

PROFESSIONAL SERVICES AGREEMENT

BETWEEN THE

**LEGAL DEFENDERS OFFICE OF
SUMMIT COUNTY, OHIO, INC.**

AND

**THE SUMMIT COUNTY
PUBLIC DEFENDER COMMISSION**

AND

THE COUNTY OF SUMMIT, OHIO

2025

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Professional Services Agreement

This Professional Services Agreement (“Agreement”) is entered into effective as of the last date of signature below, between the Summit County Public Defender Commission (“Commission”), as provided in Section 120.14(F) of the Ohio Revised Code and as authorized by the County of Summit, Ohio (“County”) and the Legal Defenders Office of Summit County, Ohio, Inc. (“Company”), an Ohio nonprofit corporation, with its principal place of business at 1 Cascade Plaza, Suite 1940, Akron, Ohio 44308.

INTRODUCTION

- A. The Commission desires to engage the Company to provide legal defender services to eligible persons, and Company agrees to provide the professional services, on the terms and conditions below.
- B. The Board of Control of the County, by Directive No. ___ has approved the procurement of these defender services from Company by the Commission from January 1, 2025, through December 31, 2025, in an amount not to exceed \$5,260,780.00.
- C. The Council of the County, by Resolution No. _____ has approved the procurement of these defender services from Company by the Commission from January 1, 2025, through December 31, 2025, in an amount not to exceed \$5,260,780.00.

In consideration of the mutual covenants contained in this Agreement, the Commission and Company agree as follows:

AGREEMENT

SECTION 1: SERVICES

Engagement. The Commission engages and authorizes Company to, and Company will provide the Commission with the following professional services:

- A. **Definitions.** The follow definitions shall govern the interpretation of this Agreement:
 - 1. **Case:** A “case” means one defendant and one transaction alleged in one charging instrument involving a violation or violations of the Ohio Revised Code, a Municipal Ordinance or the Codified Ordinances of the County of Summit, including, but not limited to, charges of a violation of community control pursuant to Chapter 2929, criminal contempt of court or probation

violation even though an attorney from Company may not have acted as counsel during the original disposition out of which the charge of violation of community control or criminal contempt of court or probation violation arises.

2. Court: Company will provide services to any Eligible Person, with the exceptions contained herein, in any of the Municipal Courts located within Summit County as well as the Juvenile Division of the Court of Common Pleas, the Ninth District Court of Appeals. Company may also handle child support contempt matters in the Domestic Division of the Common Pleas Court and other matters in the General and Probate Division of the Common Pleas Court at the discretion of the Director upon discussion with the County.
3. Defender Services: “Defender Services” means personal legal services provided by an attorney or an intern, certified under the rules of the Supreme Court of the State of Ohio, in the representation of a client and includes investigator, social worker and secretarial services. These services include but are not limited to representation at: police questioning for investigations, traffic offenses for which the penalty includes potential loss of liberty or incarceration, initial appearance of Eligible Persons for whom a criminal complaint alleging a felony violation has been filed prior to being bound over to Common Pleas Court, as well as arraignment, pretrial, motion hearing, trial and appellate proceedings to all Eligible Persons charged with misdemeanor violations of the Ohio Revised Code, Municipal Ordinances or the Codified Ordinances of the County of Summit, provided that a municipal code contract has been entered into. Defender Services includes parent representation in Juvenile Division of Common Pleas Court for abuse, dependency and neglect matters and may include child support contempt hearings in Domestic Relations Court and other matters in the Probate and General Division of Common Pleas Court in the discretion of the Director and upon agreement with the County. These services are provided to Eligible Persons.
4. Eligible Persons: “Eligible Persons” means an individual who is determined to be unable to provide for the payment of an attorney and all other necessary expenses of representation as determined in accordance with Sections 120.05 and 120.15 of the Ohio Revised Code and Section 120-1-03 of the Ohio Administrative Code as approved by the Company.
5. Attorney: “Attorney” means an individual who is a licensed attorney who is registered with the Ohio Supreme Court, who is in good standing, and who is compliant with all Continuing Legal Education requirements, and, who while employed by Company, meets all required professional ethical obligations in their representation of Eligible Persons. All Attorneys

employed by Company as full-time employees shall be engaged full time and shall be prohibited from engaging in any other legal work during Company business hours.

6. Intern: “Intern” means an individual who qualifies as an intern pursuant to Rule II of the Ohio Supreme Court Rules for the Government of the Bar, who has obtained the necessary Legal Intern Certificate from the Ohio Supreme Court.

B. Scope. Company shall provide Defender Services to Eligible Persons as follows:

1. Juvenile Division of the County of Summit Court of Common Pleas:
 - a. Delinquency: Company shall provide Defender Services to Eligible Persons charged with delinquency violations. Company agrees to provide at least three (3) full-time attorneys and one part-time attorney in the Juvenile Division of the Court of Common Pleas to provide necessary defender services to eligible persons charged with delinquency violations. Company shall provide services for detention hearings, including juvenile interviews prior to the first hearing and requesting release or alternative programs.
 - b. Abuse, Dependency and Neglect: Company shall provide Defender Services to Eligible Persons that are parties to cases alleging abuse, dependency and neglect under the Ohio Revised Code. The Company agrees to provide three (3) attorneys in the Juvenile Division of the Court of Common Pleas to provide these services.
 - c. Attorneys assigned to Juvenile Court shall be available from 8:00 am until 4:00 p.m. or as required by the presiding judge to meet the requirements of representation.
2. Akron Municipal Court, the Barberton Municipal Court, the Stow Municipal Court and the Cuyahoga Falls Mayor’s Court: Company shall provide Defender Services to Eligible Persons. Company shall provide at least six full time attorneys to Akron Municipal Court, one full and one part time attorney to Barberton Municipal Court and one full and one part time attorney to Stow Municipal Court. All three courts shall have access to a supervising attorney at a presiding judge’s request.
 - a. The Company will ensure that staffing levels are sufficient to provide representation for all municipal courts on each day court is in session. Those attorneys shall be available to be present in court from 8:00 am until 4:00 pm and those attorneys who are assigned to participate in arraignments may be required to appear by 7:30 am on weekdays as well as appearances on Saturday mornings for those arraignments. These hours are subject to change if the presiding or administrative judge in each court adjusts the respective court’s schedule with prior notice to the Company.

To ensure that the various municipalities bear their proportionate financial share of the cost of operations, County and Commission agree to enter into contracts with the Cities of: (1) Akron, Ohio; (2) Barberton, Ohio; (3) Cuyahoga Falls, Ohio; (4) Fairlawn, Ohio; (5) Green, Ohio; (6) Hudson, Ohio; (7) Macedonia, Ohio; (8) Munroe Falls, Ohio; (9) New Franklin, Ohio; (10) Norton, Ohio; (11) Stow, Ohio; (12) Tallmadge, Ohio; and (13) Twinsburg, Ohio; and the Villages of: (1) Boston Heights, Ohio; (2) Lakemore, Ohio; (3) Mogadore, Ohio; (4) Northfield, Ohio; (5) Peninsula, Ohio; (6) Reminderville, Ohio; (7) Richfield, Ohio; and (8) Silver Lake, Ohio; and Company further agrees to perform the same duties and responsibilities for all indigent persons charged with a violation of a municipal code ordinance under the same terms and conditions as set forth herein. However, if the Company is unable to enter into contracts with these Cities, after good faith efforts have been made, it shall not be construed as a breach of this Contract.

- b. The parties contemplate that the Company will request that the City of Akron contribute the sum of \$..... All other municipalities will be charged a sum of approximately \$50.60 per case (22% of \$230.00). This rate may be amended from time to time pursuant to Section 3(A), Compensation, below.
 - 3. Ninth District Court of Appeals: Company shall provide Defender Services to Eligible Persons who appeal actions taken in any of the courts set forth above when the Company provided representation in the courts set forth above unless the Company believes it is in the best interest of the Eligible Person to have private counsel appointed.
 - 4. All staffing levels set forth above are based upon current caseloads in the specific Court. In the event of a material change in the caseloads in a specific Court, Company will provide written notice to the County of the necessity of altering the existing staffing levels. Within thirty days of such notice, County and Company will determine whether an adjustment in staffing is appropriate and necessary.
- C. **Declination of Services.** Company, on behalf of its attorneys and each attorney employed by Company individually, reserves the right to decline to advise or represent any particular person, including an Eligible Person consistent with the Ohio Rules of Professional Conduct. The Company further reserves the right to withdraw from representation for a conflict of interest consistent with the Ohio Rules of Professional Conduct. Further, Company reserves the right to withdraw from representation due to a finding of the client's financial ineligibility for the legal services, or due to an excessive workload as determined by Section 120-1-07 of the Ohio Administrative Code. However, in the event Company desires to

Commented [CS1]: I do not know the specifics of this agreement with Akron.

withdraw due to financial ineligibility or excessive workload, the Company or attorney shall continue representation previously commenced at the trial court level through all trial court proceedings, including capias and probation violation proceedings, and shall continue previously taken appeals until the appeals process is terminated by a final action on the merits by the appellate court or until alternate counsel is obtained. In the event that Company or any of its attorneys individually declines to advise or represent, or withdraws from representation of a person, Company shall provide assistance in obtaining alternative counsel.

- D. Compliance.** The parties agree that Company shall comply with all applicable case law, court rulings, statutes and regulations related to the counsel and the rights of defendants in criminal cases, all rules, regulations and standards set forth by the State of Ohio Public Defender Commission under Chapter 120 of the Ohio Revised Code and the Ohio Administrative Code, and all provisions of the Ohio Rules Professional Conduct. The parties further agree that counsel shall be available to Eligible Persons at all phases of their case, to provide Defender Services.
- E. Duties of the Summit County Legal Defender.** Company agrees to carry out the duties and responsibilities set forth in Section 120.15 of the Ohio Revised Code and Chapter 120-1 of the Ohio Administrative Code and such other necessary duties and responsibilities as follows:
1. Maintain an office of sufficient size to house all staff of the Legal Defender Office, approved by the Commission, provide any necessary on-line legal research services, considering the needs of the office and the accessibility of other libraries, and other necessary facilities and equipment;
 2. Keep and maintain financial records of all cases handled and develop records for use in the calculation of direct and indirect costs in the operation of the office and report monthly pursuant to the rules of the Ohio Public Defender Commission to the Commission, to the County of Summit and to the Ohio Public Defender Commission on all relevant data on the operations of the office, costs, projected needs, and recommendations for legislation or amendments to court rules, as may be appropriate to improve the criminal justice system. The Ohio Public Defender Commission case reporting and management information system shall be used to provide Company, the Commission and the Ohio Public Defender Commission with caseload and financial information sufficient to ensure compliance with the Ohio Public Defender Commission's Rules, Chapter 120 of the Ohio Revised Code and the Ohio Public Defender standards and guidelines;
 3. Employ support staff and provide funds for investigators and other experts, with the option to request court funding when necessary, to provide competent legal representation, at a rate commensurate with their training, experience and responsibilities.

4. Determine indigency of persons, subject to review by the court, in the same manner as provided in Section 120.15 of the Ohio Revised Code. The determination by a Court that a person is indigent may be relied upon by the Company as proof of indigency. Each monthly report submitted to the County of Summit and the Ohio Public Defender Commission's Office shall include a certification by Company that all persons provided representation by Company during the month covered by the report were indigent under the standards of the Ohio Public Defender Commission. The Company shall maintain a copy of any executed Affidavit of Indigency within each client file as well as maintaining documentation establishing when a person may have ceased to be indigent;
 5. Furnish the Commission and the County with an annual financial audit performed by a certified public accountant. Copies of the annual financial audit shall be forwarded to the Ohio Public Defender Commission as part of the annual report submitted pursuant to Section 120.14 and 120.24 of the Ohio Revised Code;
 6. Apply for and include in its monthly operating expense and caseload report the cost allocation amount as allowed by the Ohio Public Defender's Office in order to assist the County of Summit in obtaining its proportionate share of reimbursement as permitted by the Ohio Public Defender Commission;
 7. If requested by the County Executive, sign off on the necessity for the appointment of private counsel that has submitted a fee application on a case to which the Company's employees are contracted to appear under the terms of this agreement.
- F. **Malpractice Insurance.** The parties agree that Company shall have in effect during the term of this Agreement legal malpractice insurance covering its employees in an amount not less than One Million Dollars (\$1,000,000.00).
- G. **Subcontracting.** This Agreement is a contract for services to be performed personally by one or more employees of Company. Company may contract with private counsel in the event a conflict of interest arises, or other circumstance, creating an inability to provide representation. Company shall be permitted to retain the services of additional attorneys. However, in retaining such counsel, if it appears that Company will exceed its budget causing it to request additional funds from the County, Company shall request prior approval of the County. County will be required to follow the mandates of County of Summit Cod. Ord. Chapter 177 in providing such additional funds. Company may subcontract or delegate performance of Services to other persons, but no subcontract which exceeds seventy-five thousand dollars (\$75,000.00) shall be permitted except with prior approval of County Council in accordance with Section 177.07(d) of the Codified Ordinances of the County of

Summit. If attorneys are subcontracted by Company, such attorneys will devote the time necessary to provide effective representation to the indigent clients, as required by Section 120-1-12(E)(5) of the Ohio Administrative Code.

- H. **Independent Contractor.** Company will perform Services under this Agreement as an independent contractor. Company's employees will not be considered to be employees of the County. Company will be responsible for the payment of all federal, state, and local taxes arising out of Company's performance of the professional services under this Agreement. Company acknowledges that all employees of Company are not "public employees" for the purpose of membership in the Ohio Public Employees Retirement System. Company shall inform all its employees who do any work under this Agreement that they are not "Public Employees" for the purpose of membership in the Ohio Public Employees Retirement System. If Company has 4 or less employees, all employees must complete the "OPERS Independent Contractor Acknowledgement" ("PEDACKN") referencing the Company name under theirs, and return the PEDACKN form to the County and deliver a copy to the Ohio Public Employees Retirement System.

SECTION 2: TERM

The term of this Agreement will commence on January 1, 2025 and continue until December 31, 2025, unless the Commission terminates this Agreement earlier under Section 6.1 below. There will be no modification of this term without the express, written consent of the County.

SECTION 3: COMPENSATION

- A. **Compensation.** In consideration for the professional services satisfactorily provided by Company, the Commission, through the County of Summit, shall pay Company an amount not to exceed \$5,260,780.00, 100% of which shall be paid upon the approval and signature of this Agreement by the Ohio Public Defender and the return of the fully executed Agreement to the Commission. On behalf of the Commission, Company shall assume all responsibility for the collection and disbursement of funds under the terms and conditions of this Agreement. County shall collect all sums due from the municipalities stated in Section. The Company shall provide the County a list of sums to be paid by the municipalities to the County monthly.
- B. **Extraordinary Fees or Expenses.** Company may request extraordinary fees or expenses, including but not limited to court costs, witness fees, costs for transcripts and expert witness fees. If it the requests for extraordinary fees or costs will cause Company to exceed its budget resulting in a request for additional funds from the County, Company shall be submit a request to the County, prior to incurring the expense. The County will be required to comply with the mandates of Chapter 177

of the Codified Ordinances in approving such requests.

- C. **Sole Consideration.** Company acknowledges and agrees that it is not entitled to any compensation, commissions, bonuses, benefits, reimbursement, leave, severance or termination pay, cancellation fees, or other consideration under this Agreement or for services rendered, except as expressly provided in this Section 3.

SECTION 4: COMPANY WARRANTIES

- A. **Independent, Licensed Business.** Company represents and warrants that it:
 - 1. is a separate, independent, licensed business entity; and
 - 2. employs only attorneys that are duly licensed and authorized to perform the professional services under this Agreement.
- B. **Standards.** Company represents and warrants that it will perform professional services in accordance with the highest ethical and professional standards and any general standards of its industry and all on-site rules, security procedures, and other standards specified by the Commission, the County, the Ohio Public Defender Commission and the Rules of the Ohio Supreme Court for the Government of the Bar.
- C. **Employees.** Company, by and through its funding as provided for in Section 3 “Compensation” and pursuant to Section 120-1-12(E)(7) of the Ohio Administrative Code, shall compensate its employees, subcontractors, and retained experts at rates commensurate with their training, experience, and responsibilities, and compensation paid to persons doing similar work in the State of Ohio. Company agrees to provide appropriate and relevant training for all employees. Company will obtain Continuing Legal Education (“CLE’s”) for attorneys and Continuing Education Units for any Licensed Social Worker(s) who are part of the professional staff of Company. Company will provide other continuing education requirements necessary to maintain all relevant professional licenses. Company agrees to utilize in-house service training, utilizing local agencies as available and applicable. Company further agrees to provide training through scholarships to available CLE’s with the Ohio Association of Criminal Defense Lawyers and other reputable organizations. Company agrees to furnish training by virtue of reserving an adequate amount for payment on behalf of its attorneys to obtain training for performing its duties. Company represents and warrants that all employees of Company are properly trained, licensed, sufficiently experienced and capable of performing the professional services assigned them. All attorneys shall meet the relevant requirements established in Section 120-1-10 of the Ohio Administrative Code and said compensation for training will be provided by the Company. Company acknowledges those attorneys assigned to Courts in the County shall maintain professionalism standards and representation standards commensurate or exceeding those established by the Supreme Court and the balance of the legal profession in the County.

SECTION 5: REPORTS AND RECORDS

- A. **Maintenance of Records and Reports.** Company must maintain and provide to County upon demand the following records and reports:
1. Accounting and fiscal records adequate to enable County, through its Internal Audit Department or the State of Ohio or any duly-appointed law enforcement agency to audit and otherwise verify that funds provided under this Agreement are used for the purpose stated in this Agreement; and
 2. Other records and reports as required by County to enable County to comply with local, state and federal statutes and regulations.
- B. **Retention of Records.** Company must maintain all records related to this Agreement in paper form or any other media which includes but is not limited to, digital documents, discs, CD's, and other forms that are accepted forms of retaining records for at least three (3) years.

SECTION 6: EQUAL OPPORTUNITY EMPLOYMENT/NON-DISCRIMINATION

- A. **Non-Discrimination.** Company agrees that in the hiring of employees for the performance of work under this Agreement, the Company, its subcontractors, or any person acting on a Company's or its subcontractor's behalf, shall not discriminate against any citizen of the State of Ohio in the employment of a person qualified and available to perform the work to which the employment relates by reason of race, creed, sex, disability, military status as defined in section 4112.01 of the Ohio Revised Code, color, gender identity and sexual orientation as defined in Section 101.02 of the Codified Ordinances of the County of Summit. Company further agrees that Company, its subcontractors, or any person on Company's or its subcontractor's behalf, shall not discriminate in any manner, against or intimidate any employee hired for the performance of work under this Agreement on account of race, creed, sex, disability, military status as defined in section 4112.01 of the Ohio Revised Code, color, gender identity or sexual orientation as defined in Section 101.02 of the Codified Ordinances of the County of Summit. Company agrees to comply with all applicable federal, state and local laws, orders, rules, and regulations regarding equal employment opportunity.
- B. **B. Equal Opportunity Employer.** Company expressly represents that it is an Equal Employment Opportunity employer as defined in and is in compliance with all Equal Employment Opportunity statutes, rules, regulations, and executive orders and amendments.

Commented [CS2]: N/A.

SECTION 7: TERMINATION

- A. **Termination.** The Commission, at the direction of the County, or the Company, by its Director, may terminate this Agreement upon ninety (90) days written notice to the other party. Upon the receipt of notice of the termination of this Agreement, Company shall immediately cease representation of new indigent defendants. The Company however, shall continue representation previously commenced at the trial court level through all trial court proceedings, including capias and probation violation proceedings, and shall continue previously taken appeals until the appeals process is terminated by a final action on the merits by the appellate court. At the County's request, Company shall assist County in efficiently transitioning the project to the new contractor who will continue with the project. County shall pay Company for all professional services satisfactorily rendered prior to and up to the date of notice of termination. County shall also pay Company at the same rate for services to indigent defendants following termination that are necessary to complete a previously commenced trial court or appellate process.

SECTION 8: GENERAL

- A. **Insurance.** Company will carry and maintain in force at all times relevant professional liability insurance of the types and minimum coverage as required by the County, including, but not limited to, the legal malpractice insurance as provided in Section (1)(F), and provide certificates of coverage to County for such insurance. Further Company shall maintain Workers Compensation coverage at the statutorily required level.
- B. **Employee Compliance.** Company agrees to ensure that all employees of Company are informed of and agree to abide by all terms of this Agreement applicable to them.
- C. **No Authority to Bind.** Neither party has the power or authority to bind the other party to contracts or other obligations.
- D. **Governing Law.** This Agreement is to be governed by and construed in accordance with the laws of the State of Ohio. Any suit brought to enforce any provision of this Agreement or arising from this Agreement must be brought in the Summit County Court of Common Pleas.
- E. **Forum.** The parties agree that the forum for any claim, action, mediation, or litigation arising from this Agreement will be in the Summit County, Ohio. The parties agree that jurisdiction and venue for any matter involving any parties to this Agreement is proper in the County of Summit Court of Common Pleas.
- F. **Assignment.** Neither party may assign rights or delegate any obligations created by this Agreement without the prior written consent of the other party, which consent

must not be unreasonably withheld. Any assignment in violation of this Agreement is void. This Agreement must be binding upon the heirs, successors, legal representatives and permitted assigns of the parties.

- G. **Force Majeure.** Neither party shall be considered in default in the performance of any obligation hereunder, except the obligation to make payment, to the extent that the performance of such obligation is prevented or delayed by fire, flood, explosion, strike, terrorism, illness, personal tragedy, war, insurrection, embargo, government requirement, civil or military authority, act of God, or any other event, occurrence or condition which is not caused, in whole or in part, by that party, and which is beyond the reasonable control of that party. The parties must take all reasonable action to minimize the effects of any such event, occurrence or condition.
- H. **Severability.** If any provision of this Agreement is found invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement must continue in full force and effect.
- I. **Reservation of Rights.** A delay or failure in enforcing any right or remedy afforded hereunder or by law must not prejudice or operate to waive that right or remedy or any other right or remedy, including any remedy for a future breach of this Agreement, whether of a like or different character.
- J. **Review by Legal Counsel.** Each party has had the opportunity to review this Agreement with the assistance of legal counsel. Accordingly, the rule of construction that any ambiguity in this Agreement is to be construed against the drafting party is not applicable.
- K. **Notices.** Every notice and demand required under the terms of this Agreement must be in writing and must be sent by certified mail, return receipt requested, or by other means of delivery requiring a signed receipt, to the other party's address first set forth above. All notices are effective upon receipt. A party may change its address by giving written notice to the other party in accordance with this Article.
- L. **Amendment and Waiver.** This Agreement may not be amended, supplemented, or waived except by a writing signed by the parties. The waiver of any particular right or claim must not constitute a waiver of any other right or claim. This Agreement may be extended to achieve additional goals of the County with the written consent of both parties.
- M. **Entire Agreement.** This Agreement states the complete, final, and exclusive agreement of the parties concerning the subject hereof and supersedes all prior oral or written agreements, representations, promises, negotiations, and other communications between the parties.

- N. **Unresolved Findings of Recovery.** Pursuant to Ohio Revised Code § 9.24, Company represents and warrants that no unresolved findings of recovery have been issued against Company by the Auditor of the State of Ohio.
- O. **Plain Meaning.** The plain meaning of the contract will be followed where the words used have a clear and unambiguous meaning. Words used herein are given their ordinary meaning.

(End of text. Execution on following page.)

IN WITNESS WHEREOF, the parties have signed this Professional Services Agreement as of the effective date written above.

WITNESSETH:

**SUMMIT COUNTY PUBLIC DEFENDER
COMMISSION**

By: Darrin R. Toney

Date: _____

By: J. Dean Carro

Date: _____

By: Dr. Albert A. Bragg, Jr.

Date: _____

By: Meleah Skillern

Date: _____

By: Joseph Gorman

Date: _____

LEGAL DEFENDERS OFFICE OF
SUMMIT COUNTY, OHIO, INC.

Witness for Defender

_____/_____
Director Date

COUNTY OF SUMMIT, OHIO

_____/_____
Executive (or designee) Date

Approved as to form:

Brian Harnak, Director
Department of Law and Risk Management

APPROVED

WITNESSETH:

OHIO PUBLIC DEFENDER COMMISSION

By: Elizabeth Miller, State Public Defender

Date: