouts;

13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;

14. Be of sound mind; and

15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

#### B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;

2. Contract Attorney shall zealously represent a defendant until charges are dismissed, the defendant is acquitted, or the attorney is permitted or ordered by the court to withdraw as counsel;

3. Contract Attorney shall perform the attorney's duty owed to the defendant in accordance with the adopted procedures of this Program, the requirements of law, and the Texas Disciplinary Rules of Professional Conduct;

4. Contract Attorney shall appear prepared and on time for all hearings;

5. Contract Attorney shall inform the judge when any of the following occurs:

(a) Counsel/Contract Attorney is unable to appear to discharge his or her duties; or



(b) Counsel/Contract Attorney cannot represent an indigent defendant because of a legal or ethical conflict.

6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

D. The MCOCA shall provide the following appointment information data to the District Judges trying felony criminal cases on a regular basis: (1) the number of pending appointments per attorney in their respective court; (2) the number of new appointments received during the report period; (3) the number of pending defendants per attorney in their respective courts; and (4) the number of defendants per individual attorney as a ratio to the maximum number of 95 per term. MCOCA shall also provide a report contrasting individual attorney caseloads in relation to the maximum caseloads proposed by the Texas Indigent Defense Commission. This information shall also be readily available to Contract Attorney.

## II. OBLIGATION TO REPORT CERTAIN OCCURRENCES

Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## III. TERMS

A. **Term:** This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. **Fees and Payment:** Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

D. Termination:

1. Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party specifying the date of termination which shall be not less than thirty (30) days from receipt of the notice of termination.
2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.
3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.
4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.
5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current

information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

6. The parties further agree that the appointing judge may substitute counsel if:

(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

B. Time. Time is of the essence in all things pertaining to the performance of this Agreement.

C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "legal holiday" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney: William B. Harrison  
215 Simmon St.  
Conroe TX 77301  
Telephone: 936-828-3848  
Email: contractorney@yahoo.com

To the County: Office of Court Administration  
Attn: Chad Peace, Director  
301 N. Main, Suite 304  
Conroe, Texas 77301  
Telephone: (936) 538-8173  
Email: Chad.Peace@mctx.org

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.

F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.

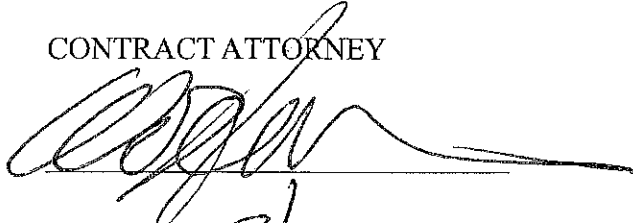
G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.

H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.


Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY

MONTGOMERY COUNTY, TEXAS

  
\_\_\_\_\_  
Signed on 8/16, 2021.

By:

  
\_\_\_\_\_  
MARK J. KEOUGH, COUNTY JUDGE  
Signed on Sept. 14, 2021.

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**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract ("Agreement") is between Montgomery County, Texas ("the County"), acting by and through its Commissioners Court, and Cary Higginbottom Hart, a licensed attorney in the State of Texas ("Contract Attorney") for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the "Program").

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the "Act") and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments ("Local Rules");
2. Maintain valid license in good standing to practice law in the State of Texas;
3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;

8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;

9. Maintain a demeanor which is professional and conducive to effective representation;

10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;

11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;

12. Appear in court punctually and keep the court apprised of his or her whereabouts;

13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;

14. Be of sound mind; and

15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

#### B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;

2. Contract Attorney shall zealously represent a defendant until charges are dismissed, the defendant is acquitted, or the attorney is permitted or ordered by the court to withdraw as counsel;

3. Contract Attorney shall perform the attorney's duty owed to the defendant in accordance with the adopted procedures of this Program, the requirements of law, and the Texas Disciplinary Rules of Professional Conduct;

4. Contract Attorney shall appear prepared and on time for all hearings;

5. Contract Attorney shall inform the judge when any of the following occurs:

(a) Counsel/Contract Attorney is unable to appear to discharge his or her duties; or

(b) Counsel/Contract Attorney cannot represent an indigent defendant because of a legal or ethical conflict.

6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

D. The MCOCA shall provide the following appointment information data to the District Judges trying felony criminal cases on a regular basis: (1) the number of pending appointments per attorney in their respective court; (2) the number of new appointments received during the report period; (3) the number of pending defendants per attorney in their respective courts; and (4) the number of defendants per individual attorney as a ratio to the maximum number of 95 per term. MCOCA shall also provide a report contrasting individual attorney caseloads in relation to the maximum caseloads proposed by the Texas Indigent Defense Commission. This information shall also be readily available to Contract Attorney.

## **II. OBLIGATION TO REPORT CERTAIN OCCURRENCES**

Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## **III. TERMS**

A. **Term:** This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. **Fees and Payment:** Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

D. Termination:

1. Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party specifying the date of termination which shall be not less than thirty (30) days from receipt of the notice of termination.
2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.
3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.
4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.
5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current



information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

6. The parties further agree that the appointing judge may substitute counsel if:

(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

B. Time. Time is of the essence in all things pertaining to the performance of this Agreement.

C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "*legal holiday*" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney:

Cary Hart  
8505 Technology Forest Pl. Ste. 105  
The Woodlands, TX 77381  
Telephone: 281 458 0211  
Email: Cary@hartlawhouston.com

To the County:

Office of Court Administration  
Attn: Chad Peace, Director  
301 N. Main, Suite 304  
Conroe, Texas 77301  
Telephone: (936) 538-8173  
Email: Chad.Peace@mctx.org

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.

F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.

G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.

H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY

MONTGOMERY COUNTY, TEXAS

Cary Hart

By:   
MARK J. KEOUGH, COUNTY JUDGE

Signed on August 16, 2021.

Signed on Sept. 14, 2021.

**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract ("Agreement") is between Montgomery County, Texas ("the County"), acting by and through its Commissioners Court, and Matthew P. HORAK, a licensed attorney in the State of Texas ("Contract Attorney") for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the "Program").

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the "Act") and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments ("Local Rules");
2. Maintain valid license in good standing to practice law in the State of Texas;
3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;

8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;

9. Maintain a demeanor which is professional and conducive to effective representation;

10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;

11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;

12. Appear in court punctually and keep the court apprised of his or her whereabouts;

13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;

14. Be of sound mind; and

15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

#### B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;

2. Contract Attorney shall zealously represent a defendant until charges are dismissed, the defendant is acquitted, or the attorney is permitted or ordered by the court to withdraw as counsel;

3. Contract Attorney shall perform the attorney's duty owed to the defendant in accordance with the adopted procedures of this Program, the requirements of law, and the Texas Disciplinary Rules of Professional Conduct;

4. Contract Attorney shall appear prepared and on time for all hearings;

5. Contract Attorney shall inform the judge when any of the following occurs:

(a) Counsel/Contract Attorney is unable to appear to discharge his or her duties; or

(b) Counsel/Contract Attorney cannot represent an indigent defendant because of a legal or ethical conflict.

6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

D. The MCOCA shall provide the following appointment information data to the District Judges trying felony criminal cases on a regular basis: (1) the number of pending appointments per attorney in their respective court; (2) the number of new appointments received during the report period; (3) the number of pending defendants per attorney in their respective courts; and (4) the number of defendants per individual attorney as a ratio to the maximum number of 95 per term. MCOCA shall also provide a report contrasting individual attorney caseloads in relation to the maximum caseloads proposed by the Texas Indigent Defense Commission. This information shall also be readily available to Contract Attorney.

## **II. OBLIGATION TO REPORT CERTAIN OCCURRENCES**

Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## **III. TERMS**

A. **Term:** This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. **Fees and Payment:** Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

D. Termination:

1. Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party specifying the date of termination which shall be not less than thirty (30) days from receipt of the notice of termination.
2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.
3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.
4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.
5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current

information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

6. The parties further agree that the appointing judge may substitute counsel if:

(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

B. Time. Time is of the essence in all things pertaining to the performance of this Agreement.

C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "*legal holiday*" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney:

Matt Horak  
25911 Oak Ridge Dr.  
The Woodlands, Tx 77380  
Telephone: 713-225-8000  
Email: matt@matthoraklaw.com

To the County:

Office of Court Administration  
Attn: Chad Peace, Director  
301 N. Main, Suite 304  
Conroe, Texas 77301  
Telephone: (936) 538-8173  
Email: Chad.Peace@mctx.org

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.

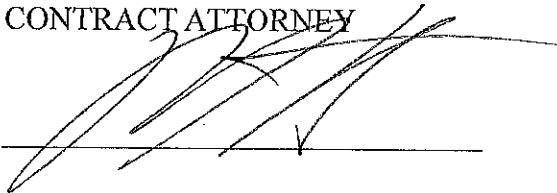
F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.

G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.

H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

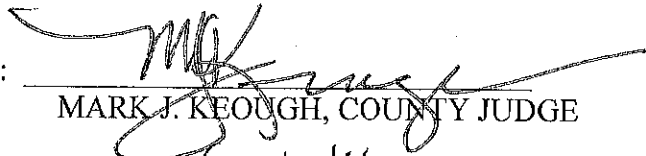
CONTRACT ATTORNEY



Signed on 8/11, 2021.

MONTGOMERY COUNTY, TEXAS

By:



MARK J. KEOUGH, COUNTY JUDGE

Signed on Sept. 14, 2021.



**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract ("Agreement") is between Montgomery County, Texas ("the County"), acting by and through its Commissioners Court, and Joseph Krippel, a licensed attorney in the State of Texas ("Contract Attorney") for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the "Program").

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the "Act") and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments ("Local Rules");
2. Maintain valid license in good standing to practice law in the State of Texas;
3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;

8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;

9. Maintain a demeanor which is professional and conducive to effective representation;

10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;

11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;

12. Appear in court punctually and keep the court apprised of his or her whereabouts;

13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;

14. Be of sound mind; and

15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

#### B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;

2. Contract Attorney shall zealously represent a defendant until charges are dismissed, the defendant is acquitted, or the attorney is permitted or ordered by the court to withdraw as counsel;

3. Contract Attorney shall perform the attorney's duty owed to the defendant in accordance with the adopted procedures of this Program, the requirements of law, and the Texas Disciplinary Rules of Professional Conduct;

4. Contract Attorney shall appear prepared and on time for all hearings;

5. Contract Attorney shall inform the judge when any of the following occurs:

(a) Counsel/Contract Attorney is unable to appear to discharge his or her duties; or

(b) Counsel/Contract Attorney cannot represent an indigent defendant because of a legal or ethical conflict.

6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

D. The MCOCA shall provide the following appointment information data to the District Judges trying felony criminal cases on a regular basis: (1) the number of pending appointments per attorney in their respective court; (2) the number of new appointments received during the report period; (3) the number of pending defendants per attorney in their respective courts; and (4) the number of defendants per individual attorney as a ratio to the maximum number of 95 per term. MCOCA shall also provide a report contrasting individual attorney caseloads in relation to the maximum caseloads proposed by the Texas Indigent Defense Commission. This information shall also be readily available to Contract Attorney.

## **II. OBLIGATION TO REPORT CERTAIN OCCURRENCES**

Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## **III. TERMS**

A. **Term:** This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. **Fees and Payment:** Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

D. Termination:

1. Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party specifying the date of termination which shall be not less than thirty (30) days from receipt of the notice of termination.
2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.
3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.
4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.
5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current

information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

6. The parties further agree that the appointing judge may substitute counsel if:

(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

B. Time. Time is of the essence in all things pertaining to the performance of this Agreement.

C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "*legal holiday*" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney: Joseph Krippel  
24420 FM 1314 #9  
Porter, TX 77365  
Telephone: 936.232.0073  
Email: jkrippel@live.com

To the County: Office of Court Administration  
Attn: Chad Peace, Director  
301 N. Main, Suite 304  
Conroe, Texas 77301  
Telephone: (936) 538-8173  
Email: Chad.Peace@mctx.org

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.

F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.


G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.

H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY

MONTGOMERY COUNTY, TEXAS

  
\_\_\_\_\_  
Joseph Krippel

By:   
\_\_\_\_\_  
MARK J. KEOUGH, COUNTY JUDGE

Signed on August 19, 2021.

Signed on Sept. 14, 2021.

SEP 14 2021

**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract ("Agreement") is between Montgomery County, Texas ("the County"), acting by and through its Commissioners Court, and WENDY LYNN LITTLE, a licensed attorney in the State of Texas ("Contract Attorney") for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the "Program").

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the "Act") and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments ("Local Rules");
2. Maintain valid license in good standing to practice law in the State of Texas;
3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

- including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;
8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;
  9. Maintain a demeanor which is professional and conducive to effective representation;
  10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;
  11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;
  12. Appear in court punctually and keep the court apprised of his or her whereabouts;
  13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;
  14. Be of sound mind; and
  15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;
2. Contract Attorney shall zealously represent a defendant until charges are dismissed, the defendant is acquitted, or the attorney is permitted or ordered by the court to withdraw as counsel;
3. Contract Attorney shall perform the attorney's duty owed to the defendant in accordance with the adopted procedures of this Program, the requirements of law, and the Texas Disciplinary Rules of Professional Conduct;
4. Contract Attorney shall appear prepared and on time for all hearings;
5. Contract Attorney shall inform the judge when any of the following occurs:
  - (a) Counsel/Contract Attorney is unable to appear to discharge his or her duties; or



(b) Counsel/Contract Attorney cannot represent an indigent defendant because of a legal or ethical conflict.

6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

D. The MCOCA shall provide the following appointment information data to the District Judges trying felony criminal cases on a regular basis: (1) the number of pending appointments per attorney in their respective court; (2) the number of new appointments received during the report period; (3) the number of pending defendants per attorney in their respective courts; and (4) the number of defendants per individual attorney as a ratio to the maximum number of 95 per term. MCOCA shall also provide a report contrasting individual attorney caseloads in relation to the maximum caseloads proposed by the Texas Indigent Defense Commission. This information shall also be readily available to Contract Attorney.

## II. OBLIGATION TO REPORT CERTAIN OCCURRENCES

Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## III. TERMS

A. **Term:** This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. **Fees and Payment:** Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

D. Termination:

1. Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party specifying the date of termination which shall be not less than thirty (30) days from receipt of the notice of termination.
2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.
3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.
4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.
5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current

information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

6. The parties further agree that the appointing judge may substitute counsel if:

(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

B. Time. Time is of the essence in all things pertaining to the performance of this Agreement.

C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "*legal holiday*" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney: Wendy L. Little  
10655 SIX PINES DRIVE, SUITE 230  
THE WOODLANDS, TEXAS 77380  
Telephone: 936-760-7609  
Email: LITTLELAW77380@GMAIL.COM

To the County: Office of Court Administration  
Attn: Chad Peace, Director  
301 N. Main, Suite 304  
Conroe, Texas 77301  
Telephone: (936) 538-8173  
Email: Chad.Peace@mctx.org

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.

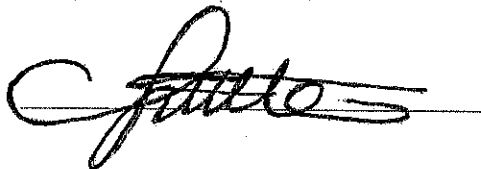
F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.

G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.

H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY



Signed on 13 AUGUST, 2021.

MONTGOMERY COUNTY, TEXAS

By:   
MARK J. KEOUGH, COUNTY JUDGE

Signed on Sept. 14, 2021.

1001  
SEP 14 2021

**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract ("Agreement") is between Montgomery County, Texas ("the County"), acting by and through its Commissioners Court, and JoAnn Linker, a licensed attorney in the State of Texas ("Contract Attorney") for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the "Program").

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the "Act") and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments ("Local Rules");
2. Maintain valid license in good standing to practice law in the State of Texas;
3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;

8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;

9. Maintain a demeanor which is professional and conducive to effective representation;

10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;

11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;

12. Appear in court punctually and keep the court apprised of his or her whereabouts;

13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;

14. Be of sound mind; and

15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

#### B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;

2. Contract Attorney shall zealously represent a defendant until charges are dismissed, the defendant is acquitted, or the attorney is permitted or ordered by the court to withdraw as counsel;

3. Contract Attorney shall perform the attorney's duty owed to the defendant in accordance with the adopted procedures of this Program, the requirements of law, and the Texas Disciplinary Rules of Professional Conduct;

4. Contract Attorney shall appear prepared and on time for all hearings;

5. Contract Attorney shall inform the judge when any of the following occurs:

(a) Counsel/Contract Attorney is unable to appear to discharge his or her duties; or

(b) Counsel/Contract Attorney cannot represent an indigent defendant because of a legal or ethical conflict.

6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

D. The MCOCA shall provide the following appointment information data to the District Judges trying felony criminal cases on a regular basis: (1) the number of pending appointments per attorney in their respective court; (2) the number of new appointments received during the report period; (3) the number of pending defendants per attorney in their respective courts; and (4) the number of defendants per individual attorney as a ratio to the maximum number of 95 per term. MCOCA shall also provide a report contrasting individual attorney caseloads in relation to the maximum caseloads proposed by the Texas Indigent Defense Commission. This information shall also be readily available to Contract Attorney.

## **II. OBLIGATION TO REPORT CERTAIN OCCURRENCES**

Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## **III. TERMS**

A. **Term:** This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. **Fees and Payment:** Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

D. Termination:

1. Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party specifying the date of termination which shall be not less than thirty (30) days from receipt of the notice of termination.
2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.
3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.
4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.
5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current



information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

6. The parties further agree that the appointing judge may substitute counsel if:

(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

B. Time. Time is of the essence in all things pertaining to the performance of this Agreement.

C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "legal holiday" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney:

Jo Ann Linzer  
5722 N. Main Street  
Conroe, TX 77301  
Telephone: 936-647-1946  
Email: linzerlaw@gmail.com

To the County:

Office of Court Administration  
Attn: Chad Peace, Director  
301 N. Main, Suite 304  
Conroe, Texas 77301  
Telephone: (936) 538-8173  
Email: Chad.Peace@mctx.org

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.

F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.

G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.

H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.


Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY

MONTGOMERY COUNTY, TEXAS



By:

  
MARK J. KEOUGH, COUNTY JUDGE

Signed on 08/20, 2021.

Signed on Sept. 14 2021.

**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract ("Agreement") is between Montgomery County, Texas ("the County"), acting by and through its Commissioners Court, and GARY S. MILLER, a licensed attorney in the State of Texas ("Contract Attorney") for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the "Program").

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the "Act") and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments ("Local Rules");
2. Maintain valid license in good standing to practice law in the State of Texas;
3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;

8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;

9. Maintain a demeanor which is professional and conducive to effective representation;

10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;

11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;

12. Appear in court punctually and keep the court apprised of his or her whereabouts;

13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;

14. Be of sound mind; and

15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

#### B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;

2. Contract Attorney shall zealously represent a defendant until charges are dismissed, the defendant is acquitted, or the attorney is permitted or ordered by the court to withdraw as counsel;

3. Contract Attorney shall perform the attorney's duty owed to the defendant in accordance with the adopted procedures of this Program, the requirements of law, and the Texas Disciplinary Rules of Professional Conduct;

4. Contract Attorney shall appear prepared and on time for all hearings;

5. Contract Attorney shall inform the judge when any of the following occurs:

(a) Counsel/Contract Attorney is unable to appear to discharge his or her duties; or

(b) Counsel/Contract Attorney cannot represent an indigent defendant because of a legal or ethical conflict.

6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

D. The MCOCA shall provide the following appointment information data to the District Judges trying felony criminal cases on a regular basis: (1) the number of pending appointments per attorney in their respective court; (2) the number of new appointments received during the report period; (3) the number of pending defendants per attorney in their respective courts; and (4) the number of defendants per individual attorney as a ratio to the maximum number of 95 per term. MCOCA shall also provide a report contrasting individual attorney caseloads in relation to the maximum caseloads proposed by the Texas Indigent Defense Commission. This information shall also be readily available to Contract Attorney.

## **II. OBLIGATION TO REPORT CERTAIN OCCURRENCES**

Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## **III. TERMS**

A. **Term:** This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. **Fees and Payment:** Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

D. Termination:

1. Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party specifying the date of termination which shall be not less than thirty (30) days from receipt of the notice of termination.
2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.
3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.
4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.
5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current

information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

6. The parties further agree that the appointing judge may substitute counsel if:

(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

B. Time. Time is of the essence in all things pertaining to the performance of this Agreement.

C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "legal holiday" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney:

Gary Miller  
8505 Technology Forest #104  
The Woodlands, TX 77381  
Telephone: 713-647-2445  
Email: gmill@ymillerdefense.com

To the County:

Office of Court Administration  
Attn: Chad Peace, Director  
301 N. Main, Suite 304  
Conroe, Texas 77301  
Telephone: (936) 538-8173  
Email: [Chad.Peace@mctx.org](mailto:Chad.Peace@mctx.org)

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.

F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.

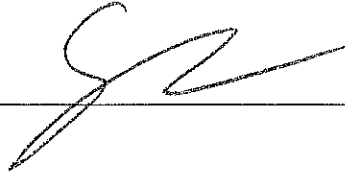
G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.

H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY

MONTGOMERY COUNTY, TEXAS

  
\_\_\_\_\_

By:   
MARK J. KEOUGH, COUNTY JUDGE

Signed on August 27, 2021.

Signed on Sept. 14, 2021.



**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract (“Agreement”) is between Montgomery County, Texas (“the County”), acting by and through its Commissioners Court, and William Paffilo, a licensed attorney in the State of Texas (“Contract Attorney”) for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the “Program”).

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the “Act”) and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments (“Local Rules”);
2. Maintain valid license in good standing to practice law in the State of Texas;
3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;

8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;
9. Maintain a demeanor which is professional and conducive to effective representation;
10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;
11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;
12. Appear in court punctually and keep the court apprised of his or her whereabouts;
13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;
14. Be of sound mind; and
15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;
2. Contract Attorney shall zealously represent a defendant until charges are dismissed, the defendant is acquitted, or the attorney is permitted or ordered by the court to withdraw as counsel;
3. Contract Attorney shall perform the attorney's duty owed to the defendant in accordance with the adopted procedures of this Program, the requirements of law, and the Texas Disciplinary Rules of Professional Conduct;
4. Contract Attorney shall appear prepared and on time for all hearings;
5. Contract Attorney shall inform the judge when any of the following occurs:
  - (a) Counsel/Contract Attorney is unable to appear to discharge his or her duties; or

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6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

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Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## **III. TERMS**

A. **Term:** This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. **Fees and Payment:** Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

D. Termination:

1. Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party specifying the date of termination which shall be not less than thirty (30) days from receipt of the notice of termination.
2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.
3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.
4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.
5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current

information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

6. The parties further agree that the appointing judge may substitute counsel if:

(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

B. Time. Time is of the essence in all things pertaining to the performance of this Agreement.

C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "*legal holiday*" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney: William P. Hillo  
430 N. Main  
Conroe, Tx 77301  
Telephone: 936 534-5522  
Email: williamphillo@hotmail.com

To the County: Office of Court Administration  
Attn: Chad Peace, Director  
301 N. Main, Suite 304  
Conroe, Texas 77301  
Telephone: (936) 538-8173  
Email: Chad.Peace@mctx.org

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.

F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.

G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.

H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

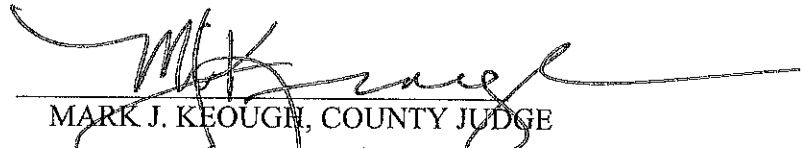
Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY

MONTGOMERY COUNTY, TEXAS

  
\_\_\_\_\_

By: \_\_\_\_\_

  
MARK J. KEOUGH, COUNTY JUDGE

Signed on August 17, 2021.

Signed on Sept. 14, 2021.

**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract ("Agreement") is between Montgomery County, Texas ("the County"), acting by and through its Commissioners Court, and Mark M. Phillips, a licensed attorney in the State of Texas ("Contract Attorney") for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the "Program").

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the "Act") and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

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3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;

8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;

9. Maintain a demeanor which is professional and conducive to effective representation;

10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;

11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;

12. Appear in court punctually and keep the court apprised of his or her whereabouts;

13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;

14. Be of sound mind; and

15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

#### B. DUTIES OF APPOINTED COUNSEL

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5. Contract Attorney shall inform the judge when any of the following occurs:

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(b) Counsel/Contract Attorney cannot represent an indigent defendant because of a legal or ethical conflict.

6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

D. The MCOCA shall provide the following appointment information data to the District Judges trying felony criminal cases on a regular basis: (1) the number of pending appointments per attorney in their respective court; (2) the number of new appointments received during the report period; (3) the number of pending defendants per attorney in their respective courts; and (4) the number of defendants per individual attorney as a ratio to the maximum number of 95 per term. MCOCA shall also provide a report contrasting individual attorney caseloads in relation to the maximum caseloads proposed by the Texas Indigent Defense Commission. This information shall also be readily available to Contract Attorney.

## **II. OBLIGATION TO REPORT CERTAIN OCCURRENCES**

Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## **III. TERMS**

A. **Term:** This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. **Fees and Payment:** Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

D. Termination:

1. Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party specifying the date of termination which shall be not less than thirty (30) days from receipt of the notice of termination.
2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.
3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.
4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.
5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current

information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

6. The parties further agree that the appointing judge may substitute counsel if:

(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

B. Time. Time is of the essence in all things pertaining to the performance of this Agreement.

C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "legal holiday" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney:

709 N. San Jacinto St.  
Conroe, TX 77301

Telephone: 936-539-4499

Email: conroenotguilty@gmail.com

To the County:

Office of Court Administration

Attn: Chad Peace, Director

301 N. Main, Suite 304

Conroe, Texas 77301

Telephone: (936) 538-8173

Email: Chad.Peace@mctx.org

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.

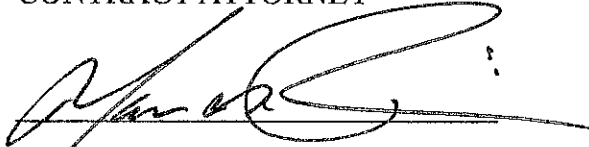
F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.

G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.

H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY



Signed on Aug 18, 2021.

MONTGOMERY COUNTY, TEXAS

By:   
MARK J. KEOUGH, COUNTY JUDGE

Signed on Sept 14, 2021.

1001  
SEP 14 2021

**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract ("Agreement") is between Montgomery County, Texas ("the County"), acting by and through its Commissioners Court, and Darin J. Ray, a licensed attorney in the State of Texas ("Contract Attorney") for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the "Program").

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the "Act") and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments ("Local Rules");
2. Maintain valid license in good standing to practice law in the State of Texas;
3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;

8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;

9. Maintain a demeanor which is professional and conducive to effective representation;

10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;

11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;

12. Appear in court punctually and keep the court apprised of his or her whereabouts;

13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;

14. Be of sound mind; and

15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

#### B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;

2. Contract Attorney shall zealously represent a defendant until charges are dismissed, the defendant is acquitted, or the attorney is permitted or ordered by the court to withdraw as counsel;

3. Contract Attorney shall perform the attorney's duty owed to the defendant in accordance with the adopted procedures of this Program, the requirements of law, and the Texas Disciplinary Rules of Professional Conduct;

4. Contract Attorney shall appear prepared and on time for all hearings;

5. Contract Attorney shall inform the judge when any of the following occurs:

(a) Counsel/Contract Attorney is unable to appear to discharge his or her duties; or

(b) Counsel/Contract Attorney cannot represent an indigent defendant because of a legal or ethical conflict.

6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

D. The MCOCA shall provide the following appointment information data to the District Judges trying felony criminal cases on a regular basis: (1) the number of pending appointments per attorney in their respective court; (2) the number of new appointments received during the report period; (3) the number of pending defendants per attorney in their respective courts; and (4) the number of defendants per individual attorney as a ratio to the maximum number of 95 per term. MCOCA shall also provide a report contrasting individual attorney caseloads in relation to the maximum caseloads proposed by the Texas Indigent Defense Commission. This information shall also be readily available to Contract Attorney.

## **II. OBLIGATION TO REPORT CERTAIN OCCURRENCES**

Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## **III. TERMS**

A. **Term:** This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. **Fees and Payment:** Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

D. Termination:

1. Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party specifying the date of termination which shall be not less than thirty (30) days from receipt of the notice of termination.
2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.
3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.
4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.
5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current



information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

6. The parties further agree that the appointing judge may substitute counsel if:

(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

B. Time. Time is of the essence in all things pertaining to the performance of this Agreement.

C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "legal holiday" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney:

Darin J. Ray  
709 N San Jacinto St  
Conroe, Texas 77301

Telephone: 936-756-4555

For Appointments Email: djr\_appts@duckworthandray.com

Direct Email: darin@duckworthandray.com

To the County:

Office of Court Administration

Attn: Chad Peace, Director

301 N. Main, Suite 304

Conroe, Texas 77301

Telephone: (936) 538-8173

Email: Chad.Peace@mctx.org

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.

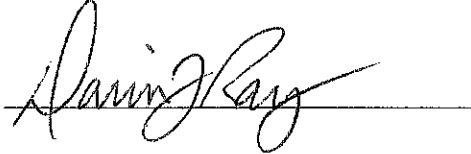
F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.

G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.

H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

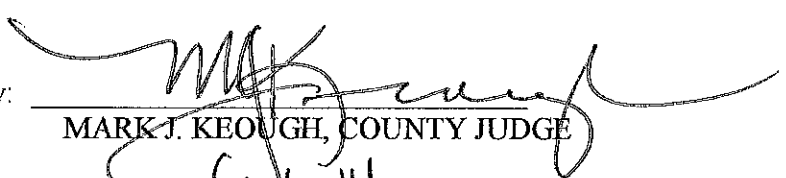
Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY



Signed on Aug. 24<sup>th</sup>, 2021.

MONTGOMERY COUNTY, TEXAS

By:   
MARK J. KEOUGH, COUNTY JUDGE

Signed on Sept. 14, 2021.

**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract (“Agreement”) is between Montgomery County, Texas (“the County”), acting by and through its Commissioners Court, and Judith Shields, a licensed attorney in the State of Texas (“Contract Attorney”) for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the “Program”).

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the “Act”) and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments (“Local Rules”);
2. Maintain valid license in good standing to practice law in the State of Texas;
3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;

8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;

9. Maintain a demeanor which is professional and conducive to effective representation;

10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;

11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;

12. Appear in court punctually and keep the court apprised of his or her whereabouts;

13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;

14. Be of sound mind; and

15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

#### B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;

2. Contract Attorney shall zealously represent a defendant until charges are dismissed, the defendant is acquitted, or the attorney is permitted or ordered by the court to withdraw as counsel;

3. Contract Attorney shall perform the attorney's duty owed to the defendant in accordance with the adopted procedures of this Program, the requirements of law, and the Texas Disciplinary Rules of Professional Conduct;

4. Contract Attorney shall appear prepared and on time for all hearings;

5. Contract Attorney shall inform the judge when any of the following occurs:

(a) Counsel/Contract Attorney is unable to appear to discharge his or her duties; or

(b) Counsel/Contract Attorney cannot represent an indigent defendant because of a legal or ethical conflict.

6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

D. The MCOCA shall provide the following appointment information data to the District Judges trying felony criminal cases on a regular basis: (1) the number of pending appointments per attorney in their respective court; (2) the number of new appointments received during the report period; (3) the number of pending defendants per attorney in their respective courts; and (4) the number of defendants per individual attorney as a ratio to the maximum number of 95 per term. MCOCA shall also provide a report contrasting individual attorney caseloads in relation to the maximum caseloads proposed by the Texas Indigent Defense Commission. This information shall also be readily available to Contract Attorney.

## **II. OBLIGATION TO REPORT CERTAIN OCCURRENCES**

Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## **III. TERMS**

A. **Term:** This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. **Fees and Payment:** Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

D. Termination:

1. Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party specifying the date of termination which shall be not less than thirty (30) days from receipt of the notice of termination.
2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.
3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.
4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.
5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current

information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

6. The parties further agree that the appointing judge may substitute counsel if:

(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

B. Time. Time is of the essence in all things pertaining to the performance of this Agreement.

C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "*legal holiday*" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney:

Judith Shields  
10655 Six Pines Ste 230  
The Woodlands Tx 77380  
Telephone: 936-703-5002  
Email: JudithShieldsAttorney@gmail.com

To the County:

Office of Court Administration  
Attn: Chad Peace, Director  
301 N. Main, Suite 304  
Conroe, Texas 77301  
Telephone: (936) 538-8173  
Email: Chad.Peace@mctx.org

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.

F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.

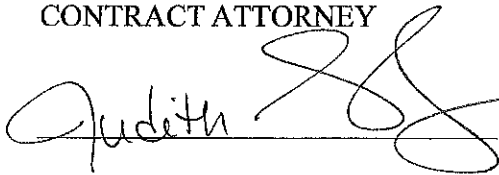
G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.

H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY

MONTGOMERY COUNTY, TEXAS

 Judith

By:

 MARK J. KEOUGH, COUNTY JUDGE

Signed on August 20, 2021.

Signed on Sept. 14, 2021.



**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract (“Agreement”) is between Montgomery County, Texas (“the County”), acting by and through its Commissioners Court, and GIRANT STEVENS, a licensed attorney in the State of Texas (“Contract Attorney”) for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the “Program”).

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the “Act”) and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments (“Local Rules”);
2. Maintain valid license in good standing to practice law in the State of Texas;
3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;

8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;

9. Maintain a demeanor which is professional and conducive to effective representation;

10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;

11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;

12. Appear in court punctually and keep the court apprised of his or her whereabouts;

13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;

14. Be of sound mind; and

15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

#### B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;

2. Contract Attorney shall zealously represent a defendant until charges are dismissed, the defendant is acquitted, or the attorney is permitted or ordered by the court to withdraw as counsel;

3. Contract Attorney shall perform the attorney's duty owed to the defendant in accordance with the adopted procedures of this Program, the requirements of law, and the Texas Disciplinary Rules of Professional Conduct;

4. Contract Attorney shall appear prepared and on time for all hearings;

5. Contract Attorney shall inform the judge when any of the following occurs:

(a) Counsel/Contract Attorney is unable to appear to discharge his or her duties; or

(b) Counsel/Contract Attorney cannot represent an indigent defendant because of a legal or ethical conflict.

6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

D. The MCOCA shall provide the following appointment information data to the District Judges trying felony criminal cases on a regular basis: (1) the number of pending appointments per attorney in their respective court; (2) the number of new appointments received during the report period; (3) the number of pending defendants per attorney in their respective courts; and (4) the number of defendants per individual attorney as a ratio to the maximum number of 95 per term. MCOCA shall also provide a report contrasting individual attorney caseloads in relation to the maximum caseloads proposed by the Texas Indigent Defense Commission. This information shall also be readily available to Contract Attorney.

## **II. OBLIGATION TO REPORT CERTAIN OCCURRENCES**

Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## **III. TERMS**

A. **Term:** This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. **Fees and Payment:** Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

D. Termination:

1. Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party specifying the date of termination which shall be not less than thirty (30) days from receipt of the notice of termination.
2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.
3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.
4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.
5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current

information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

6. The parties further agree that the appointing judge may substitute counsel if:

(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

B. Time. Time is of the essence in all things pertaining to the performance of this Agreement.

C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "legal holiday" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney:

GRANT STEVENS  
204 W. DAVIS  
CONROE, TX 77301  
Telephone: 936 539-9797  
Email: grant1333@gmail.com

To the County:

Office of Court Administration  
Attn: Chad Peace, Director  
301 N. Main, Suite 304  
Conroe, Texas 77301  
Telephone: (936) 538-8173  
Email: Chad.Peace@mctx.org

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.

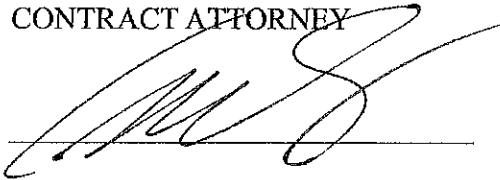
F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.

G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.

H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY



Signed on 8/16, 2021.

MONTGOMERY COUNTY, TEXAS

By:



MARK J. KEOUGH, COUNTY JUDGE

Signed on Sept. 14, 2021.

**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract (“Agreement”) is between Montgomery County, Texas (“the County”), acting by and through its Commissioners Court, and Stella Stevens, a licensed attorney in the State of Texas (“Contract Attorney”) for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the “Program”).

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the “Act”) and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments (“Local Rules”);
2. Maintain valid license in good standing to practice law in the State of Texas;
3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;

8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;

9. Maintain a demeanor which is professional and conducive to effective representation;

10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;

11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;

12. Appear in court punctually and keep the court apprised of his or her whereabouts;

13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;

14. Be of sound mind; and

15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

#### B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;

2. Contract Attorney shall zealously represent a defendant until charges are dismissed, the defendant is acquitted, or the attorney is permitted or ordered by the court to withdraw as counsel;

3. Contract Attorney shall perform the attorney's duty owed to the defendant in accordance with the adopted procedures of this Program, the requirements of law, and the Texas Disciplinary Rules of Professional Conduct;

4. Contract Attorney shall appear prepared and on time for all hearings;

5. Contract Attorney shall inform the judge when any of the following occurs:

(a) Counsel/Contract Attorney is unable to appear to discharge his or her duties; or



(b) Counsel/Contract Attorney cannot represent an indigent defendant because of a legal or ethical conflict.

6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

D. The MCOCA shall provide the following appointment information data to the District Judges trying felony criminal cases on a regular basis: (1) the number of pending appointments per attorney in their respective court; (2) the number of new appointments received during the report period; (3) the number of pending defendants per attorney in their respective courts; and (4) the number of defendants per individual attorney as a ratio to the maximum number of 95 per term. MCOCA shall also provide a report contrasting individual attorney caseloads in relation to the maximum caseloads proposed by the Texas Indigent Defense Commission. This information shall also be readily available to Contract Attorney.

## **II. OBLIGATION TO REPORT CERTAIN OCCURRENCES**

Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## **III. TERMS**

A. **Term:** This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. **Fees and Payment:** Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

D. Termination:

1. Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party specifying the date of termination which shall be not less than thirty (30) days from receipt of the notice of termination.
2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.
3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.
4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.
5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current

information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

6. The parties further agree that the appointing judge may substitute counsel if:

(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

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D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney:

The Law Office of Stella Stevens  
122 West Davis  
Conroe TX 77301  
Telephone: 936-539-1011  
Email: [stellastevenslaw@hotmail.com](mailto:stellastevenslaw@hotmail.com)

To the County:

Office of Court Administration  
Attn: Chad Peace, Director  
301 N. Main, Suite 304  
Conroe, Texas 77301  
Telephone: (936) 538-8173  
Email: [Chad.Peace@mctx.org](mailto:Chad.Peace@mctx.org)

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.

F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.

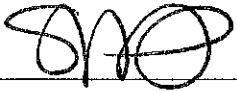
G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.

H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY

MONTGOMERY COUNTY, TEXAS



By:

  
MARK J. KEOUGH, COUNTY JUDGE

Signed on 8/23, 2021.

Signed on Sept. 14, 2021.

**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract ("Agreement") is between Montgomery County, Texas ("the County"), acting by and through its Commissioners Court, and Charles Thompson, a licensed attorney in the State of Texas ("Contract Attorney") for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the "Program").

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the "Act") and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments ("Local Rules");
2. Maintain valid license in good standing to practice law in the State of Texas;
3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

including, but not limited to; matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;

8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;

9. Maintain a demeanor which is professional and conducive to effective representation;

10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;

11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;

12. Appear in court punctually and keep the court apprised of his or her whereabouts;

13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;

14. Be of sound mind; and

15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

#### B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;

2. Contract Attorney shall zealously represent a defendant until charges are dismissed, the defendant is acquitted, or the attorney is permitted or ordered by the court to withdraw as counsel;

3. Contract Attorney shall perform the attorney's duty owed to the defendant in accordance with the adopted procedures of this Program, the requirements of law, and the Texas Disciplinary Rules of Professional Conduct;

4. Contract Attorney shall appear prepared and on time for all hearings;

5. Contract Attorney shall inform the judge when any of the following occurs:

(a) Counsel/Contract Attorney is unable to appear to discharge his or her duties; or

(b) Counsel/Contract Attorney cannot represent an indigent defendant because of a legal or ethical conflict.

6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

D. The MCOCA shall provide the following appointment information data to the District Judges trying felony criminal cases on a regular basis: (1) the number of pending appointments per attorney in their respective court; (2) the number of new appointments received during the report period; (3) the number of pending defendants per attorney in their respective courts; and (4) the number of defendants per individual attorney as a ratio to the maximum number of 95 per term. MCOCA shall also provide a report contrasting individual attorney caseloads in relation to the maximum caseloads proposed by the Texas Indigent Defense Commission. This information shall also be readily available to Contract Attorney.

## **II. OBLIGATION TO REPORT CERTAIN OCCURRENCES**

Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## **III. TERMS**

A. Term: This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. Fees and Payment: Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

D. Termination:

1. Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party specifying the date of termination which shall be not less than thirty (30) days from receipt of the notice of termination.
2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.
3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.
4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.
5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current



information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

6. The parties further agree that the appointing judge may substitute counsel if:

(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

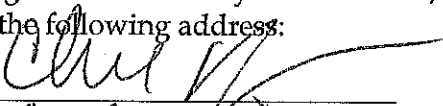
A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

B. Time. Time is of the essence in all things pertaining to the performance of this Agreement.

C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "legal holiday" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney:

  
One Greenway Plaza, 100  
Harris, TX 77046  
Telephone: 713-668-5700  
Email: Cheryl@CChapmanLaw.com

To the County:

Office of Court Administration  
Attn: Chad Peace, Director  
301 N. Main, Suite 304  
Conroe, Texas 77301  
Telephone: (936) 538-8173  
Email: [Chad.Peace@mctx.org](mailto:Chad.Peace@mctx.org)

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.

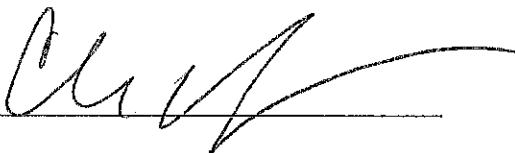
F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.

G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.

H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY

  
\_\_\_\_\_

Signed on August 20, 2021.

MONTGOMERY COUNTY, TEXAS

By:   
\_\_\_\_\_

MARK J. KEOUGH, COUNTY JUDGE

Signed on Sept. 14, 2021.

**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract (“Agreement”) is between Montgomery County, Texas (“the County”), acting by and through its Commissioners Court, and MICHAEL VALDEZ, a licensed attorney in the State of Texas (“Contract Attorney”) for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the “Program”).

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the “Act”) and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments (“Local Rules”);
2. Maintain valid license in good standing to practice law in the State of Texas;
3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;

8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;

9. Maintain a demeanor which is professional and conducive to effective representation;

10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;

11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;

12. Appear in court punctually and keep the court apprised of his or her whereabouts;

13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;

14. Be of sound mind; and

15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

#### B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;

2. Contract Attorney shall zealously represent a defendant until charges are dismissed, the defendant is acquitted, or the attorney is permitted or ordered by the court to withdraw as counsel;

3. Contract Attorney shall perform the attorney's duty owed to the defendant in accordance with the adopted procedures of this Program, the requirements of law, and the Texas Disciplinary Rules of Professional Conduct;

4. Contract Attorney shall appear prepared and on time for all hearings;

5. Contract Attorney shall inform the judge when any of the following occurs:

(a) Counsel/Contract Attorney is unable to appear to discharge his or her duties; or

(b) Counsel/Contract Attorney cannot represent an indigent defendant because of a legal or ethical conflict.

6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

D. The MCOCA shall provide the following appointment information data to the District Judges trying felony criminal cases on a regular basis: (1) the number of pending appointments per attorney in their respective court; (2) the number of new appointments received during the report period; (3) the number of pending defendants per attorney in their respective courts; and (4) the number of defendants per individual attorney as a ratio to the maximum number of 95 per term. MCOCA shall also provide a report contrasting individual attorney caseloads in relation to the maximum caseloads proposed by the Texas Indigent Defense Commission. This information shall also be readily available to Contract Attorney.

## **II. OBLIGATION TO REPORT CERTAIN OCCURRENCES**

Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## **III. TERMS**

A. **Term:** This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. **Fees and Payment:** Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

D. Termination:

1. Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party specifying the date of termination which shall be not less than thirty (30) days from receipt of the notice of termination.

2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.

3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.

4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.

5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current

information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

6. The parties further agree that the appointing judge may substitute counsel if:

(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

B. Time. Time is of the essence in all things pertaining to the performance of this Agreement.

C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "*legal holiday*" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney: Michael Valdez  
203 Simonton St  
Conroe/Texas/77301  
Telephone: 936-441-7171  
Email: Valdez@ValdezLawFirm.com

To the County: Office of Court Administration  
Attn: Chad Peace, Director  
301 N. Main, Suite 304  
Conroe, Texas 77301  
Telephone: (936) 538-8173  
Email: Chad.Peace@mctx.org

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.

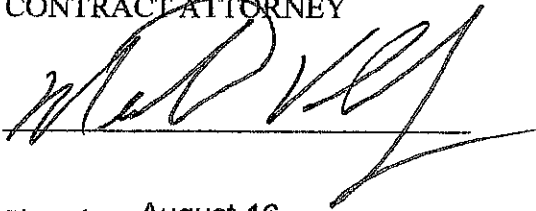
F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.

G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.

H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY



Signed on August 16, 2021.

MONTGOMERY COUNTY, TEXAS

By:   
MARK J. KEOUGH, COUNTY JUDGE

Signed on Sept. 14, 2021.



**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract ("Agreement") is between Montgomery County, Texas ("the County"), acting by and through its Commissioners Court, and Jamod L. Walker, a licensed attorney in the State of Texas ("Contract Attorney") for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the "Program").

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the "Act") and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments ("Local Rules");
2. Maintain valid license in good standing to practice law in the State of Texas;
3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;

8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;

9. Maintain a demeanor which is professional and conducive to effective representation;

10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;

11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;

12. Appear in court punctually and keep the court apprised of his or her whereabouts;

13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;

14. Be of sound mind; and

15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

#### B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;

2. Contract Attorney shall zealously represent a defendant until charges are dismissed, the defendant is acquitted, or the attorney is permitted or ordered by the court to withdraw as counsel;

3. Contract Attorney shall perform the attorney's duty owed to the defendant in accordance with the adopted procedures of this Program, the requirements of law, and the Texas Disciplinary Rules of Professional Conduct;

4. Contract Attorney shall appear prepared and on time for all hearings;

5. Contract Attorney shall inform the judge when any of the following occurs:

(a) Counsel/Contract Attorney is unable to appear to discharge his or her duties; or

(b) Counsel/Contract Attorney cannot represent an indigent defendant because of a legal or ethical conflict.

6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

D. The MCOCA shall provide the following appointment information data to the District Judges trying felony criminal cases on a regular basis: (1) the number of pending appointments per attorney in their respective court; (2) the number of new appointments received during the report period; (3) the number of pending defendants per attorney in their respective courts; and (4) the number of defendants per individual attorney as a ratio to the maximum number of 95 per term. MCOCA shall also provide a report contrasting individual attorney caseloads in relation to the maximum caseloads proposed by the Texas Indigent Defense Commission. This information shall also be readily available to Contract Attorney.

## **II. OBLIGATION TO REPORT CERTAIN OCCURRENCES**

Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## **III. TERMS**

A. **Term:** This Agreement shall be effective on October 1, 2021 and will terminate on September 30, 2022 unless terminated earlier with at least thirty (30) days' written notice by either party in accordance with the terms of this Agreement.

B. **Fees and Payment:** Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

D. Termination:

1. Either party may terminate this Agreement, with or without cause, upon thirty (30) days written notice to the other party specifying the date of termination which shall be not less than thirty (30) days from receipt of the notice of termination.

2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.

3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.

4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.

5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current

information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

6. The parties further agree that the appointing judge may substitute counsel if:

(1) at the conclusion of a trial, the indigent defendant desires to prosecute a direct appeal and requests that the court appoint different counsel; or

(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

B. Time. Time is of the essence in all things pertaining to the performance of this Agreement.

C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "*legal holiday*" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney:

Jamod L. Walker  
204 W. DAVIS  
CONROE, TEXAS 77301  
Telephone: (936) 756-0444  
Email: legal.wflaw@gmail.com

To the County:

Office of Court Administration  
Attn: Chad Peace, Director  
301 N. Main, Suite 304  
Conroe, Texas 77301  
Telephone: (936) 538-8173  
Email: Chad.Peace@mctx.org

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.

F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.

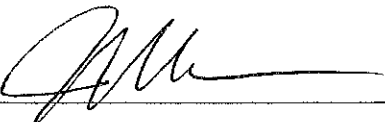
G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.

H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY

MONTGOMERY COUNTY, TEXAS

  
\_\_\_\_\_

By:   
\_\_\_\_\_

MARK J. KEOUGH, COUNTY JUDGE

Signed on 8/18, 2021.

Signed on Sept. 14, 2021.

**CONTRACT FOR FELONY INDIGENT DEFENSE PROGRAM**  
**Fiscal Year 2022 – October 1, 2021 through September 30, 2022**

This contract ("Agreement") is between Montgomery County, Texas ("the County"), acting by and through its Commissioners Court, and Ronnie Yeates, a licensed attorney in the State of Texas ("Contract Attorney") for the provision of indigent defense services for felony defendants with cases pending in the District Courts of Montgomery County, Texas (the "Program").

The Program is established to provide eligible defendants in felony cases filed in Montgomery County with qualified court-appointed defense attorneys. By increasing the efficiency of court appointments, this program should increase the overall effectiveness of legal services. County and Contract Attorney intend for the Program and this Agreement to comply with all terms of the Texas Fair Defense Act (the "Act") and applicable provisions of Chapter 26, Texas Code of Criminal Procedure, and all terms and obligations contained herein are subject to the Act and said provisions (as amended).

**I. PROGRAM OPERATIONS**

Services provided by the Contract Attorney shall include all legal representation in defense of criminal charges on behalf of a defendant, including but not limited to motions for new trial. A Contract Attorney may accept appointments under this system up to a cap of ninety five (95) defendants per term. Each defendant may have been charged with one or more non-capital felony offenses. Attorneys receiving appointments under this Agreement shall not accept more than one concurrent felony appointment term in Montgomery County.

**A. COMPLIANCE WITH REQUIREMENTS**

The Contract Attorney shall comply with the following requirements at all times:

1. Maintain knowledge of and compliance with the *Local Rules of the District Courts of Montgomery County, Texas* in effect at the time of signing along with all subsequent amendments ("Local Rules");
2. Maintain valid license in good standing to practice law in the State of Texas;
3. Maintain telephone and fax numbers, as well as a physical location (other than a public building) in which the attorney can conduct confidential meetings and discussions without compromising professionalism and the attorney-client privilege;
4. Attended at least 10 hours of CLE related to criminal law in the year prior to filing an application (submit CLE verification);
5. Attend at least 10 hours of CLE related to criminal law annually, including one hour of ethics;
6. Agree to submit an affidavit showing compliance with the annual CLE requirements;
7. Provide (and keep current) an email address to which the Montgomery County Office of Court Administration (MCOCA) may send official notices and correspondence regarding the Program,

including, but not limited to, matters concerning CLE, changes to the Program and eligibility requirements, notice of termination or removal from the approved list, and other administrative matters;

8. Consistently demonstrate commitment to providing effective assistance of counsel and quality representation to criminal defendants;

9. Maintain a demeanor which is professional and conducive to effective representation;

10. Demonstrate effectiveness of advocacy skills including, but not limited to, such items as: voir dire; direct and cross examination; introduction of, objection to, and admissibility of evidence; argument; instructions; and recognition of appellate issues;

11. Communicate effectively with the other parties involved in his or her cases. The Contract Attorney must make thorough use of sentencing laws, seeking imaginative and creative sentencing alternatives;

12. Appear in court punctually and keep the court apprised of his or her whereabouts;

13. Be cognizant that the manner in which he or she interacts with judicial officers, prosecutors, courtroom personnel, law enforcement personnel, co-counsel, and other members of the justice system contributes to the effective representation of his or her indigent clients;

14. Be of sound mind; and

15. Agree to report to the Texas Indigent Defense Commission and County, by October 15th of each year, the percentage of the attorney's practice time that was dedicated to work based on appointments accepted in Montgomery County for adult criminal cases for the prior fiscal year (reporting term beginning on October 1st and ending September 30th).

#### B. DUTIES OF APPOINTED COUNSEL

1. Contract Attorney shall make every reasonable effort to contact the defendant not later than the end of the first working day after receiving notice of the appointment and interview the defendant as soon as practicable;

2. Contract Attorney shall zealously represent a defendant until charges are dismissed, the defendant is acquitted, or the attorney is permitted or ordered by the court to withdraw as counsel;

3. Contract Attorney shall perform the attorney's duty owed to the defendant in accordance with the adopted procedures of this Program, the requirements of law, and the Texas Disciplinary Rules of Professional Conduct;

4. Contract Attorney shall appear prepared and on time for all hearings;

5. Contract Attorney shall inform the judge when any of the following occurs:

(a) Counsel/Contract Attorney is unable to appear to discharge his or her duties; or



(b) Counsel/Contract Attorney cannot represent an indigent defendant because of a legal or ethical conflict.

6. Contract Attorney's performance under this Agreement and Program shall comply with all applicable laws including, but not limited to, applicable provisions of Chapter 26, Texas Code of Criminal Procedure (as amended). This provision survives termination of this Agreement.

C. **SUBSTITUTION BY APPOINTED COUNSEL PROHIBITED.** A Contract Attorney may send another attorney to appear on his or her behalf only in extenuating circumstances and with the express approval of the judge presiding. If approved by the judge in the court where the case is pending, the attorney making the appearance must be eligible for appointment to represent an indigent defendant in these courts.

D. The MCOCA shall provide the following appointment information data to the District Judges trying felony criminal cases on a regular basis: (1) the number of pending appointments per attorney in their respective court; (2) the number of new appointments received during the report period; (3) the number of pending defendants per attorney in their respective courts; and (4) the number of defendants per individual attorney as a ratio to the maximum number of 95 per term. MCOCA shall also provide a report contrasting individual attorney caseloads in relation to the maximum caseloads proposed by the Texas Indigent Defense Commission. This information shall also be readily available to Contract Attorney.

## **II. OBLIGATION TO REPORT CERTAIN OCCURRENCES**

Contract Attorney shall notify the judge of the Court in which he or she is practicing pursuant to this agreement not later than 48 hours after any of the following events: (1) the attorney's arrest for any state or federal offense punishable by confinement; (2) the attorney's placement on community supervision, diversion, or intervention; (3) any judicial finding that the attorney provided ineffective assistance of counsel; (4) disciplinary action by the State Bar of Texas against the attorney, including but not limited to any active or probated suspension; or (5) the attorney enters a plea of guilty or no contest to, or is found guilty of, an offense punishable by confinement.

## **III. TERMS**

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B. **Fees and Payment:** Subject to the terms of this Agreement, Montgomery County agrees to pay Contract Attorney for all services to be rendered under this Agreement the total sum of:

1. Seventy Thousand and 00/100 (\$70,000.00) dollars, or
2. Seventy Five Thousand and 00/100 (\$75,000.00) dollars for a Spanish-speaking Contract Attorney or Contract Attorney whose attendant staff is fluent in both English and Spanish.

This amount is payable in equal payments on a biweekly basis, in exchange for full performance under the terms and provisions herein. Such payments shall be made upon approval of the Judge of the Court to which the Contract Attorney has been assigned, and shall encompass all duties performed and services

required under the Agreement. Additionally, Contract Attorney shall be entitled under the terms of this Agreement and under the Montgomery County District Courts Indigent Defense Local Rules ("The Plan") to a per day trial fee of Seven Hundred-Fifty and no/100 (\$750.00) dollars per day for representation in a case where the defendant is charged with Continuous Sexual Abuse of a Child or Aggravated Sexual Assault of a Child under the age of 6.

C. Expenses: Investigation and Experts. Attorney may receive reimbursement for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

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2. Termination of the contractual relationship between Montgomery County and the Contract Attorney shall not automatically terminate the attorney-client relationship related to pending cases. In the event of termination by either party, each Contract Attorney shall continue and maintain all required ethical and legal obligations to each respective client until entry of a court order allowing withdrawal of Contract Attorney and/or substitution of substitute counsel from the respective case. Contract Attorney will not be entitled to any additional fee for the cases assigned to Contract Attorney pursuant to this Agreement between termination of this Agreement and the withdrawal of Contract Attorney or substitution of substitute counsel.
3. Contract Attorney will not be eligible for appointment to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is cancelled by Contract Attorney. Contract Attorney will be eligible for appointment at a court's discretion to any case assigned to Contract Attorney pursuant to this Agreement if this Agreement is (a) cancelled by County, (b) cancelled jointly by County and Contract Attorney, or (c) the Program is not renewed, extended or a new program substantially similar to the Program is not implemented. After termination of this Agreement and if Contract Attorney is re-appointed to representation of a defendant or defendants on the same case or cases as originally assigned to Contract Attorney pursuant to this Agreement, Contract Attorney will be compensated for the remainder of the respective case at the current established Montgomery County indigent felony defense attorney rate.
4. Upon termination from the Program, a Contract Attorney may request permission to withdraw by filing a written motion with the court. The judge presiding over the case may grant the motion for good cause only after finding that the client will not be prejudiced by the substitution. After granting the motion, the judge presiding over the case will immediately appoint another qualified attorney as provided by the law, the Local Rules and this Agreement, as applicable.
5. The Contract Attorney understands and agrees that the judge presiding over any case may replace counsel at any time after entering findings in the record showing that no prejudice to the defendant will result from the removal and finding good cause for the removal, including without limitation: (1) current

information about the defendant and charges indicating that counsel of different qualifications is appropriate for the defendant; (2) a violation of the Contract Attorney's professional responsibilities; or (3) a principled reason.

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(2) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

#### IV. GENERAL PROVISIONS

A. Non-appropriation: The County acknowledges that incurring indigent defense costs is a requirement under the Constitution of the United States and the right to counsel. Notwithstanding this provision, Contract Attorney hereby acknowledges that this Agreement does not extend past the terms outlined above, and that the County funds all indigent defense costs through its statutory budget process, signifying that the County makes no promise regarding either the continuation of this Program or funding thereto. To the extent allowed by law, County reserves the right to terminate this Agreement for non-appropriation of funding, as stated herein, with a minimum of thirty (30) days' written notice to the Contract Attorney and such termination shall not be deemed a breach or default under this Agreement.

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C. Legal Holidays. If any date herein set forth for the performance of any obligations by County or Contract Attorney or for the delivery of any instrument or notice as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery shall be deemed acceptable on the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "*legal holiday*" means any federal holiday for which financial institutions or post offices are generally closed for observance thereof and any county or state holiday recognized by Montgomery County, Texas.

D. Notices. All notices shall be in writing and delivered by certified mail, return receipt requested, or by hand-delivery with written receipt, to the following address:

To Contract Attorney:           Ronnie Yeates  
  223 Simonton Street  
  Conroe, Texas 77301  
  Telephone: 832-529-1000  
  Email: ronnie@ronnieyeates.com

To the County:                   Office of Court Administration  
  Attn: Chad Peace, Director  
  301 N. Main, Suite 304  
  Conroe, Texas 77301  
  Telephone: (936) 538-8173  
  Email: Chad.Peace@mctx.org

All notices shall be deemed given upon deposit in the United States mail or upon receipt of hand-delivery. Either party may designate a different address by giving the other party ten (10) days written notice.

E. Entire Agreement. This Agreement contains the entire agreement between the County and Contract Attorney parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and executed by both parties.

F. Venue. This Agreement shall be governed by the laws of the State of Texas. Venue for any claims arising out of or related to this Agreement shall be in a court of competent jurisdiction in Montgomery County, Texas.

G. Invalid provisions. If any provision of this Agreement shall be deemed void, illegal, or otherwise unenforceable for any reason, such provision shall be severed from the remainder of the Agreement, which shall remain in full force and effect.

H. County has not, and shall not be deemed to have, waived any immunity, defense or liability cap available to it by law, under any aspect of this Agreement.

Signed on the dates shown below to be effective on October 1, 2021 (the "Effective Date").

CONTRACT ATTORNEY

MONTGOMERY COUNTY, TEXAS

Signed on 8/16, 2021.

By:

  
MARK J. KEOUGH, COUNTY JUDGE

Signed on Sept 14, 2021.