

# PERSONAL SERVICES AGREEMENT

**THIS AGREEMENT** is made and entered by and between COLLIN COUNTY, TEXAS, a political subdivision of the State of Texas, hereinafter referred to as “County”, and Alyse Ferguson, hereinafter referred to as “Attorney”, to be effective from and after the date as provided herein.

## WITNESSETH:

**WHEREAS**, the County desires to engage the services of an Attorney to establish and manage the Collin County Mental Health Managed Counsel (MHMC) office and any other services in connection with the Collin County Mental Health Managed Counsel (MHMC) office, hereinafter referred to as the “Project”; and

**WHEREAS**, the County received a grant from the Texas Indigent Defense Commission (TIDC) for the purpose of establishing the Collin County Mental Health Managed Counsel (MHMC) program; and

**WHEREAS**, the Attorney desires to render such services for the County upon the terms and conditions provided herein.

## NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of the covenants contained herein, and for the mutual benefits to be obtained hereby, the parties hereto agree as follows:

### I. Employment of the Attorney

The County hereby agrees to retain the Attorney to perform services in connection with the Project; Attorney agrees to perform such services in accordance with the terms and conditions of this Agreement, exercising the same degree of care, skill, and diligence as is ordinarily possessed and exercised by a member of the same profession, currently practicing, under similar circumstances.

### II. Scope of Services

2.1 The parties agree that Attorney shall perform such services as are set forth herein and described in Exhibit “A”, which is attached hereto and thereby made a part of this Agreement. Work for each year shall be preceded by a Purchase Order issued by County. The parties understand and agree that deviations or modifications in the form of written amendments may be authorized from time to time by the County.

2.2 The Attorney shall advise the County with regard to the necessity for subcontract work to be performed hereunder.

### III. Schedule of Services

3.1 The Attorney agrees to commence its services immediately upon execution of this Agreement, or as otherwise directed in writing by the County, and to proceed diligently with said services to completion

as described in the Schedule attached hereto as Exhibit “B” and thereby made a part of this Agreement. Attorney shall not be considered in default of this Agreement for delays in performance caused by circumstances beyond its reasonable control. Should such circumstances occur, the Attorney shall, within a reasonable time of being prevented from performing, give written notice to the County describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

#### **IV. Compensation and Method of Payment**

The parties agree that Attorney shall be compensated for all services provided pursuant to this Agreement in the amount and manner described and set forth in the Payment Schedule attached hereto as Exhibit “C” and thereby made a part of this Agreement. Payment will be made in accordance with The Texas Government Code, Title 10, Subtitle F, Chapter 2251.

#### **V. Information to be provided by the County**

5.1 The County agrees to furnish to Attorney, prior to the Attorney’s commencement of its services, all that information set forth and described on Exhibit “D”, which is attached hereto and thereby made a part of this Agreement.

5.2 The County will make its facilities accessible to the Attorney as required for the Attorney’s performance of its services. The Attorney represents that it understands the scope of this Agreement and has reviewed and inspected the site, and can fully perform its obligations pursuant to this Agreement. Any failure of the Attorney to acquaint itself with the available information will not relieve the Attorney from its responsibilities pursuant to this Agreement.

#### **VI. Progress Meetings**

Attorney agrees to attend all regularly scheduled meetings with Oversight Board and other meetings as may be required, related to the “Project” and scheduled by County. Attorney shall, at such meetings, outline work accomplished and special problems encountered in connection with the Project during the previous report period, as well as planned work activities and special problems anticipated for the next report period.

#### **VII. Insurance**

Attorney agrees to meet all insurance requirements as set forth on Exhibit “E” which is attached hereto and thereby made a part of this Agreement.

#### **VIII. Indemnity**

The Attorney agrees to the fullest extent permitted by law, to indemnify and hold harmless the County and its officers, agents and employees of and from damages, injuries (including death), claims, property damages (including loss of use), losses, demands, suits, judgments and costs, including reasonable attorney’s fees and expenses, arising out of or occasioned by Attorney’s breach of any of the terms or provisions of this Agreement, or by any other negligent act, error or omission of the Attorney, its agents, servants, employees, subcontractors, licensees, invitees, or any other persons or entities for whose acts the Attorney is legally liable.

**IX. Independent Contractor**

In the performance of services hereunder, the Attorney shall be deemed an independent contractor and shall not, with respect to its acts or omissions, be deemed an agent, subcontractor or employee of the County.

**X. Assignment and Subletting**

The Attorney agrees that neither this Agreement nor the services to be performed hereunder will be assigned or sublet without the prior written consent of the County. The Attorney further agrees that the assignment or subletting of any portion or feature of the services required in the performance of this Agreement shall not relieve the Attorney from its full obligations to the County as provided by this Agreement.

**XI. Audits and Records/Prohibited Interest**

11.1 The Attorney agrees that at any time during normal business hours, and as often as County may deem necessary, Attorney shall make available to representatives of the County for examination all of its records with respect to all matters covered by this Agreement, and will permit such representatives of the County to audit, examine, copy and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement, all for a period of one (1) year from the date of final settlement of this Agreement or of such other or longer period, if any, as may be required by applicable statute or other lawful requirements.

11.2 The Attorney acknowledges to the County that it has made full disclosure in writing of any existing conflicts of interest or potential conflicts of interest with the County.

**XII. Contract Termination**

The parties agree that County shall have the right to terminate this Agreement without cause upon thirty (30) days written notice to Attorney. In the event of such termination without cause, Attorney shall deliver to County all finished or unfinished documents, data, studies, surveys, drawings, maps, models, reports, photographs or other items prepared by Attorney in connection with this Agreement. Attorney shall have the right to terminate this Agreement upon thirty (30) days written notice to County in the event of the County's breach of any material term of this Agreement, including but not limited to compensation and method of payment. Regardless of which party initiates termination, Attorney shall be entitled to compensation for any and all services completed to the satisfaction of County in accordance with the provisions of this Agreement prior to termination.

**XIII. Complete Contract**

13.1 This Agreement, including the exhibits hereto numbered "A" through "E", constitute the entire agreement by and between the parties regarding the subject matter hereof and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified or canceled by a duly executed written instrument, signed by the County and the Attorney.

13.2 Warranties contained in this Agreement are in addition to and not in lieu of, any and all other liability imposed upon the Attorney by law with respect to the Attorney's duties, obligations, and performance hereunder. The Attorney's liability hereunder shall survive the County's final acceptance and payment for the Project. All representations and warranties set forth in this Agreement, including without limitation, this paragraph, shall survive the final completion of the Work or earlier termination of this Agreement. The Attorney acknowledges that the County is relying upon the Attorney's skill and experience in performing the services pursuant to this Agreement.

#### **XIV. Mailing of Notices**

Unless instructed otherwise in writing, Attorney agrees that all notices or communications to the County permitted or required under this Agreement shall be addressed to the County at the following address:

Collin County  
Attn: Purchasing Department  
2300 Bloomdale, Suite 3160  
McKinney, TX 75071

County agrees that all notices or communications to Attorney permitted or required under this Agreement shall be addressed to Attorney at the following address:

Alyse Ferguson  
3900 Tumbriil  
Plano, TX 75023

All notices or communications required to be given in writing by one party or the other shall be considered as having been given to the date such notice or communication is posted by the sending party.

#### **XV. Miscellaneous**

##### **A. Paragraph Headings**

The paragraph headings contained herein are for convenience only and are not intended to define or limit the scope of any provision in this Agreement.

##### **B. Interpret Contract Fairly**

Although this Agreement is drafted by County, should any part be in dispute, the parties agree that the Agreement shall not be construed more favorable for either party.

##### **C. Venue/Governing Law**

The parties agree that the laws of the State of Texas shall govern this Agreement, and that it is performable in Collin County, Texas. The venue for any litigation related to this Agreement shall be in Collin County, Texas.

**D. Parties Bound**

County and Attorney, and their partners, successors, subcontractors, executors, legal representatives, and administrators are hereby bound to the terms and conditions of this Agreement.

**E. Severability**

In the event a term, condition, or provision of this Agreement is determined to be void, unenforceable, or unlawful by a court of competent jurisdiction, then that term, condition, or provision shall be deleted and the remainder of the Agreement shall remain in full force and effect.

**F. Effective Date**

This Agreement shall be effective on November 15, 2012.

**G. Term of Agreement**

The term of this Agreement shall conform to the schedule as stipulated in Exhibit "B" attached herein. No other extension shall be authorized unless granted by written agreement between the County and Attorney.

**H. Observe and Comply**

Attorney shall at all times observe and comply with all federal and State laws and regulations and with all City ordinances and regulations which in any way affect this Agreement and the work hereunder, and shall observe and comply with all orders, laws, ordinances and regulations which may exist or may be enacted later by governing bodies having jurisdiction or authority for such enactment. No plea of misunderstanding or ignorance thereof shall be considered. Attorney agrees to defend, indemnify and hold harmless County and all of its officers, agents, and employees from and against all claims or liability arising out of the violation of any such order, law, ordinance, or regulation, whether it be by itself or its employees.

**I. Financial Interest in any Contract by Owner's Officers, Employees or Agents**

No officer, employee or agent of the OWNER shall have a financial interest, direct or indirect, in any contract with the OWNER or be financially interested, directly or indirectly, in the sale to the OWNER of any land, materials, supplies or services, except on behalf of the OWNER as an officer or employee. Any willful violation of this article shall constitute malfeasance in office, and any officer or employee guilty thereof shall thereby forfeit his office or position. Any violation of this article with the knowledge, expressed or implied, of the persons, partnership, company, firm, association or corporation contracting with the OWNER shall render the contract involved voidable by the OWNER.

**WITNESS OUR HANDS AND SEALS** on the date indicated below.

COLLIN COUNTY, TEXAS

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

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

Michalyn Rains, CPPO, CPPB  
Purchasing Agent

Court Order No. \_\_\_\_\_

ALYSE FERGUSON

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

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

Title: \_\_\_\_\_

**ACKNOWLEDGMENT**

**STATE OF TEXAS**            }  
  }  
**COUNTY OF \_\_\_\_\_**    }

**BEFORE ME,** \_\_\_\_\_ on this day personally appeared \_\_\_\_\_, of \_\_\_\_\_, a \_\_\_\_\_ Corporation, known to me (or proved to me on the oath of \_\_\_\_\_ or through \_\_\_\_\_ (description of identity card or other document) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same as the act and deed of the corporation, for the purposes and consideration therein expressed and in the capacity therein stated.

**GIVEN UNDER MY HAND AND SEAL OF OFFICE,** this the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Notary Public, State of Texas

\_\_\_\_\_  
Printed Name

My Commission expires on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**STATE OF TEXAS**            }  
  }  
**COUNTY OF COLLIN**        }

**BEFORE ME,** \_\_\_\_\_ on this day personally appeared Michalyn Rains, CPPO, CPPB, Purchasing Agent of COLLIN COUNTY, TEXAS, a political subdivision of the State of Texas, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same as the act and deed of COLLIN COUNTY, TEXAS, for the purposes and consideration therein expressed and in the capacity therein stated.

**GIVEN UNDER MY HAND AND SEAL OF OFFICE,** this the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Notary Public, State of Texas

\_\_\_\_\_  
Printed Name

My Commission expires on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

## **EXHIBIT “A”**

### **SCOPE OF SERVICES**

Scope of Work: Scope of Work: The Program Director/Managing Attorney shall perform the following duties.

1. Establish a Plan of Operation for the program.
2. Develop a scope of work for the County to contract with the following staff, who will be supervised by the Program Director/Managing Attorney (include job descriptions for all positions as well as that for the managing attorney):
  - 2.1 Social worker(s)/case worker(s) to provide case management and mental health services for defendants, including referrals for mental health and/or substance abuse treatment and assistance with housing, education and employment.
  - 2.2 Administrative assistant to provide support services in administering/documenting the program and the managed assigned counsel panel activities.
3. Collaborating with jail staff to ensure access to clients, both for mental health in-jail services and for video conferencing with attorneys.
4. Collaborating with mental health service providers concerning field case work.
5. Developing criteria and caseload standards for private attorneys to serve as attorneys of record for those individuals who qualify for services under the Fair Defense Act (caseload standards must use standards used by other Texas counties and/or other state and nationally-recognized standards).
6. Managing a “MHMC attorney wheel” for the selected attorneys (6-10 attorneys)
7. Providing/coordinating training to the selected attorneys and other interested attorneys.
8. Collaborating with Collin County mental health provider(s) to develop a curriculum for training attorneys.
9. Developing a timeline for disposition by case type and monitoring attorneys’ time in accordance with the model timeline in order to approve compensation.
10. Monitoring job performance and conducting evaluations based on developed criteria for the selected attorneys and staff.
11. Monitoring the caseloads of selected attorneys.
12. Reviewing billing from the selected attorneys to be paid by Collin County through established procedures and before being submitted to judges for payment.
13. Providing progress and expenditure reports to the Oversight Board appointed by the Board of Judges, to the Commissioners’ Court and to the Task Force on Indigent Defense.
14. Ensuring that client-privileged communications are maintained.
15. Providing statistical information as required.

16. Creating a policy manual, mental health resource guide and other documents and forms recommended by the oversight board or Board of Judges.
17. Developing a budget including overhead costs (Collin County will provide adequate office space for MHMC program staff).
18. In addition, a proposal should reasonably demonstrate how the proponent will provide adequate quality representation for indigent defendants.

**Special Considerations:**

19. Prior to receiving funds from the County for this project, the Program Director/Managing Attorney must agree to abide by any indigent defense plans developed under Government Code 71.0351 and Chapter 51 of the Family Code promulgated by the Judges hearing criminal or juvenile matters, contractual agreements or grant award conditions approved by Commissioners' Court.
20. The Collin County MHMC office may be abolished at any time by the Collin County Commissioners' Court.
21. The request for proposal and any resulting contract shall be implemented in accordance with Code of Criminal Procedure Chapter 26.
22. The Program Director/Managing Attorney will not be representing clients.
23. The Program Director/Managing Attorney will not enter into Attorney/Client privilege under the scope of this agreement.
24. Any travel associated with this project will not be reimbursed.

**Equipment:**

24. County will provide the following equipment as necessary:
  - 24.1 Computer, necessary software, peripherals
  - 24.2 Printer, Scanner, Copier, fax machine
  - 24.3 Desk, chairs, File Cabinets
  - 24.4 Office Phone
  - 25.5 Office Supplies

**EXHIBIT "B"**

SCHEDULE

Term of Agreement will begin on November 15, 2012 through September 30, 2013. This contract may be extended for additional one (1) year periods, with a contract amendment executed by both parties upon approval by Commissioners' Court and continuation of grant funding.

**EXHIBIT "C"**

**PAYMENT SCHEDULE**

Invoices will be transmitted to the County on a bi-weekly basis in the amount of \$4,513.08.

**EXHIBIT “D”**

**INFORMATION TO BE PROVIDED BY THE COUNTY**

The County will make available to Attorney any and all information, data, etc. as it may have in its possession relating to the project described herein.

## EXHIBIT "E"

### INSURANCE REQUIREMENTS

#### INSURANCE REQUIREMENTS

1.0 Before commencing work, the vendor shall be required, at its own expense, to furnish the Collin County Purchasing Agent with certified copies of all insurance certificate(s) required by Texas Law indicating the coverage is to remain in force throughout the term of this contract. In addition to any coverage required by Texas Law, the vendor shall provide the following coverages.

1.1 Broad Form Commercial General Liability insurance at minimum combined single limits of (\$500,000 per-occurrence and \$1,000,000 general aggregate) for bodily injury and property damage, which coverage shall include products/completed operations, independent contractors, and contractual liability each at \$500,000 per occurrence. Coverage must be written on an occurrence form.

1.2 Personal Automobile Liability insurance shall be no less than \$500,000 combined single limits per accident for bodily injury and property damage, including owned, non-owned, and hired vehicle coverage.

1.3 Professional Liability Insurance at minimum limits of \$500,000 per occurrence and \$1,000,000 general aggregate. This policy must have a two (2) year extended period of coverage, (i.e. tail coverage). If you choose to have project coverage endorsed onto your base policy, this would be acceptable.

2.0 The required limits may be satisfied by any combination of primary, excess or umbrella liability insurances, provided the primary policy complies with the above requirements and the excess umbrella is following form. The vendor may maintain reasonable and customary deductibles, subject to approval by Collin County.

3.0 With reference to the foregoing insurance requirement, the vendor shall endorse applicable insurance policies as follows:

3.1 The vendor's insurance coverage shall name Collin County as additional insured under the General Liability policy.

3.3 All insurance policies shall be endorsed to require the insurer to immediately notify Collin County of any decrease in the insurance coverage limits.

3.4 All insurance policies shall be endorsed to the effect that Collin County will receive at least thirty (30) days notice prior to cancellation, non-renewal or termination of the policy.

3.5 All copies of Certificates of Insurance shall reference the project/contract number.

4.0 All insurance shall be purchased from an insurance company that meets the following requirements:

4.1 A financial rating of B+VII or better as assigned by the BEST Rating Company or equivalent.

5.0 Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent, and shall contain provisions representing and warranting the following:

5.1 Sets forth all endorsements and insurance coverages according to requirements and instructions contained herein.

5.2 Sets forth the notice of cancellation or termination to Collin County.

**RELEASE AND WAIVER AGREEMENT**

STATE OF TEXAS                    )  
  )  
COUNTY OF COLLIN    )

KNOW ALL MEN BY THESE PRESENTS:

1.       That I, \_\_\_\_\_(hereinafter the "Undersigned") for and in consideration of being allowed (myself and employees) to work on-site in a Collin County facility, the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, do hereby freely, irrevocably, fully and completely waive any and all claims, debts, demands, actions, causes of action, lawsuits, sums of money, contracts, agreements, judgments and liabilities, that the Undersigned and/or their respective heirs, assigns, personal administrators, personal representatives, and next of kin, have, or which may hereafter accrue against Collin County and all their agents, attorneys, employees, officers and elected or appointed representatives and all other persons, firms, organizations, or corporations in privity therewith, whether named herein or not (hereinafter the "Released Parties"), growing out of or in any way related to or accrued as a consequence of working at or in a Collin County facility.

2.       In consideration of being allowed to work in a Collin County Facility the Undersigned identified below, acknowledges, appreciates, and agrees that this can create a risk of injury, and the Undersigned knowingly and freely assumes all such risks, both known and unknown, even if arising from the negligence of others, including claims arising out of the negligence of Collin County, and all their agents, attorneys, employees, officers and elected or appointed representatives and all other persons, firms, organizations, or corporations in privity therewith, whether named herein or not.

3.       The Undersigned further represents and warrants they have carefully read the foregoing RELEASE AND WAIVER AGREEMENT, know and understand the contents hereof completely, that they agree to all terms herein, and signs the same as their own free will, act and deed.

Witness my hand this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
**Contractor**