

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Motion to Authorize the City Manager to Execute a Contract for Snohomish County In-Custody Public Defense Services with the Mary Stephens
DEPARTMENT:	City Manager's Office
PRESENTED BY:	John Norris, Management Analyst
ACTION:	<input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Motion <input type="checkbox"/> Discussion

PROBLEM/ISSUE STATEMENT:

When a defendant is booked into jail on suspicion of a crime or booked into jail on a bench warrant for failure to appear at a court hearing, the City is required to provide an in-custody public defender to provide representation at the defendant's initial probable cause and release (bail) hearing. For those defendant's booked into the Snohomish County Jail, the in-custody probable cause and release hearing is held using the jail's video courtroom, with the defendant and public defender located in the jail video room and the judge and court staff located at the Shoreline Courthouse.

As the City's purchasing ordinance requires that services go out to bid once the cumulative cost of service provided by a contracted vendor exceeds \$50,000, a Request for Proposals (RFP) was issued for Snohomish County In-custody Public Defense Services. As a result of this RFP, the City's current Snohomish County in-custody public defender, Mary Stephens, was selected as the preferred service provider.

RESOURCE/FINANCIAL IMPACT:

As is identified in the attached scope of work, compensation for services provided were negotiated at the fixed rate of \$2,075 per month. This is a reduction in the monthly rate the City is currently paying to Mary Stephens for this service. Her current rate is \$2,200 per month. As well, if the automatic renewal terms of the contract (up to a total of four additional terms) are not cancelled by the City, the per month compensation rate will be inflated by the measure that determines staff Cost of Living Adjustments (90% of the June to June Seattle-Tacoma Area CPI-U), with an annual cap of 3.50%. If an average annual inflator rate of 3.00% is estimated for the five year life of contract, the total estimated five year cost of the contract would be \$132,197.50.

RECOMMENDATION:

Staff recommends that the City Council authorize the City Manager to enter into a contract with Mary Stephens for in-custody public defense services at the Snohomish County Jail for up to five one-year contract terms.

Approved By: City Manager **JU** City Attorney **IS**

BACKGROUND:

Under Washington State law, cities are responsible for providing criminal justice services for misdemeanor and gross misdemeanor offenses. This includes jail, court, prosecution and public defense services. Thus, the City is required to provide the services of a public defender to individuals who are determined to be indigent or nearly indigent and unable to afford representation themselves. This representation must occur at all criminal hearings, including hearings that occur in jail.

When a defendant is booked into jail on suspicion of a crime or booked into jail on a bench warrant for failure to appear at a court hearing, the City is required to provide an in-custody public defender to provide representation at the defendant's initial probable cause and release (bail) hearing. For those defendant's booked into the Snohomish County Jail, the in-custody probable cause and release hearing is held using the jail's video courtroom, with the defendant and public defender located in the jail video room and the judge and court staff located at the Shoreline Courthouse.

Since the City began using the Snohomish County jail as the City's primary booking and holding facility in December 2010, the City has contracted with Mary Stephens for in-custody public defense services. Ms. Stephens also provides in-custody public defense services for others cities contracting with the Snohomish County Jail and provides defense services in Snohomish County Superior Court. The City's current contract with Ms. Stephens began January 1, 2012 and ends at the end of the year. The case loads for the Snohomish County Jail in-custody calendar have averaged roughly six (6) defendants per week over the last year. Annually, this equates to about 300 defendants represented.

REQUEST FOR PROPOSALS:

As the City's purchasing ordinance requires that services go out to bid once the cumulative cost of service provided by a contracted vendor exceeds \$50,000, an RFP was issued on September 28 for this service (RFP #7021). In response to this RFP, staff received two proposals - one from the City's current contracted vendor, Mary Stephens, and a second from the Law Office of John Rongerude, who currently provides conflict public defense service for the City of Shoreline.

Proposals in response to the RFP were evaluated using the following criteria:

- Related experience, including experience in performing in-custody public defense services and experience with video court
- Demonstrated ability to perform the work requested within the established schedule
- Experience and expertise of key personnel assigned to this contract
- References
- Cost to perform requested work

A proposal review panel made up of two City of Shoreline staff members and Shoreline's Police Captain reviewed both proposals. Based on the evaluation criteria and the proposals received, the review panel selected Mary Stephens as the preferred

service provider. The City has been very satisfied with the services provided by Ms. Stephens and is confident in her ability to execute the terms of the new contract going forward.

PROPOSED SERVICE CONTRACT SCOPE OF WORK:

Following the selection of Mary Stephens as the preferred service provider, staff negotiated a proposed scope of work with Ms. Stephens. The initial term of the contract, which would begin on January 1, 2013, is for one year, but the contract would automatically renew for up to four (4) additional terms in 1-year increments for a total possible duration of five (5) years, unless cancelled in writing by the City. Thus, Council authorization of the contract would be for all five terms, which would provide the City Manager the authority to enter into the initial term and subsequent renewal terms of the contract. The proposed scope of work is attached to this report as Attachment A.

RESOURCE/FINANCIAL IMPACT:

As is identified in that attached service contract scope of work, compensation for services was negotiated at the fixed rate of \$2,075 per month. This is a reduction in the monthly rate the City is currently paying to Mary Stephens for this service. Her current rate is \$2,200 per month. If the automatic renewal terms of the contract (up to a total of four additional terms) are not cancelled by the City, the per month compensation rate will be inflated by the measure that determines staff Cost of Living Adjustments (90% of the June to June Seattle-Tacoma Area CPI-U), with an annual cap of 3.50%. If an annual inflator rate of 3.00% is estimated for the five year life of contract, the total estimated five year cost of the contract would be \$132,197.50.

RECOMMENDATION:

Staff recommends that the City Council authorize the City Manager to enter into a contract with Mary Stephens for in-custody public defense services at the Snohomish County Jail for up to five one-year contract terms.

ATTACHMENTS:

Attachment A: Proposed In-Custody Snohomish County Public Defense Service Contract Scope of Work

Attachment A: In-Custody Snohomish County Public Defense Service Contract Scope of Work

The Attorney will provide legal representation of in-custody indigent criminal defendants at the Snohomish County Jail, charged with misdemeanors, gross misdemeanors, and traffic violations.

In-Custody Services

The Attorney will be available on a regular basis, Monday through Friday, to appear at the Snohomish County Jail Video Courtroom to provide public defense services for the City's in-custody defendants at probable cause and release hearings. This includes defendants booked into the Snohomish County Jail on both new criminal charges and on warrants.

The Attorney will follow all public defense procedures outlined in the City of Shoreline-Snohomish County Jail-King County District Court Standard Operating Procedures for Video Bail Hearing Operations (Bail Hearing SOP), dated October 5, 2012. A copy of the Bail Hearing SOP will be provided to the Attorney at no cost.

The Attorney will provide an adequate number of defense council to efficiently manage the in-custody court calendar in a manner which avoids unnecessary delays in completing the calendar, or unnecessary periods in custody. Sufficient counsel shall be provided so that defendants will receive representation when the Attorney is not available due to vacation or illness.

The Snohomish County Jail Video Courtroom in-custody calendar for the City is scheduled for 3:00 pm to 4:00 pm daily, unless changed by mutual agreement of both Snohomish County and the City. If the Snohomish County Jail Video Courtroom in-custody calendar time slot for the City is changed by mutual agreement, the City will notify the Attorney of the change as soon as the change has been agreed upon. The Attorney will hold any pre-hearing conferences or discussions with clients prior to 3:00 pm so that the in-custody calendar will begin promptly at 3:00 pm.

Associated Counsel

- A. Any counsel associated with, contracted or employed by the Attorney shall have the authority to perform the services set forth in this Scope of Services. The Attorney and all associates or attorneys who perform the services set forth in this Agreement shall be admitted to the practice pursuant to the rules of the Supreme Court of the State of Washington and will at all times remain members in good standing of the Washington State Bar.
- B. The Attorney shall be responsible for this Agreement, notwithstanding that other counsel may be employed or associated by the Attorney to perform services hereunder. The Attorney shall actively supervise associated and employed counsel throughout the term of this Agreement and during any renewals or extensions, to ensure that all cases are promptly and effectively handled from the time of appointment until the conclusion of the Attorney's representation of assigned clients. Sufficient counsel shall be provided to

represent defendants during vacation, illnesses and settings in more than one courtroom.

Attorney Conflict

In the event that the Attorney is prevented from representing any defendant by presence of a conflict of interest, as under Washington's Rules of Professional Conduct, the defendant shall be referred back to the City for further assignment, without cost to the Attorney.

Discovery Provided

The City shall provide to the Attorney, at no cost to the Attorney or defendant, one copy of all discoverable material concerning each assigned case. This material shall include, where relevant, a copy of the abstract of the defendant's driving record.

Code Provided

The City shall provide to the Attorney at no cost to the Attorney, a copy of the Shoreline Municipal Code and any amendments to the Code Adopted during term of this Agreement.

Case Loads and Case Weighting

In preparation of implementation of the case load limits identified in the 2012 Washington State Supreme Court Standards for Indigent Defense, which take effect September 1, 2013, the City of Shoreline will likely be weighting in-custody probable cause and release hearing cases as one tenth (1/10th) of a case, upon City Council approval. This is authorized by Section 3.6.B of the new indigent defense standards. Given this case weight, the Attorney will accommodate all in-custody probable cause and releasing hearing cases under the applicable case load limits once the new limits and the City's case weighting policy become effective.

Billing and Consultation

In addition to the billing voucher identified in Section 2.B. of the Agreement and in the form set forth in Exhibit B, the Consultant also agrees to:

- Quarterly phone discussions with the City's contract manager, if initiated by the contract manager, to review the number of in-custody public defense cases, overall performance of the Agreement, and issues of common concern.
- Attendance at King County District Court – Shoreline Courthouse - or City initiated meetings to address any ad hoc or ongoing issues or concerns with in-custody public defense cases at the Snohomish County Jail or Court operations, if necessary.
- In-person discussion with the City's contract manager, if initiated by the contract manager, at the end of each annual term of the Agreement to discuss any issues with the Agreement or services provided over the preceding year.

Compensation

Services will be paid at a flat rate of \$2,075 per month, not to exceed a maximum of \$24,900 for 2013. This compensation amount includes all fees and other expenses incurred by the Attorney. If the automatic renewal terms of this Agreement (up to a total of four additional terms) are not cancelled by the City, the per case fixed

compensation rate will be inflated annually by 90% of the June to June Seattle-Tacoma-Bremerton area Consumer Price Index (CPI-U), with a cap of 3.50%. The City shall notify the Consultant of such increase upon fourteen (14) days written notice. If approved, any rate increase shall take effect as stated and remain in effect for the subsequent annual agreement period.