



GEORGIA INDIGENT DEFENSE SERVICES AGREEMENT

THIS AGREEMENT is entered into this ____ day of _____, 2021, between the Circuit Public Defender Office of the Coweta Judicial Circuit (herein referred to as the “**Public Defender Office**”) and the governing authority of **Carroll County**, a body politic and a subdivision of the State of Georgia (herein referred to as the “**County**”) and is effective July 1, 2021.

WITNESSETH:

WHEREAS, the Public Defender Office and the County enter into this agreement to implement the provisions of the Georgia Indigent Defense Act of 2003, as amended;

WHEREAS, the County is a body politic, existing and operating under the laws and Constitution of the State of Georgia with full power to enter into contracts and agreements with other political entities; and

WHEREAS, the Public Defender Office is existing under the laws of the State of Georgia and operating under the laws and Constitution of the State of Georgia with full power to enter into contracts and agreements with other entities; and

WHEREAS, it is the intent of the parties to this agreement to provide for the operation of an indigent defense system to assure that adequate and effective legal representation is provided, independent of political considerations or private interests, to indigent defendants in criminal cases consistent with the standards adopted by the Georgia Public Defender Council. This system and this agreement include the following:

- (1) The provision by the Public Defender Office of the statutorily required services to the County;
- (2) The payment for additional personnel and services by the County;
- (3) The provision by the County of its pro rata share of the costs of appropriate offices, utilities, telephone expenses, materials, and supplies as may be necessary to equip, maintain, and furnish the office or offices of the circuit public defender in an orderly and efficient manner; and
- (4) The provision for other matters necessary to carry out this agreement.

NOW THEREFORE, in consideration of the mutual covenants and promises contained in the agreement and for Ten Dollars (\$10) and other good and valuable consideration, **IT IS AGREED AS FOLLOWS:**

ARTICLE 1

STATUTORY PERSONNEL

Section 1.01 Statutory Staffing. The Public Defender Office agrees to provide for the Coweta Judicial Circuit full-time staff for a circuit public defender office or offices consisting of a circuit public defender; an assistant public defender for each superior court judge authorized for the circuit, excluding the chief judge and senior judges; an investigator; and 2 additional persons to perform administrative, clerical or paraprofessional services.

Section 1.02 Statutory Services. The Public Defender Office agrees to provide representation to indigent defendants in the following cases:

- (1) Cases prosecuted in the Superior Court of Carroll County under the laws of the State of Georgia in which there is a possibility that a sentence of imprisonment or probation or suspension of sentence of imprisonment may be adjudged;
- (2) Hearings in the Superior Court of Carroll County on a revocation of probation;
- (3) Cases prosecuted in the Juvenile Court of Carroll County in which a child may face a disposition in a delinquency case of confinement, commitment or probation; and
- (4) Direct appeals from a decision in cases described in (1), (2), and (3) above.

Section 1.03 Conflicts. The Public Defender Office agrees to provide for legal representation by an attorney who is not an employee of the Public Defender Office in cases described in Section 1.02 in which the Public Defender Office has a conflict of interest.

Article 2

ADDITIONAL PERSONNEL AND SERVICES

Section 2.01 Additional personnel and services. The Public Defender Office agrees to provide, and the County agrees to pay for, the services described in this agreement and the personnel described in Attachments A and C. The parties agree to the terms in Attachment A, which is incorporated into this agreement by reference. The amount to be paid includes a 5% administrative services fee. This fee is determined by the total amount for all of the budgeted positions. Upon expiration or termination of the agreement, any unused portion of the administrative services fee may be refunded to the County in the discretion of the Georgia Public Defender Council. Any changes to Attachment A shall be made in accordance with Section 5.06 of this agreement. Any additional personnel employed by the

Public Defender Office pursuant to this section are full-time state paid employees of the Public Defender Office in the unclassified service of the State Merit System of Personnel Administration with all the benefits provided by law to employees in the unclassified service. The parties agree that the employment of additional personnel employed by the Public Defender Office pursuant to this section may be terminated by the Public Defender Office if the County does not pay for the cost of these personnel in advance in accordance with this agreement.

ARTICLE 3

PROVISION BY THE COUNTY OF ITS PRO RATA SHARE OF THE COSTS OF APPROPRIATE OFFICES, UTILITIES, TELEPHONE EXPENSES, MATERIALS, AND SUPPLIES AS MAY BE NECESSARY TO EQUIP, MAINTAIN, AND FURNISH THE OFFICE OR OFFICES OF THE CIRCUIT PUBLIC DEFENDER.

Section 3.01 Office expenses. The County agrees to pay its pro rata share of the budget provided in Attachment B, which is the budget for appropriate offices, utilities, telephone expenses, materials, and supplies to equip, maintain, and furnish the office or offices of the Public Defender Office. The amount of the County's pro rata share based on population is stated in the budget. The County agrees to the payment terms. Attachment B is incorporated into this agreement by reference.

ARTICLE 4

OPTIONAL PROVISIONS

(RESERVED)

ARTICLE 5

MISCELLANEOUS

Section 5.01 Term. The term of this agreement is 12 months beginning July 1, 2021 and ending June 30, 2022.

Section 5.02 Maintenance of effort. The County agrees that it will continue to fund indigent defense for the term of this agreement, at a minimum, at the level of its most recent budgeted level of funding (the current fiscal year or the planned budget for the next fiscal year if that budget has already been developed) for indigent defense and as part of this

support the county agrees to provide the space, equipment and operating expenses necessary to effectively operate the circuit public defender office in Carroll County as described herein.

Section 5.03 Severability. Any section, subsection, paragraph, term, condition, provision or other part (hereinafter collectively referred to as “part”) of this agreement that is judged, held, found, or declared to be voidable, void, invalid, illegal or otherwise not fully enforceable shall not affect any other part of this agreement, and the remainder of this agreement shall continue to be of full force and effect. Any agreement of the parties to amend, modify, eliminate, or otherwise change any part of this agreement shall not affect any other part of this agreement, and the remainder of this agreement shall continue to be of full force and effect.

Section 5.04 Cooperation, dispute resolution and jurisdiction. (a) The Public Defender Office and the County acknowledge that this agreement may need to be revised periodically to address new or unforeseen matters.

(b) Each party to this agreement agrees to cooperate with the other party to effectuate and carry out the intent of this agreement.

(c) This agreement, and the rights and obligations of the parties, are governed by, and subject to and interpreted in accordance with the laws of the State of Georgia.

Section 5.05 Notice. A notice to a party to this agreement shall be made in writing and shall be delivered by first class mail or personally to the person and at the address indicated below:

**Circuit Public Defender Office of
Coweta Judicial Circuit:**

Maryellen Simmons
Circuit Public Defender
306 Tanner Street
Carrollton, GA 30117

**Governing Authority of
Carroll County:**

Carroll County Board of Commissioners
Attn: Chairman
323 Newnan Street
Carrollton, GA 30117

Georgia Public Defender Council:

Omotayo B. Alli, Executive Director
270 Washington Street Suite 5198
Atlanta, GA 30334

Section 5.06 Agreement modification. This agreement, including all attachments hereto, constitutes the entire agreement between the parties with respect to the subject matter of this agreement and may be altered or amended only by a subsequent written agreement of equal dignity; provided, however, that the parties' representatives identified in Section 5.05 may agree in writing by an exchange of letters or emails prior to the budget revision becoming effective to budget revisions which do not increase or decrease the total dollar value of the agreement. This agreement supersedes all prior agreements, negotiations and communications of whatever type, whether written or oral, between the parties hereto with respect to the subject matter of this agreement. After the agreement has been approved by the Director of the Georgia Public Defender Council, no modifications may be made without prior notice to the Director of the council.

Section 5.07 Termination. (a) Due to non-availability of funds. In the event that either of the sources of reimbursement for services under this agreement (appropriations from the General Assembly of the State of Georgia, or appropriations from the governing authority of the County) is reduced during the term of this agreement, the Public Defender Office may make financial and other adjustments to this agreement and notify the County accordingly. An adjustment may be an agreement amendment or may be the termination of the agreement. The certification by the director of the Georgia Public Defender Council of the occurrence of reduction in State funds is conclusive. The certification of the occurrence of the reduction in county funds by the person named in Section 5.05 by the County to receive notices is conclusive. The County shall promptly notify the Public Defender Office in writing on the non-existence or insufficiency of funds and the date of termination. The Public Defender Office shall then immediately cease providing the services required hereunder except for any necessary winding down and transition services required under Section 5.08. In lieu of terminating this agreement, the County and the Public Defender Office may make financial and other adjustments to this agreement by amending it pursuant to Section 5.06.

(b) For cause. This agreement may be terminated for cause, in whole or in part, at any time by either party for failure by the other party to substantially perform any of its duties under this agreement. "Cause" means a breach or default of any material obligation hereunder which default is incapable of cure, or which, being capable of cure, has not been cured within 30 days after receipt of notice of such default (or such additional cure period as the non-defaulting party may authorize). Should a party exercise its right to terminate this agreement under this subsection, the termination shall be accomplished in writing and specify the reason and the termination date. In the event of termination under this subsection the Public Defender Office shall submit a final agreement expenditure report containing all charges incurred through and including the termination date to the County no

later than 30 days after the effective date of written notice of termination and the County shall pay the amount due within 15 days of the receipt of the final agreement expenditure report. Upon termination of this agreement, the Public Defender Office shall not incur any new obligations after the effective date of the termination, except as required under Section 5.08. The above remedies contained in this subsection are in addition to any other remedies provided by law or the terms of this agreement.

(c) For Convenience. This agreement may be cancelled or terminated by either of the parties without cause; however, the party seeking to terminate or cancel this agreement shall give written notice of its intention to do so to the other party at least 60 days prior to the effective date of cancellation or termination.

(d) Post-termination obligations. After termination of this agreement pursuant to this Section, the Public Defender Office and the County agree to comply with the provisions of Section 5.08 (b).

Section 5.08 Cooperation in transition of services. **(a) At the beginning of the agreement.** The County agrees upon the beginning of this agreement to cooperate as requested by the Public Defender Office to effectuate the smooth and reasonable transition of services for existing clients, if applicable. This includes but is not limited to the payment for the continuation of representation by current counsel where appropriate or required by law, court rule or the State Bar of Georgia ethical standards or the facilitation of the timely transfer to the Public Defender Office of the client records.

(b) During or at the end of the agreement. The Public Defender Office agrees upon termination or expiration of this agreement, in whole or in part, for any reason to cooperate as requested by the County to effectuate the smooth and reasonable transition of services for existing clients. This includes but is not limited to the continuation of representation by Public Defender Office where appropriate or required by law, court rule or the State Bar of Georgia ethical standards or the facilitation of the timely transfer to the County of the client records. The County shall compensate the Public Defender for all post-termination or post-expiration services under this subsection. The Public Defender Office shall submit a monthly expenditure report containing all charges incurred during the preceding month on or before the 5th day of each month. The County shall pay the amount due within 15 days of the receipt of the monthly expenditure report. This subsection survives the termination or expiration of the agreement.

(c) Statutory responsibility continuation. The Public Defender Office and the County acknowledge that both have responsibilities for indigent defense costs under the Georgia Indigent Defense Act of 2003, as amended and that the termination or expiration of this agreement does not relieve either party of their responsibility under the law.

Section 5.09 Advance of Funds. The parties agree that advances of funds cannot remain outstanding following agreement termination or expiration and will be reclaimed. The parties agree that upon termination of this agreement, for any reason, all unexpended and unobligated funds held by the parties revert to the party entitled to the funds. The parties

agree to reconcile expenditures against advances of funds within 30 days of termination of this agreement.

Section 5.10 Time. Time is of the essence.

IN WITNESS WHEREOF, the parties have each here unto affixed their signatures the day and year first written above.

**CIRCUIT PUBLIC DEFENDER OFFICE
COWETA JUDICIAL CIRCUIT**

**CARROLL COUNTY BOARD OF
COMMISSIONERS**

By: _____(SEAL)
Signature

By: _____(SEAL)
Signature

Name

Michelle Morgan
Name

Circuit Public Defender

Chairman

ATTEST:

ATTEST:

_____(SEAL)

_____(SEAL)

Clerk

ATTEST:

APPROVED AND CONSENTED TO:

**GEORGIA PUBLIC DEFENDER
COUNCIL**

_____(SEAL)

BY: _____(SEAL)

SIGNATURE
OMOTAYO B. ALLI
EXECUTIVE DIRECTOR

Coweta Judicial Circuit
Carroll County

ATTACHMENT A

July 1, 2021 - June 30, 2022

The County agrees to pay the Public Defender Office \$946,603.00 in 12 equal monthly installments of \$78,884.00, which amount includes the 5% Administrative Fee. Installments will be paid in advance directly to the Georgia Public Defender Council (GPDC) by the 15th day of each preceding month. The Public Defender Office agrees to use these funds for the purpose of paying the salary, benefits, and administrative costs for the personnel in the Carroll County Public Defender Office.

Total (salaries plus benefits and 5% administrative charge): \$946,603.00

Invoices

Invoices for the monthly billing amount, inclusive of all administrative fees, shall be sent to:

Carroll County Board of Commissioners
Attn: Alecia Searcy
323 Newnan Street
Carrollton, GA 30117

Installments will be paid directly to GPDC at the following address:

GPDC
Attn: Jason Ring
270 Washington Street
Suite 5198
Atlanta, GA 30334

Payment for the salaries, benefits and administrative costs shall be made by the County in advance of the payment of the salaries by the Public Defender Office. To that end, an installment will be made by the 20th of July, 2021, with one monthly installment thereafter by the 15th of each month.

“ATTACHMENT B”
CARROLL COUNTY
FY 22 Circuit Defender Budget
Approved By Carroll County Commission

I. Salaries July 1, 2021 - June 30, 2022

Personnel, including the 5% Administrative Fee	\$946,603.00
Supplement for Circuit Public Defender(Maryellen Simmons)	\$ 9,000.00
Supplement to Supervising PD (Valerie Cooke)	\$ 3,000.00
Supplement cost	624.00
 Total of County Funded Personnel including 5% State Adm. Fee and CPD supplements	 <u>\$ 959,227.00</u>

II. Office Equipment, Supplies, Operating Expenses

	<u>Annual</u>
Postage	\$ 3,500
Professional Dues & subscriptions	\$ 5,300
Telephone (excluding basic local service expenses)	\$ 15,500
Court Costs/Evidence Charges	\$ 2,000
Office Supplies	\$ 27,000
 Operating Expenses less Building costs Total	 \$53,300

Space Rental	\$66,000
(306 Tanner Street per lease approved by State Properties Division)	
Utilities	\$ 9,000
Building repair and maintenance	\$11,000

Total Operating Expenses **\$139,300**

Grand Total Personnel & Operating **\$1,098,527**

Coweta Judicial Circuit

Carroll County

ATTACHMENT C: Operating Expenditures

July 1, 2021 - June 30, 2022

Carroll County agrees to comply with OCGA § 17-12-34 by supplying its pro-rata share of the office operating expenses for the Circuit Public Defender in the following manner:

Carroll County agrees to provide office space sufficient to house the Office of the Circuit Public Defender, Carroll County Division, including six Superior Court attorneys, one Circuit Public Defender, a juvenile attorney, one client advocate, one case manager, two investigators, three administrative assistants, and such other personnel as may be authorized from time to time to be employed in the Carroll County Division office;

Carroll County further agrees to provide reasonable office furnishings, office equipment, telephone service, DSL line, IT service, copier, printers, paper, ink, toner, file folders, writing pads and paper and miscellaneous office supplies sufficient to maintain and support the above staff, as determined between the Circuit Public Defender and Carroll County pursuant to the usual procedure of supplies and equipment of like size offices maintained by Carroll County.

The budget for said expenditures is set out in Attachment B.

Coweta Judicial Circuit

Carroll County

July 1, 2021 - June 30, 2022

Attachment D

SALARY SUPPLEMENTS

The County agrees to pay the Public Defender Office \$3,000.00 for the Supervising Public Defender, \$9,000.00 for the Circuit Public Defender. The salary supplement is paid directly to the employee by the County and all payroll taxes and benefits associated with the salary supplement are paid by the employee. The County shall provide the Public Defender Office with the information concerning the salary supplement required by the State Auditor.