



## AGENDA ITEM SUMMARY FORM

**MEETING DATE:** 4/8/24

**PREPARED BY:** Linda A. Kunath

**AGENDA ITEM CONTENT:** MIDC Administrator Agreement

**AGENDA ITEM SECTION:** Consent Agenda

**BUDGETED AMOUNT:**

**FUNDS REQUESTED:**

**FUND:** MIDC grant fund

**EXECUTIVE SUMMARY:**

The current agreement for Michigan Indigent Defense Commission (MIDC) administrative services is expiring. Wilson & Wilson P.C. have provided MIDC Administrative services since 2019. This proposed agreement is for an initial one year term, renewable on a year to year basis up to four additional years. Legal fees, costs or other compensation related to Wilson compliance with this agreement are paid solely from MIDC grant funds the City receives from the State of Michigan.

**RECOMMENDATION:**

Recommend that City Council approves an agreement with Wilson & Wilson P.C. for MIDC administrative services up to a five year term, and authorize the City Manager to sign the agreement that has been approved by legal counsel.

**AGREEMENT FOR ASSIGNED COUNSEL ADMINISTRATOR  
UNDER THE MICHIGAN INDIGENT DEFENSE COMMISSION ACT (MIDC)**

**BETWEEN  
THE CITY OF MADISON HEIGHTS  
AND  
WILSON & WILSON P.C.**

This Agreement regarding the MIDC ASSIGNED COUNSEL ADMINISTRATOR (“**Agreement**”) is made and entered into as of March \_\_\_\_, 2024 by and between the City of Madison Heights, a Michigan Municipal Corporation, whose address is 300 West Thirteen Mile Road, Madison Heights MI 48071 (“**City**”) and Wilson & Wilson P.C., a Michigan Corporation, whose address is 23509 John R Road, Hazel Park MI 48030 (“**Wilson**”). In this Agreement, the City of Madison Heights and Wilson & Wilson P.C. may also be referred to individually as "Party" or jointly as "Parties."

**RECITALS**

WHEREAS, the State of Michigan has enacted the MICHIGAN INDIGENT DEFENSE COMMISSION ACT, Act 93 of 201, to create the Michigan Indigent Defense Commission (MIDC) to provide indigent defendants in criminal cases with effective assistance of counsel, to provide standards for the appointment of legal counsel and to provide for and limit certain causes of action, and to provide for certain appropriations and grants to fund the activities under the Act; and

WHEREAS, the MIDC, requires the City, as part of its approved plan, to engage the services of an Assigned Counsel Administrator to oversee and manage the City's criminal defense program and criminal defense attorneys; and

WHEREAS, City has selected Wilson as the qualified and responsive candidate; and

WHEREAS, the City and Wilson desire to enter into an agreement for the purpose of providing Assigned Counsel Administrator services to the City in the 43<sup>rd</sup> District Court.

**AGREEMENT**

**NOW WHEREFORE**, based upon the foregoing statements, the Parties agree to the following terms, conditions, representations, consideration and acknowledgements and mutually agree as follows:

1. That RFP #MH-18-09 and all accompanying documentation (attached hereto as Exhibit A) are incorporated herein and made a part hereof and shall be incorporated herein and shall be understood to be a part hereof as though included in the body of this Agreement. The Recitals and the attached Exhibit A shall be considered an integral part of this Agreement.
2. Wilson shall be the MIDC Assigned Counsel Administrator for the 43rd District Court in the City of Madison Heights and shall be responsible for operating the City's indigent criminal defense program to ensure that adult defendants receive competent legal representation in criminal

proceedings under and pursuant to the MICHIGAN INDIGENT DEFENSE COMMISSION ACT, Act 93 of 201. Wilson will be responsible for screening, selecting and maintaining a roster of eligible attorney's for case assignment, evaluating attorney performance, maintaining payments to participating attorneys, authorizing investigative resources and performing other duties associated with the provision of competent and consistent legal representation. Wilson will provide the following services as the MIDC Assigned Counsel Administrator:

A. Manage the City's public criminal defense operation separate from the 43<sup>rd</sup> District Court including budgeting, planning, and general administration. Provide the City Manager and Court Administrator with quarterly reports regarding caseload, legal resources and costs.

B. Supervise indigency eligibility screening for assigned counsel based on income and available assets per MCL 780.991(3)(a)(b)(c)(d).

C. Identify attorneys that are qualified to accept appointments and ensure that all attorneys that accept appointments meet the MIDC standards for providing effective representation, including verifying that all attorneys have attained the required 12 annual CLE hours.

D. Maintain a roster of qualified attorneys, assign counsel to cases, and oversee scheduling of counsel, monitor cases and performance of assigned attorneys.

E. Approve the use of investigators, experts and other resources required for particular cases and assigned counsel.

F. Review and approve vouchers for payment from attorneys on the assigned counsel roster in accordance with the 43rd District Court MIDC compliance plan.

G. If there is a break down in the Attorney Client relationship between an indigent defendant and Counsel on the Roster, Wilson will assign new counsel from the roster of qualified attorneys.

H. Assist with the coordination of Compliance with the MIDC standards, including annual grant requests for funding and compliance plans.

I. Attend legal conferences, meeting or seminars to stay current on legal issues, updates and administrative techniques regarding public defender requirements and other legal matters.

J. Perform other duties that may be required for the 43rd District Court Madison Heights to comply with current and future MIDC standards.

3. For providing these services, the City shall pay Wilson from the MIDC grant funds \$1,200.00 a week for 10 Hours of work by the Assigned Counsel Administrator and \$436.80 a week for 20 hours of work for their assistant. This figure is subject to change based on the MIDC

grant. Any legal fees, costs or other compensation related to Wilson compliance with this Agreement, or the public defender services provided at 43rd District, shall be paid solely from MIDC grant funds or other State of Michigan funding and are not a financial responsibility of the City.

4. The term of this Agreement shall be for an initial one (1) year term and shall commence on April 1, 2024 and shall be renewable on a year by year basis thereafter up to four (4) additional years.

5. Regardless of the term of the Agreement, the City may, for any reason, terminate the Agreement with a minimum sixty (60) days written notice to Wilson. Wilson may terminate this Agreement, for any reason, upon ninety (90) days written notice to the City.

6. With this Agreement, the City and Wilson are expressly not forming any type of partnership, joint venture, or any other type of business venture together whatsoever. The Parties agree that at all times and for all purposes under the terms of this Agreement, there is no employer-employee relationship between the Parties. No liability, right or benefit associated with any employer-employee relationship shall be implied by the terms of this Agreement or service performed under this Agreement.

7. Except as expressly provided herein, this Agreement does not create, by implication or otherwise, any direct or indirect obligation, duty, promise, benefit, right of indemnification (i.e., contractual, legal, equitable, or by implication), right of subrogation as to any Party's rights in this Agreement, or any other right of any kind in favor of any individual or legal entity.

8. Within ten (10) days from the execution of this Agreement, Wilson shall provide a Certificate of Insurance, acceptable to the City, demonstrating that Wilson has met the insurance requirements as set forth in Section five (5) of the RFP#MH-18-09. Wilson agrees to keep said insurance coverage in full force and effect for the term of this Agreement or any renewals thereof. Wilson shall submit to the City, prior to the expiration of any insurance coverage, the new Certificate(s) of Insurance acceptable to the City. Any Certificate(s) of Insurance shall name the other City as an additional insured and contain the following cancellation notice: "Should any of the above described policies be cancelled before the expiration date thereof, the issuing insurer will mail 30 days written notice to the certificate holder." A lapse in the insurance coverage required under the Agreement shall be considered a material breach of this Agreement and the Agreement shall become null and void automatically at any time such a lapse in coverage exists.

9. Each attorney assigned to the 43<sup>rd</sup> District Court to represent criminal defendants under this Agreement shall execute an Indemnify, Defend and Hold Harmless Agreement, acceptable to the City, prior to any assignment and representation of criminal defendants in the 43<sup>rd</sup> District Court. Wilson shall keep a record of each Indemnify, Defend and Hold Harmless Agreement for each assigned attorney and shall submit to the City a copy of each Agreement. Wilson shall not appoint any assigned attorney to represent criminal defendants in the 43<sup>rd</sup> District Court unless a verified Indemnify, Defend and Hold Harmless Agreement has been executed by the assigned attorney. The approved Indemnify, Defend and Hold Harmless Agreement has been determined by the 43<sup>rd</sup> District Court as sufficient to constitute sufficient compliance with the malpractice

insurance requirements in appropriate amounts commensurate with the types of cases being assigned, in accordance with generally acceptable limits and in amounts acceptable to the 43rd District Court.

10. This Agreement is made and entered into in the State of Michigan and shall in all respects be interpreted, enforced and governed under the laws of the State of Michigan. Except as otherwise required by law or court rule, any action brought to enforce, interpret or decide any claim arising under this Agreement shall be brought in the 6th Judicial Circuit Court of the State of Michigan or the United States District Court for the Eastern District of Michigan, Southern Division as dictated by the applicable jurisdiction of the court. Except as otherwise required by law or court rule, venue is proper in the courts set forth above.

11. If a Court of competent jurisdiction finds any provision of this Agreement invalid or unenforceable, then that provision shall be deemed severed from the Agreement. The remainder of this Agreement shall remain in full force.

12. All Notices under this Agreement shall be made to respective Parties at the addresses listed above. The parties are bound to this Agreement, as are their successors, assigns and transferees. This agreement may not be assigned or transferred without the express written consent of both Parties.

13. This Agreement sets forth the entire Agreement between the Parties. The language of this Agreement shall be construed as a whole according to its fair meaning and not constructed strictly for or against any party. The Parties have taken all actions and secured all approvals necessary to authorize and complete this Agreement.

The Parties have taken all actions and secured all approvals necessary to authorize and complete this Agreement. The persons signing this Agreement on behalf of each Party have legal authority to sign this Agreement and bind the Parties to the terms and conditions contained herein.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year above written.

[SIGNATURES ON FOLLOWING PAGE]

**CITY OF MADISON HEIGHTS**

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BY: MELISSA MARSH  
ITS: CITY MANAGER

STATE OF MICHIGAN.                    )  
                                                  )SS  
COUNTY OF OAKLAND                 )

The foregoing instrument was acknowledged before me in Oakland County, Michigan  
This \_\_\_\_ day of \_\_\_\_\_, 2024 by \_\_\_\_\_

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Notary Public, Oakland County, Michigan  
Acting in Oakland County  
My Commission Expires:

**WILSON**

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BY: ERIC S. WILSON  
ITS: MANAGING PARTNER

STATE OF MICHIGAN.                    )  
                                                  )SS  
COUNTY OF OAKLAND                 )

The foregoing instrument was acknowledged before me in Oakland County, Michigan  
This \_\_\_\_ day of \_\_\_\_\_, 2024 by \_\_\_\_\_

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Notary Public, Oakland County, Michigan  
Acting in Oakland County  
My Commission Expires: