

**CITY COUNCIL AGENDA ITEM**

CITY OF SHORELINE, WASHINGTON

<b>AGENDA TITLE:</b>	Motion to Authorize the City Manager to Execute a Contract with the Law Office of Sarah Roberts for Prosecution Services
<b>DEPARTMENT:</b>	City Attorney's Office
<b>PRESENTED BY:</b>	Margaret J. King, City Attorney
<b>ACTION:</b>	<input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing

**PROBLEM / ISSUE STATEMENT:**

Under State law the City of Shoreline is responsible for the criminal justice costs of all misdemeanors and infractions committed within the City's jurisdiction. These costs include court services, indigent defense and prosecution. Since its incorporation, Shoreline has contracted for court service with the King County District Court and has contracted for defense and prosecution services with various private attorneys.

The contract for Council consideration is for prosecution services beginning January 1, 2017. The City's current prosecution contract terminates at the end of December, 2016.

To award this contract, the City conducted a competitive process and issued a request for proposals (RFP) on September 23, 2016. The City only received one proposal from the Law Office of Sarah Roberts, the current provider of prosecution services.

**RESOURCE/FINANCIAL IMPACT:**

The total cost of prosecution services will be \$192,000 in 2017. The proposed 2017 budget appropriates a total of \$197,785, so there will be some savings between the negotiated contract and the anticipated cost in the proposed budget.

If, after the first year term, the additional contract years are executed (potentially covering 2018-2021), the 2017 flat rate for services will increase by 90% of the June to June Seattle-Tacoma Area CPI-U. This increase would apply to the base rate for each year the contract is extended (potentially covering 2018-2021). If an annual contract inflator rate of 2.5% is estimated, the total five year cost of the base rate for the contract would be \$1,009,215.

**RECOMMENDATION**

Staff recommends that the Council move to authorize the City Manager to execute a contract for prosecution services with the Law Office of Sarah Roberts for one year and four one-year options to extend, for a total contract not to exceed amount of \$1,009,215 in a form to be approved by the City Attorney.

Approved By:           City Manager **DT**   City Attorney **MK**

## **DISCUSSION**

The City's current prosecution contract will conclude at the end of the year, the contract for Council consideration tonight is for prosecution services beginning January 1, 2017.

### **Prosecution Services**

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. Prosecution services include non-traffic infractions, infractions involving accidents and vehicle impound hearings requested by owners, making charging decisions for misdemeanor and gross misdemeanor violations under the Shoreline criminal code as well as filing all necessary charging documents, attending arraignments, hearings, and sentencing, and conducting bench and jury trials, probation violation hearings and appeals. The prosecutor is also responsible for providing a Domestic Violence Coordinator to provide telephone counseling to assess a victim's immediate safety needs and resources and to assist victims of domestic violence with obtaining protective and restraining orders.

### **Request for Proposals**

The City's purchasing ordinance requires solicitation of bids for service contracts in excess of \$50,000 unless waived by the City Manager. Since prosecution services exceed this threshold, a Request for Proposals was prepared and published in August 2016.

The RFP requested a flat monthly rate that would include fees and expenses for the above prosecution services, including up to ten appeals a year to superior court. The RFP solicitation was published by the Washington Bar Association, Association of Washington Cities, Association of Prosecuting Attorneys, Washington Association of Municipal Attorneys, and the Journal of Commerce.

The only proposal that the City received was from the Law Office of Sarah Roberts, the City's current contract prosecutor.

### **Proposed Contract**

The proposed contract requires the Law Office of Sarah Roberts to provide an adequate number of attorneys and support staff to provide the above prosecution services and to efficiently manage the City's court calendar, in a manner which avoids unnecessary delays in completing the calendar, or unnecessary periods in custody.

Shoreline's regular court calendar days are currently Monday morning, and all day Tuesdays and Thursdays, beginning at 8:45 a.m. Jury trials are typically held on the last full week of each month (Monday, Tuesday, Thursday, and Friday) (Base days).

Caseloads have remained rather consistent over the past couple of years and this year appears to be similar based on the estimate for 2016 calculated using an estimate of the caseload numbers from January through September.

	2014	2015	2016
Non-Traffic infractions	83	45	72
DUI/Physical Control	86	87	81
Other Traffic Misdemeanors	315	358	327
Non-Traffic Misdemeanors	460	387	369
Appeals	2	1	5

The initial term of the contract is for one year, scheduled to begin on January 1, 2017. The proposed contract also includes four additional one-year options to extend, for a total possible life of five years. Award of the initial contract is no guarantee that any options to extend will be executed. The City Manager would have the authority to enter into the initial term and potentially execute subsequent option years. Council authorization of the contract would provide enough funding for all five terms.

### **FINANCIAL IMPACT**

The RFP requested a flat monthly rate for prosecution services as set out above. The terms of the proposed contract call for the City to provide a flat rate of compensation of \$16,000 per month for 2017. The total cost of the base rate contract is estimated to be \$192,000 for 2017.

If extended, in 2018, the flat rate for services and base days will increase by 90% of the June to June Seattle-Tacoma Area CPI-U. This increase would apply to the base rate for each year the contract is extended (potentially covering 2018-2021). If an annual contract inflator rate of 2.5% is estimated, the total five year cost of the base rate for the contract would be \$1,009,215.

The proposed 2017 budget appropriates \$197,785 (\$164,785 for prosecution services, along with a \$33,000 contingency). Although the proposed 2017 budget was developed prior to the competitive bid process and funds for this service were estimated based on past contract costs and future estimated bid amount contingency, this contract is within the 2017 budget amount of \$192,000.

### **RECOMMENDATION**

Staff recommends that the Council move to authorize the City Manager to execute a contract for prosecution services with the Law Office of Sarah Roberts for one year and four one-year options to extend, for a total contract not to exceed amount of \$1,009,215 in a form to be approved by the City Attorney.

### **ATTACHMENTS**

Attachment A – Scope of Services

**ATTACHMENT A**  
**CITY OF SHORELINE**  
**SCOPE OF SERVICES**

**I. Scope of Services**

Attorney shall provide prosecution services to the City for individuals charged with misdemeanor or gross misdemeanors filed by the City of Shoreline in Shoreline Municipal Department of Shoreline District Court. Representation at bench trials of non-traffic infractions, vehicle impound hearings and traffic infractions involving accidents are also covered by the contract. The lead managing prosecuting attorney shall also act as the City liaison with respect to prosecutorial related questions and court scheduling.

The Attorney will provide all supplies, equipment and shall provide an adequate number of attorneys and support staff to efficiently manage the court calendar in a manner which avoids unnecessary delays in completing the calendar, or unnecessary periods in custody. Sufficient attorneys shall be provided to prosecute cases during vacation and illness. Shoreline regular court calendar days are currently Monday morning, and all day Tuesdays and Thursdays, beginning at 8:45 a.m. at the Shoreline Courthouse. Jury trials are typically held on the last full week of each month (Monday, Tuesday, Thursday, and Friday).

Services include:

- Charging through criminal complaints based on officer reports
- Preparing pleas and pleadings
- Arraignment and pre-hearing conferences (non-custodial)
- Provide assistance to victims of domestic violence including telephone counseling, assessing the victims' immediate safety needs, and assisting with appropriate resources.
- Provide victims and witnesses with information about the legal process and options available to them through the legal system.
- Assist victims of domestic violence with obtaining protective orders and restraining orders whether or not criminal charges have been filed.
- Scheduling trials
- Attending hearings (including motion and probation review hearings)
- Conducting research
- Trial preparation
- Conduct trial
- Sentencing hearings
- Appeals, prosecution and defense
- Probation review and revocation
- Consulting with the City and the Court and acting as the City's liaison related to prosecution and District Court administrative matters

Prosecution and City representation will extend through final disposition and shall include any appeals filed, and post-conviction probation violations or sentence notification; or 60 days after a defendant has failed to appear at a mandatory hearing. Cases filed prior to contract term expiration will continue to be managed through final disposition, using the terms and conditions of the contract, regardless of date of final disposition. Representation shall include all counts arising from a single transaction or event and or charged in a single complaint.

The Attorney will prosecute all defendants unless the Rules of Professional Responsibility prohibit representation of the City.

## **II. Billing, Reporting and Consultation**

Monthly billings shall be prepared ten (10) working days after the end of each calendar month using the City's Professional Services Invoice form.

- Provide quarterly reports in printed and electronic format (Microsoft Excel) showing offender, offense(s), case number, hearing dates, and case disposition.
- Attend conferences with the City's representative as needed to review performance, develop and monitor performance benchmarks, review issues of common concern.
- Attendance at any King County District Court – Shoreline Courthouse - or City initiated meetings to address any ad hoc or ongoing issues or concerns with prosecution related issues or Court operations, or to review, revise or enhance district 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.

## **III. Associated Counsel**

- 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.
- 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. Sufficient counsel shall be provided to prosecute cases during vacation and illness.

#### **IV. Record Keeping and Confidentiality**

Records must be maintained and archived according to the Washington State Public Records Act chapter 42.56 RCW, chapter 44-14 WAC. Confidential information shall be adequately protected as required by law.