

MILLCREEK, UTAH
RESOLUTION NO. 21-33

**A RESOLUTION OF THE MILLCREEK COUNCIL APPROVING AN AGREEMENT
WITH SALT LAKE LEGAL DEFENDERS ASSOCIATION TO PROVIDE COURT
INDIGENT DEFENSE SERVICES**

WHEREAS, the Millcreek Council ("*Council*") met in regular session on July 26, 2021, to consider, among other, approving an Agreement with Salt Lake Legal Defenders to provide court indigent defense services; and

WHEREAS, an agreement has been presented to the Council for review and approval, a copy of which is attached hereto ("*Agreement*"); and

WHEREAS, the Agreement sets forth the purpose thereof, the extent of participation of the parties, and the rights, duties, and responsibilities of the parties.

NOW, THEREFORE, BE IT RESOLVED that the Agreement is approved, and that the Mayor and Recorder are hereby authorized and directed to execute and deliver the same.

This Resolution assigned No. 21-33, shall take effect immediately on passage.

PASSED AND APPROVED by the Millcreek Council this 26th day of July 2021.

MILLCREEK COUNCIL

By: _____
Jeff Silvestrini, Mayor

ATTEST:

Elyse Sullivan, City Recorder

Roll Call Vote:		
Silvestrini	Yes	No
Marchant	Yes	No
Jackson	Yes	No
Catten	Yes	No
Uipi	Yes	No

Indigent Defense Legal Services Agreement

THIS AGREEMENT (this "**Agreement**") is effective July 1, 2021 by and between **MILLCREEK**, a Utah municipal corporation (the "**City**"), and **SALT LAKE LEGAL DEFENDERS ASSOCIATION**, a Utah nonprofit corporation ("**Legal Defenders**").

RECITALS:

- A. Legal Defenders is in the business of providing criminal defense services for indigents.
- B. Legal Defenders employs attorneys that are licensed to practice in Utah.
- C. The City is in need of indigent criminal defense services.
- D. The parties desire to enter into a service contract for indigent criminal defense services and to assist eligible clients in addressing substance abuse and mental health issues.
- E. The parties have determined that it is mutually advantageous to enter into this Agreement.

AGREEMENT:

NOW, THEREFORE, in consideration of the premises, mutual covenants and undertakings, the parties agree as follows:

I. **Scope of Services to be Provided.** Legal Defenders agree to furnish and provide for the defense with respect to criminal violations of Utah State law, Salt Lake County ordinances, City ordinances and matters initiated by the City, or its authorized agents, of an indigent upon a determination of indigence and as appointed by the Salt Lake County Justice Court, Third District Court, Utah Court of Appeals, or the Supreme Court of Utah ("**Court**" and such services collectively "**Legal Services**") during the term of this Agreement. Legal Services shall include, but not limited to, appearing and representing criminal defendants at all appropriate meetings, hearings, etc., including, but not be limited to, pretrial conferences order to show cause hearings, and bench and jury trials. Legal Defenders shall be responsible to cover costs to serve subpoenas or other pleadings, the cost of investigations, expert witnesses, and transcription costs. Legal Services provided by Legal Defenders shall at all times be subject to applicable laws, rules and regulations, including without limitation, the Rules of Professional Conduct adopted by the Utah Supreme Court. Legal Defenders shall immediately notify the City of the final adjudication by the Utah State Bar of any violation of the Rules of Professional Conduct by Legal Defenders or anyone associated with or performing legal services through Legal Defenders.

2. **Fees for Legal Services.** City shall pay Legal Defenders a fixed amount of \$112,558 for Legal Services ("**Contract Price**"). If Legal Services are anticipated to exceed the Contract Price, then Legal Defenders shall not incur expenditures that exceed the Contract Price without the written consent of the City. City shall pay Legal Defenders one-fourth of the

Contract Price quarterly. City shall remit payment to Legal Defenders 275 East 200 South, Salt Lake City, Utah 84111, no later than thirty (30) days after the end of the quarter.

3. **Term.** This Agreement shall be effective as of the date hereof and shall terminate on June 30, 2022, provided, however, upon the consent of the parties hereto and subject to the right to terminate as provided herein, this Agreement may be renewed for successive one(1)-year terms.

4. **Assignment and Delegation.** The Legal Defenders will not assign or delegate the performance of their duties under this Agreement without the prior written approval of the City.

5. **Employment Status.**

a. **Official Status.** The Legal Defenders shall have complete control and discretion over all personnel providing Legal Services.

b. **Salary and Wages.** The City shall not have any obligation or liability for the payment of any salary or other compensation to personnel providing Legal Services.

c. **Employment Benefits.** All personnel providing Legal Services are and shall remain employees of the Legal Defenders. All personnel providing Legal Services shall have no right to any City pension, civil service or any other City benefits pursuant to this Agreement or otherwise.

6. **Alcohol and Drug-Free Work Place.** All personnel during such time that they provide Legal Services shall not be under the influence of alcohol, any drug, or combined influence of alcohol or any drug to a degree that renders the person incapable of safely providing the Legal Services. Further, all personnel during such time that they provide Legal Services shall not have sufficient alcohol in his body, blood, or on his breath that would constitute a violation of Utah Code Ann. § 41-6a-502 (without giving any consideration to or establishing the requirement of operating or being in physical control of a vehicle) or any measurable controlled substance in his body that would constitute a violation of Utah Code Ann. § 41-6a-517 (without giving any consideration to or establishing the requirement of operating or being in physical control of a vehicle).

7. **Progress Reports.** Legal Defenders shall as requested from time to time by City submit periodic progress reports to the City, attend quarterly accountability meetings with City representatives City, submit an annual report regarding Legal Services in such form that contains such information as the City may require, and attend City Council meeting as requested by City to answer questions about the report and Legal Services in general.

8. **Termination.** Either party may terminate this Agreement upon 30 days prior written notice to the other party.

9. **Insurance.** Legal Defenders shall obtain Workers Compensation and employer liability insurance in a statutory amount. The Legal Defenders shall furnish the City certificates

of insurance evidencing the insurance requirements herein. Certificates of insurance shall contain the provision that at least 30 days prior written notice will be given to the City in the event of cancellation, reduction or renewal of the insurance.

10. **Notice.** Any notice required or permitted to be given hereunder shall be deemed sufficient if given by a communication in writing and shall be deemed to have been received (a) upon personal delivery or actual receipt thereof; or (b) within three days after such notice is deposited in the United States Mail, postage prepaid, and certified and addressed to the parties as set forth below:

City: Mayor Jeff Silvestrini
3330 S. 1300 E.
Millcreek, UT 84106

cc: John N. Brems
10717 Water Way
South Jordan, UT 84009

Legal
Defenders: 275 East 200 South
Salt Lake City, Utah 84111

11. **Titles and Captions.** All section or subsection titles or captions herein are for convenience only. Such titles and captions shall not be deemed part of this Agreement and shall in no way define, limit, augment, extend or describe the scope, content or intent of any part or parts hereof.

12. **Pronouns and Plurals.** Whenever the context may require, any pronoun used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plurals and vice versa.

13. **Applicable Law.** The provisions hereof shall be governed by and construed in accordance with the laws of the State of Utah including, but not limited to, the status verify system requirements for contractors of Utah Code Ann. § 630-12-302. Legal Defenders understands and agrees that this Agreement and related documents will be public documents, as provided in Utah Code Ann. § 63G-2-101, et seq.

14. **Integration.** This Agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof, and supersedes all prior agreements and understandings pertaining thereto.

15. **Time.** Time is the essence hereof.

16. **Survival.** All agreements, covenants, representations and warranties contained herein shall survive the execution of this Agreement and shall continue in full force and effect throughout the term of this Agreement.

17. **Waiver.** No failure by any party to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement or to exercise any right or remedy shall constitute a waiver of any such breach, right or remedy. Any party may, by notice delivered in the manner provided in this Agreement, but shall be under no obligation to, waive any of its rights or any conditions to its obligations hereunder, or any duty, obligation or covenant of any other party. No waiver shall affect or alter the remainder of this Agreement but each and every other covenant, agreement, term and condition hereof shall continue in full force and effect with respect to any other then existing or subsequently occurring breach.

18. **Indemnity.** Legal Defenders shall defend, protect, indemnify, save, and hold harmless the City, including its elected and appointed officials, employees, agents, and contractors from and against any and all demands, liabilities, claims, damages, actions, or proceedings, in law or in equity, including reasonable attorneys' fees and costs of suits, relating to or arising from Independent Contractor providing Legal Services to the City. Nothing herein shall be construed to require Legal Defenders to indemnify the City against the City's own negligence.

19. **Rights and Remedies.** The rights and remedies of the parties hereto shall not be mutually exclusive, and the exercise of one or more of the provisions of this Agreement shall not preclude the exercise of any other provisions hereof.

20. **Severability.** In the event that any condition, covenant or other provision hereof is held to be invalid or void, the same shall be deemed severable from the remainder of this Agreement and shall in no way affect any other covenant or condition herein contained. If such condition, covenant or other provision shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

IN WITNESS WHEREOF, the City caused this Agreement to be signed by its mayor and attested by its recorder and delivered; and the Legal Defenders has caused the same to be signed and delivered.

MILLCREEK

By: _____
JEFF SILVESTRINI, Mayor

ATTEST:

Elyse Sullivan, City Recorder

APPROVED AS TO FORM:

John N. Brems, City Attorney

LEGAL DEFENDERS:

Richard P. Mauro, Director
Salt Lake Legal Defender Association