

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Authorizing the City Manager to Execute a Memorandum of Agreement with King County for Indigency Screening Services for 2021-2022
DEPARTMENT:	City Manager's Office
PRESENTED BY:	Christina Arcidy, Management Analyst
ACTION:	<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:

The City is required to provide the services of a public defender for individuals charged with misdemeanors or gross misdemeanors who are determined to be indigent or nearly indigent and unable to afford representation themselves. In addition to providing public defense services, the City must also provide for indigency screening services to determine which defendants may be eligible to be represented by the public defender. The City has provided indigency screening services by entering into a memorandum of agreement with the King County Office of Public Defense since the City's inception.

The City currently has an agreement for services with the King County Office of Public Defense for the term of January 1, 2019 through December 31, 2020. Staff is requesting that Council authorize the City Manager to enter into a new memorandum of agreement for these services with King County for a term of two years (January 1, 2021 through December 31, 2022). The new memorandum of agreement provides for the same services as the City's current agreement at a reduced rate.

RESOURCE/FINANCIAL IMPACT:

The adopted 2021-2022 Biennial Budget appropriates \$36,000 (\$18,000 per year) for Indigency Screening Services. The 2021-2022 rate for indigency screening services will be \$316 per month, for a total biennial amount of \$7,584 (\$3,792 per year).

RECOMMENDATION

Staff recommends that the City Council move to authorize the City Manager to enter into an memorandum of agreement with King County Office of Public Defense to provide indigency screening services on behalf of the City of Shoreline.

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

BACKGROUND

Under Washington State law (RCW 39.34.180), cities are responsible for providing criminal justice services for misdemeanor and gross misdemeanor offenses committed by adults in their respective jurisdictions. This includes jail, court, prosecution, and public defense services. They must carry out these responsibilities through the use of their own courts, staff, and facilities, or by entering into contracts or memorandum of agreements to provide these services. The City is required to provide public defense services 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, motions, and trials.

In addition to providing public defense services for those defendants charged with misdemeanant offenses, the City must also provide for indigency screening services to determine which defendants may be eligible to be represented by the City's public defender. The City has provided indigency screening services by entering into an memorandum of agreement with the King County Office of Public Defense (KCOPD) since the City's inception. The KCOPD is authorized to render such services. The City's current agreement with KCOPD has a term of July 1, 2019 through December 31, 2020.

DISCUSSION

The KCOPD provides all services relating to screening for financial indigency as set forth in the most recent Washington State Office of Public Defense screening criteria and King County Department of Public Defense procedures. They provide telephone indigency screening services via a trained screener Monday through Friday, 8:00 a.m. – 4:30 p.m. excluding holidays. They do not rescreen an individual for indigency within one year unless a new case is filed.

The KCOPD provided the necessary indigency screening services for the City during the previous contract term. The City did not receive any complaints from defendants or other community members regarding the service provided by KCOPD. Additionally, the City would be unable to provide this service itself for the fee charged by KCOPD.

The new KCOPD memorandum of agreement for 2021-2022 provides for the same services as past agreements, with a rate reduction from \$840 per month to \$316 per month, a savings of 37% from the 2019-2020 agreement. Per King County code, the rate is based on full cost recovery for providing this service and includes the salary and benefits of the screening staff, their supervision, and King County overhead necessary to provide the service. The term of the memorandum of agreement is two years and would begin on January 1, 2021 and terminate on December 31, 2022.

RESOURCE/FINANCIAL IMPACT

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RECOMMENDATION

Staff recommends that the City Council move to authorize the City Manager to enter into an memorandum of agreement with King County office of Public Defense to provide indigency screening services on behalf of the City of Shoreline.

ATTACHMENTS

Attachment A: Memorandum of Agreement (MOA) with King County for Indigency Screening Services

**Memorandum of Agreement Between
King County and the City of Shoreline
Relating to Indigency Screening Services**

This AGREEMENT entered into this 1st day of January 2021 between King County, State of Washington, hereinafter referred to as the "County", and the City of Shoreline, a municipal corporation organized under RCW 35A, hereinafter referred to as the "City." The County and the City may be individually referred to as a "party" or collectively as the "parties."

WITNESSETH:

WHEREAS, the City, pursuant to RCW 10.101.020 and RCW 10.101.030, is authorized to and desirous of reaching agreement with the County for the performance of Indigency Screening Services; and,

WHEREAS, the County is authorized by King County Code 2.60.060 to render such services and is agreeable to rendering such services on the terms and conditions hereinafter set forth and in consideration of payments, mutual covenants and agreements herein contained.

IT IS, THEREFORE, covenanted and agreed as follows:

I. OBLIGATIONS

- A. In consideration of the agreements of the City and payment of the sum hereinafter set forth, the County agrees to:
 - 1. Perform consistent with available resources all services relating to screening for financial indigency as set forth in the most recent Washington State Office of Public Defense screening criteria and King County Department of Public Defense procedures.
 - 2. Not rescreen an individual for indigency within one (1) year unless a new case is filed.
 - 3. Except as set forth in Section VII.A. below, services to be provided by the County pursuant to this Agreement do not include legal services, which shall be provided by the City at its own expense.
 - 4. Routinely provide telephone indigency screening services via a trained screener Monday through Friday, 8:00 a.m. - 4:30 p.m. excluding holidays.
 - 5. Provide screening documentation to the City upon request.

- B. In consideration of the agreements of the County herein before set forth, the City agrees to:
 - 1. Post appropriate signage directing defendants to the indigency screening services and if applicable, provide similar information on the City's official website.
 - 2. Follow the King County District Court, Shoreline Courthouse (KCDC) system for notification of any temporary cancellations. If the KCDC is closed due to

adverse conditions, the Department of Public Defense will be notified by calling 206-477-9727 so the screening staff may be notified.

3. Develop and transmit to the County the rate that the City will charge those defendants who are found indigent but able to contribute to the cost of their defense. This rate will be charged based on the King County Department of Public Defense's procedure for calculating ability to contribute to the cost of defense.
4. Collection of fees and communication to defendants regarding collections is the responsibility of the City.
5. Provide the County with a current, updated list of contracted Public Defense Attorneys.

II. COMPENSATION AND METHOD OF PAYMENT

The City shall reimburse the County for the indigency screening services as delineated in this Agreement in the following manner:

- A. Per King County Code Title 2.60.020 D, the rate is based on full cost recovery for providing this service and includes the salary and benefits of the screening staff, staff supervision, and King County overhead necessary to provide the screening service.
- B. For 2019-2020, the rate for indigency screening services provided will be \$316.00 per month. This rate may be reviewed at any time during the term of this Agreement at the request of either party.
- C. The County shall generate a monthly invoice within ten (10) working days after the end of the month. The invoice will include the number of phone calls received from defendants for the City, listed by date.
- D. The City shall remit payment to the County within thirty (30) calendar days of receipt of the invoice.

III. TIME OF PERFORMANCE

- A. This Agreement shall be effective the 1st day of January 2021 through the 31st day of December 2022.
- B. Prior to the expiration of this Agreement and commencing no earlier than October 1, 2022, the parties will engaged in communications pertaining to the rate and continuation of services by the County for another term. If the parties elect to continue this Agreement, such continuance shall be formalized in a written amendment to this Agreement as provided in Section IV below or by the execution of a new agreement.

IV. MODIFICATIONS

The parties agree that this Agreement is the complete expression of the terms hereto and any oral representation or understanding not incorporated herein is excluded. The parties reserve the right to modify this Agreement. Any modifications of this Agreement shall be in writing, signed by both parties, and affixed to this original Agreement.

V. TERMINATION

This Agreement may be terminated without cause only after ninety (90) calendar days written notice received by one party given by the other. Failure to comply with any of the provisions stated herein shall constitute material breach of Agreement and cause for immediate termination upon notice received by one party given by the other. Any termination of this Agreement shall not terminate any obligation of either party incurred prior to such termination.

VI. MUTUAL COVENANTS

Both parties understand and agree that the County is acting hereunder as an independent contractor, with the intended following results:

- A. Control of personnel, standards of performance, discipline, and all other aspects of performance shall be governed entirely by the County.
- B. All persons rendering Indigency Screening Services hereunder shall be for all purposes employees of the County.
- C. The contact for the City regarding citizen complaints about the indigency screening process is the King County Department of Public Defense at 206-477-9727. The Department of Public Defense will institute its complaint investigation process immediately. The City contact regarding citizen complaints about the City's contracted public defense attorney performance is the City Manager's Office Management Analyst at 206-801-2216.
- D. Any controversy or claim arising out of or relating to this Agreement shall be referred to a mediator mutually selected by the parties. Demand for mediation may be made by either party by providing written notice to the other party setting forth the controversy or claim. If the parties cannot mutually agree upon selection of a mediator within seven (7) working days of notice of the demand, then the mediator shall be selected by the presiding judge of the King County Superior Court. Once selected, the mediator shall conduct a mediation session with the parties within ten (10) working days from the date of his/her selection or at such other time as the parties may mutually agree. The cost of the mediator, if any, shall be shared equally by the parties. Such mediation shall precede any court action.

Nothing in this section shall affect the parties' right to terminate this Agreement for cause, as per Section V.

VII. INDEMNIFICATION

- A. The County shall indemnify and hold harmless the City and its officers, agents and employees or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by reason of or arising out of any negligent action or omission of the County, its officers, agents, and employees, or any of them, in performing its duties and obligations pursuant to this Agreement. In the event that any suit based upon such a claim, action, loss, or damage is brought against the City, the County shall defend the same at its sole cost and expense; provided, that, the City retains the right to participate in said suit if any principle of governmental or public law is involved; and if final judgment be rendered against the City and its officers, agents, employees, or any of them, or jointly against the City and County and their respective officers, agents, and employees, or any of them, the County shall satisfy the same.

- B. The City shall indemnify and hold harmless the County and its officers, agents, and employees, or any of them from any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatsoever, by reason of or arising out of any negligent act or omission of the City, its officers, agents, and employees, or any of them, in performing its duties and obligations pursuant to this Agreement. In the event that any suit based upon such a claim, action, loss or damage is brought against the County, the City shall defend the same at its sole cost and expense; provided that the County retains the right to participate in said suit if any principle of governmental or public laws is involved; and if final judgment be rendered against the County, and its officers, agents, and employees, or any of them, or jointly against the County and City and their respective officers, agents and employees, or any of them, the City shall satisfy the same.
- C. In executing this Agreement, the County does not assume liability or responsibility for or in any way release the City from any liability or responsibility which arises in whole or in part from the existence or effect of city ordinances, rules or regulations. If any cause, claim, suit, action or administrative proceeding is commenced in which the enforceability and/or validity of any such City ordinance, rule or regulation is at issue, the City shall defend the same at its sole expense and if judgment is entered or damages are awarded against the City, the County, or both, the City shall satisfy the same, include all chargeable costs and attorney's fees.
- D. This section shall survive termination or expiration of this Agreement.

VIII. AUDITS AND INSPECTION

The records and documents with respect to all matters covered by this Agreement shall be subject to inspection, review or audit by the County or City during the term of this Agreement and six years after termination hereof.

IX. NON-DISCRIMINATION

The County certifies that it is an Equal Opportunity Employer and has developed and implemented an Affirmative Action Program in accordance with federal regulations, including but not limited to 41 CFR Part 60-2. In hiring or employment made possible or resulting from this Agreement, there shall be no unlawful discrimination against any employee or applicant for employment because of sex, age (except minimum age and retirement provisions), race, color, creed, national origin, citizenship or immigration status (except if authorized by federal or state law, regulation, or government contract), marital status, sexual orientation, honorably discharged veteran or military status, the presence of any sensory, mental, or physical handicap or the use of a trained dog guide or service animal by a person with a disability, unless based upon a bona fide occupational qualification. This requirement shall apply to but not be limited to the following: employment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. No person shall be denied or subjected to discrimination in receipt or the benefit of any services or activities made possible by or resulting from this Agreement on the grounds of sex, race, color, creed, national origin, age (except minimum age and retirement provisions), citizenship or immigration status (except if authorized by federal or state law, regulation, or government contract), marital status, sexual orientation, honorably discharged veteran or military status, the presence of any sensory, mental or physical handicap, or the use of a trained dog guide or service animal by a person with a disability.

X. PUBLIC RECORDS

The parties acknowledge that each party is a public agency subject to Washington's Public Records Act, chapter 42.56 RCW, and that all documents produced in connection with this Agreement may be deemed a public record as defined in the Public Records Act and that if either party receives a public records request, unless a statute exempts disclosure, the party must disclose the record to the requestor.

XI. SEVERABILITY

Any provision or part of the Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken and all remaining provisions shall continue to be valid and binding upon the City and the Consultant, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

XII. CAPTIONS

The titles of sections or any other parts of this Agreement are for convenience only and do not define or limit the contents.

XIII. COUNTERPART ORIGINALS

This Agreement may be executed in any number of counterpart originals, each of which shall be deemed to constitute an original agreement, and all of which shall constitute one agreement. The execution of one counterpart by a party shall have the same force and effect as if that party had signed all other counterparts.

XIV. AUTHORITY TO EXECUTE

This Agreement may be executed in any number of counterpart originals, each of which shall be deemed to constitute an original agreement, and all of which shall constitute one agreement. The execution of one counterpart by a party shall have the same force and effect as if that party had signed all other counterparts.

IN WITNESS HEREOF, the parties hereto have caused this amendment to be executed and instituted on the date first above written.

KING COUNTY

CITY OF SHORELINE

King County Executive

Date

NAME (Please type or print)

Date

ATTEST:

Approved as to Form:

City Clerk

Date