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PURCHASING Request for Proposal #2018-056

Point of Contact:
Theresa Bauccio-Teschlog, CPPB
Purchasing Manager
(425) 257-8901
bids@everettwa.gov

Secondary (Conflicts) Public Defense Services

TIME LINE - The following represents the schedule for this solicitation.

<u>Event</u>	<u>Date</u>
Issue Date.....	July 23, 2018
Deadline for Final Questions.....	August 13, 2018
Proposal Due Date.....	August 21, 2018 , 2:00 p.m. Pacific Time
Award	October, 2018
Contract Start Date	January 1, 2019
Contract Term	Five (5) years

Submit Sealed Proposals to:

**City of Everett – City Clerk, 1st Floor
2930 Wetmore Avenue
Everett, WA 98201**

Clearly label the outside of the sealed envelope containing the original proposal and 6 complete copies with the Proposal Name, Proposal # and contact information listed above. Only Proposals that arrive in the City Clerk's office by the deadline will be considered.

Information & Addenda: All Information including Addenda regarding this solicitation can be found at:

<https://everettwa.gov/319/Bid-Opportunities>

Proposers are responsible for checking the City of Everett website for the issuance of any addenda prior to submitting a Proposal.

Questions: All questions must be requested through Public Purchase utilizing the above link or e-mailed to procurement professional listed above.

Unauthorized contact regarding this Request for Proposal with any other City of Everett employee or contractor may result in disqualification. Any oral communications will be considered unofficial and non-binding on the City of Everett. Proposers should rely only on written statements issued by the individual named listed above

SECTION 1 - INSTRUCTIONS

1.1 PROPOSAL SUBMITTAL

The City Clerk must receive the Supplier's proposal, in its entirety by 2:00 p.m. Pacific Time. Proposals arriving after the deadline will be returned unopened to their senders. All proposals and accompanying documentation will become the property of the City of Everett and may not be returned.

Proposal pricing must be submitted on the forms provided in this document. To receive consideration for award, the proposal shall be completed and signed by an authorized representative of the proposer. Submission of a proposal constitutes acceptance of the procedures, evaluation criteria, and other instruction of this RFP.

No proposer may withdraw their proposal after the hour set for the opening unless the award is delayed for a period exceeding one hundred and twenty (120) days.

1.2 PROPOSAL CLOSING

At the appointed time, the names of the suppliers who submitted proposals will be read aloud at an administrative opening in the 8th Floor, 2930 Wetmore, Everett, Washington.

1.3 OFFER PERIOD

All proposals submitted shall remain open for one hundred and twenty (120) days from the Proposal Due Date.

1.4 REQUEST FOR DUE DATE EXTENSION

Proposers may request an extension of the Proposal Due Date. Proposers shall supply any justification and additional information that will facilitate an evaluation and decision by the City. Any approved extension will be issued in an addendum.

1.5 WITHDRAWAL OF PROPOSALS PRIOR TO PROPOSAL DUE DATE

Proposers may withdraw a proposal which has been submitted at any time up to the due date and time. To accomplish this, a written request signed by an authorized representative of the proposer must be submitted to the procurement professional named on the RFP cover sheet.

1.6 SINGLE RESPONSE

A single response to the RFP may be deemed a failure of competition, and in the best interest of the City, the RFP may be cancelled.

1.7 EVALUATION & AWARD

The City will award the proposal to the responsive and responsible proposer(s) whose offer best meets the needs of the City or reject any and all proposals.

1.8 WAIVER OF MINOR ADMINISTRATIVE IRREGULARITIES

The City reserves the right, at its sole discretion, to waive minor administrative irregularities and informalities contained in any proposal submitted and accepted by the City. The City further reserves the right to make awards to the responsible offer whose

proposal is determined to be the most advantageous to the City. The City reserves the right to reject any or all Proposals.

1.9 EXCLUDED PARTIES

All proposers must certify that they are not on the Comptroller General's list of ineligible contractors nor the list of parties excluded from Federal procurement or non-procurement programs. <https://www.sam.gov>

1.10 BUSINESS LICENSE

The successful proposer will be required to possess or be able to obtain a City of Everett Business License and pay City of Everett B & O Tax, when applicable. B & O Tax questions may be directed to Everett City Clerk, (425) 257-8610.

1.11 BID PROTEST PROCEDURES

Bid Protest Procedures are available for review in the Everett Municipal Code 3.46 which can be found at: <http://www.codepublishing.com/WA/Everett/>

1.12 NON-ENDORSEMENT

As a result of the selection of a proposer to provide products and/or services to the City, the City is neither endorsing nor suggesting that the Proposer's product is the best or only solution. The proposer agrees to make no reference to the City of Everett in any literature, promotional material, brochures, sales presentation or the like without the express written consent of the City.

1.13 NO PROPRIETARY MATERIAL

By submitting a proposal, the proposer agrees that no material submitted in response to this RFP (including the proposal) is confidential. **All materials, including without limitation all proposals, will be available for public inspection without notice to any proposer.** The City will comply with the Washington Public Records Act.

1.14 RESPONSE PROPERTY OF THE CITY OF EVERETT

All materials submitted in response to this request become the property of the City of Everett. Selection or rejection of a proposal does not affect this.

1.15 NO OBLIGATION TO BUY

The City reserves the right to refrain from contracting with any proposer. The release of this RFP does not compel the City to contract

1.16 COST OF PREPARING PROPOSALS

The City is not responsible for any costs incurred by proposers in the preparation of proposals submitted in response to this RFP.

SECTION 2 - SPECIFICATIONS

2.1 AGENCY BACKGROUND

The Community: Located in west Snohomish County on the shore of Port Gardner, Everett is a 125-year old city of about 110,000 residents. Everett is the fastest growing “central city” in the region and is currently the most populous city in Snohomish County and the 6th largest in Washington. Up to 150 languages are spoken. The languages most frequently spoken (other than English) are Spanish, Russian, Vietnamese, Ethiopian, and Tagalog (Philippine). The City provides translation services as necessary at no cost to the public defense services provider.

City Government: The City of Everett is a charter city with a Mayor-Council form of government. The Everett Police Department is a dynamic agency with just over 200 sworn officers and 45 civilians who handle a myriad of tasks every day.

Municipal Court: Two elected Everett Municipal Court judges and several non-elected pro tem judges hear municipal court cases. The Honorable Laura VanSlyck, the presiding judge, and the Honorable Amy Kaestner are both elected judges. Court Administrator Katie Traenkenschuh manages day-to-day Court operations. Court staff totals 18 full-time equivalent staff, counting the Court Administrator, 3 probation officers, and clerical staff. Prosecution is provided by the City Attorney’s Office. Defense services for the indigent persons accused of a crime are currently provided by The Everett Law Group, PLLC. The Everett Municipal Court judges determine eligibility for public defense services for individuals charged with a misdemeanor or gross misdemeanor who cannot afford an attorney. The City uses the Snohomish County Office of Public Defense to provide screening for indigent status. The Court may meet five days per week from 8:30 AM until 4:30 PM. The Court currently also holds night court one Wednesday night per month beginning at 5:00 PM. The calendar is subject to changes at the discretion of the presiding judge. In general, those providing indigent defense services are present in court from 36 to 46 hours per week. The City also contracts with a public defense overseer to help the City evaluate public defense services.

The following table shows filings for cases in Everett Municipal Court from 2016 and 2017 for Driving Under the Influence, Non-Traffic Criminal, Traffic Criminal, and a total of all cases.

Table 1: Case Filings

	DUI	Criminal Non Traffic	Criminal Traffic	Total
2016	127	2644	389	3160
2017	162	2437	424	3023

The following table shows the approximate number of cases appointed to The Everett Law Group by Everett Municipal Court for indigent defense services from 2016 and 2017.

Table 2: Everett Law Group Appointments

	Newly opened and appeal-appointed cases
2016	2937
2017	2906

The following table shows the approximate number of cases appointed to lawyers other than The Everett Law Group by Everett Municipal Court for indigent defense services from 2016 and 2017.

Table 3: Other (Conflicts) Appointments

	Newly opened and appeal-appointed cases
2016	538
2017	454

2.2 SECONDARY (CONFLICTS) PUBLIC DEFENSE CONTRACT

In a separate RFP, the City is seeking a contractor for the bulk of public defense services at the Everett Municipal Court. The primary contractor will receive approximately the same case appointments as Everett Law Group as shown in Table 2 above.

This RFP for the Secondary (Conflicts) Public Defense Contract is for case appointments that the primary contractor cannot undertake, mostly because of conflicts. This secondary contractor will be the “default” conflicts counsel. The secondary contractor should anticipate, but the City cannot guarantee, case appointments approximately as shown in Table 3 above.

2.3 SCOPE OF SERVICES

The contractor(s) shall provide representational services, including lawyer services and appropriate staff services, infrastructure, investigation and appropriate sentencing advocacy. **All proposals should take into account the adopted Standards of the City and the Washington State Supreme Court ("Standards") when submitting proposals.** Proposals should include all necessary infrastructure, training, and services necessary to comply with the Standards. Legal services provided will include, but not be limited to, interviews of clients (including in-custody meetings at the jail) and potential witnesses, legal research, preparation and filing of pleadings, negotiations with the appropriate prosecutor or other agency and court regarding possible dispositions, and preparation for and appearance at court proceedings.

The Scope of Services is provided in detail in Exhibit A to the RFP (Secondary Contract).

SECTION 3 – PROPOSAL EVALUATION PROCESS

3.01 GENERAL

All proposals will be reviewed to determine compliance with the requirements as specified in the RFP. Proposals will be evaluated on how well the proposal meets the needs of the City, as described in the proposer's response to each requirement and the evaluation criteria identified in this RFP. It is important that the responses be clear and complete so that the evaluators can adequately understand all aspects of the proposal.

3.02 SELECTION PROCESS

The City will select the proposal that, at its sole discretion, provides the best value to the city. "Value" shall be determined based on the proven capability of the proposer to provide quality public defense services meeting the City's Standards at a rate commensurate with the training and experience of the proposed team of attorneys, all as set forth in evaluation criteria below. The City reserves the right to make an award without further discussion of the proposal submitted; there may be no best and final offer procedure. Therefore, the proposal should be initially submitted on the most favorable terms that the proposer can offer.

3.03 CONTRACT AWARD AND EXECUTION

Contract award will be for the proposers that best meet the needs of the City of Everett.

The contracts resulting from the acceptance of the proposal will be in substantially in the forms attached as Exhibit A to this RFP. Any proposed revision to the contracts must be noted in the proposal. The City reserves the right to reject any proposed contract revision

3.04 EVALUATION CRITERIA

Selection will be based upon the ability of the proposer to best meet the guidelines established by the 2011 Washington State Bar Association, which state:

The object of these guidelines is to alert the attorney to the course of action that may be necessary, advisable, or appropriate and thereby assist the attorney in deciding the particular actions that must be taken in a case to **ensure the client receives the best representation possible.**

#	Criteria	Points	Description
A	Qualifications and Relevant Experience – experience providing and/or understanding of Criminal Defense Services, including consideration of the qualifications of the specific attorneys who would provide the service under the proposal	75	Evaluate responses to Questionnaire 4.04.
B	Technical Capability, Approach, and Capacity – proposed delivery of services, including the proven or potential ability of the proposer to fully comply with all standards	100	Evaluate responses to Questionnaire 4.04.
C	Communication, Customer Service and Training – the experience and ability of the attorneys to respond and communicate with clients	25	Evaluate responses to Questionnaire 4.04.
D	Past Contract Performance and References- including proposer’s history of successfully fulfilling contracts of this type and references	50	Evaluate responses to Questionnaire 4.04.
E	Price Proposal/Value	100	Evaluate price proposals (Price Sheet 4.03) to determine if they are realistic for the work to be performed and demonstrates understanding of the services to be provided. Evaluation is also based on whether the price proposed is commensurate with the training and experience of the proposed team of attorneys
	Total	350	

3.05 INTERVIEWS

The City of Everett may request interviews with the highest-ranked proposers. The purpose of the interview, if held, will be to further review the finalist(s) in specific areas to determine which proposal provides the best fit and value to the City of Everett. Finalist(s) shall have key employees available for these interviews.

SECTION 4 – PROPOSAL SUBMITTAL REQUIREMENTS

4.01 SUBMITTAL REQUIREMENTS

Proposers shall provide a proposal that demonstrates an understanding of the project requirements as stated throughout this RFP.

Proposals in response to this RFP must be submitted in the order specified below. Proposals must include:

- 1. Cover Page: Proposer Commitment and Information: Form 4.02 (attached).**
- 2. Price Sheet: Form 4.03 (attached)**
- 3. Narrative Responses to the Questions Asked in Form 4.04 (attached).** Proposers should re-type the heading, question identifier and question. Then answer the questions and provide in the order requested. Proposers may emphasize in their narrative any areas of their proposal that they believe exceed our requirements.
- 4. Suggested response format:**
 - Standard 8 1/2" x 11" paper
 - Double-sided, numbered pages
 - Typed with a minimum of 11-point font

PROPOSAL COVER PAGE

FORM 4.02 PROPOSER COMMITMENT AND INFORMATION

RFP #2018-056 SECONDARY (CONFLICTS) PUBLIC DEFENSE SERVICES

Company Name:		
Company Address:		
City:	State:	ZIP:
Tax ID #:	UBI#:	
Legal status of organization, i.e., corporation, partnership, sole proprietorship.		
Website:	City of Everett Business License #	
Proposer Contact Name (if different from Authorizing Official):	Proposer Contact Title:	
Proposer Contact Email:	Proposer Contact Direct Phone:	
Proposer Contact Address (If different from above):		
City:	State:	ZIP:

By responding to this solicitation, the proposer understands and agrees to be bound by all requirements and contract terms and conditions contained in this solicitation. By signing this form, the proposer acknowledges receipt and understanding of any and all addenda issued for this solicitation. This form, signed by an individual authorized to legally commit the proposer, shall be submitted as the cover page.

The proposer also certifies that:

- I am authorized to commit my firm to this proposal and that the information herein is valid for 120 days from this date.
- That all information presented herein is accurate and complete and that the scope of work can be performed as presented in this proposal upon the City's request.
- That I have had an opportunity to ask questions regarding this proposal and that those questions have been answered.
- **That each and every attorney proposed to provide legal services has read and is familiar with the Supreme Court Standards originally adopted pursuant to the Order at 174 Wn.2d. 1177 and 1192, as amended.**
- That the proposal submitted includes all required training, infrastructure, and service required under such standards

Authorizing Official Name:	Authorizing Official Title:
Authorizing Official Email:	Authorizing Official Phone:
Authorizing Official Signature:	

FORM 4.03 PRICE SHEET
RFP #2018-056
SECONDARY (CONFLICTS) PUBLIC DEFENSE SERVICES

Proposer's Name:

We propose a compensation rate of \$_____ per case.

If awarded, this is the amount that will be filled into to Section 3 of the Contract attached as Exhibit A to the RFP

FORM 4.04 QUESTIONNAIRE

RFP #2018-056 SECONDARY (CONFLICTS) PUBLIC DEFENSE SERVICES

Proposers shall complete this "Questionnaire" providing the information in the same order requested below. Proposers may emphasize in their narrative any areas of their proposal that they believe exceed our requirements.

A. Qualifications & Relevant Experience - Experience providing and/or understanding of criminal defense services

1. Include resumes and the Washington Bar # of all attorneys who will provide legal services resulting from the award of this RFP. Include supervising attorneys. Specifically highlight experience in criminal defense.
2. Are all attorneys providing legal services in good standing in every bar association of which they are a member? If not, explain.
3. Describe the attorney's experience representing indigent clients. Include the types of cases.
4. How many courts do the attorneys providing legal services currently represent defendants? How many clients and in which courts did these attorneys appear in 2017?
5. Do any of the attorneys providing legal services, or individuals associated with these attorneys, have any conflicts of interest with any Everett Municipal Court judge or staff? If yes, explain.
6. Describe your experience working with ex-offenders, the mentally ill, or other clients in need of social service referrals.

B. Technical Capability, Approach, and Capacity - Proposed Delivery of Services

Taking into account the Standards for Services adopted by the Washington State Supreme Court:

1. How many attorneys providing legal services (FTE) will be employed to satisfy the requirements of this proposal? Include the supervising attorney(s).
2. How many support staff (FTE) do you anticipate employing to satisfy the requirements of this proposal
3. Describe how you plan to handle the estimated annual caseload and required services.
4. Describe the strategies and use of support staff you plan to utilize in order to balance a high case load, high quality representation meeting the Standards, and cost effectiveness.
5. What capacity for working with non-English speaking clients do the attorneys providing legal services possess? Explain in detail any experience representing non-English speaking clients.
6. How will you monitor the case load of attorneys providing legal services?
7. Will the attorneys providing legal services, or associated attorneys, continue to maintain a private practice? If so, Washington Supreme Court Standard 3.3

requires attorneys who maintain a private practice in addition to a public defense practice have public defense caseloads that "should be based on the percentage of time a lawyer devotes to public defense." If your practice includes both public defense work and private clients, describe how attorney time will be allocated and how it will be monitored to maintain compliance with Standard 3.3?

8. Do you anticipate using APR 9 interns, and if so, how will they be used and adequately supervised?
9. Provide any noteworthy elements of your approach to legal representation which speak to the types of cases or the demographic characteristics of Everett's public defense work.
10. Describe the system of performance reviews to assure that all attorneys are providing adequate legal representation and complying with the Standards.
11. Provide a statement explaining how you would define "conflicts of interest" and describe the procedure for screening conflicts.
12. Describe your approach to plea-bargaining and alternative dispositions of criminal charges would be utilized.
13. Standard 3.3 assumes "fully supported ... attorneys ... " Standard 5.2 identifies costs associated with public defense representation. Please describe the resources in your office that will be used to fully support attorneys providing public defense service.
14. Standard 6.1 provides that "Public defense attorneys shall use investigation services as appropriate. What do you think is the best manner in which investigative services shall be made available? Would you recommend a staff investigator be employed in your office? A panel to which attorneys can apply? What has been your previous experience working with and obtaining the services of an investigator?
15. In what circumstances would you allow for representation by an attorney other than the attorney of record?
16. Please describe how you propose to handle disagreements with court staff or court procedures.

C. Communication, Customer Service and Training

1. What philosophy would guide the provision of public defense services?
2. What systems would you put in place to assure that clients can easily contact their attorneys and that attorneys maintain client contact?
3. The City will require its public defense office to regularly report information demonstrating that its public defender is complying with the Standards adopted by the Washington Supreme Court and the Performance Guidelines for Criminal Defense Representation approved by the Washington State Bar Association. Refer to the contract for specifics.
 - a. Please describe your firm's capacity to provide this information and any software or other reporting format utilized by the proposer.
4. How would success be measured for clients?

5. Describe how you will adequately serve clients within Everett and surrounding areas who may have limited abilities to travel. What processes will you utilize to provide adequate opportunity for communication?
6. Describe the type and amount of training provided to the attorneys associated with this RFP. How much in-house and courtroom mentoring and supervision will be available and how much emphasis do you place on mentoring and supervision?
7. Describe your firm's plan to ensure effective communication with clients and how you will coordinate internally to maintain consistency. Identify any constraints that might affect your ability to respond timely; include your plan to maintain services under such constraints.

D. Past Contract Performance & References

1. If any attorneys providing legal services have previously provided contract services for a city or county, please provide documents outlining the quality of contract compliance under those previous contracts. If such documents are not available, please provide contact information for the contract administrator at the contracting agency.
2. If applicable, have any of the attorneys providing legal services ever had a contract that was terminated partly or wholly for performance?
3. In the last five years, have any attorneys been placed on corrective action in relation to such contract?
4. Have any of the attorneys providing legal services been removed from representation in a case for any reason other than conflict of interest or irreconcilable differences with a client, or been found in any manner to be ineffective in the representation of his/her clients by an ethics panel or by any court? If yes, please explain.
5. Describe any past instances when an attorney providing legal services has been sanctioned by any court for any reason.
6. Has any attorney providing legal services settled a dispute relating to malpractice prior to filing or had an action for malpractice filed in any court? If yes, please explain.
7. Has any attorney providing legal services been subject to a complaint, claim, or case in which the Washington State Bar Association opened an investigation regarding any violation of the Rules of Professional Conduct? If yes, please explain.
8. Please explain what corrective action would be taken as a result of a disciplinary finding or sanction arising out of the provision of public defense services.
9. Please provide three (3) references (with name, title, address, and phone number) who can speak to your ability to provide defense services to indigent persons charged with misdemeanor offenses. Include a brief statement describing the relationship to the reference.

EXHIBIT A
(FORM OF SECONDARY (CONFLICTS) CONTRACT)
CONTRACT FOR LEGAL DEFENSE SERVICES

THIS AGREEMENT is entered into by and between THE CITY OF EVERETT, a municipal corporation of the State of Washington (hereinafter referred to as “the City”), and _____, a licensed Washington attorney practicing in the City of Everett (herein referred to as “the Contractor” and/or “Conflict Attorney”). In consideration of the terms and conditions set forth herein, the parties agree as follows:

1. Scope of Services to be Performed. The purpose of this Agreement and scope of services are as defined in Schedule A attached hereto entitled, "Legal Defense Services" and by this reference made a part of this Agreement
2. Duration of Contract. The duration of this Contract is January 1, 2019 through December 31, 2023.
3. Compensation: The City will pay the Contractor for services provided hereunder at a rate of \$_____ per case, as set forth in Schedule B attached hereto and by this reference made part of the Contract.
4. Independent Contractor. The Contractor agrees that the Contractor will perform the services under this Agreement as an independent contractor and not as an agent, employee, or servant of the City. The parties agree that the Contractor is not entitled to any benefits or rights enjoyed by employees of the City. The Contractor specifically has the right to direct and control the Contractor’s own activities in providing the agreed services in accordance with the specification set out in this Agreement. The City shall only have the right to ensure performance.
5. Representation and Warranty. The Contractor represents and warrants that s/he is a member in good standing of the Washington State Bar Association, and that no disciplinary proceedings are pending against her/him. The Contractor shall maintain good standing with the Washington State Bar Association throughout the duration of this Agreement. The Contractor will abide by the Rules of Professional Conduct.
6. Access to Books/Records. The City may, at reasonable times, inspect the books and records of the Contractor relating to performance of this Agreement. Nothing in this paragraph shall be construed as constituting a waiver of the attorney-client and/or work product privilege. The Contractor shall keep all records required by this Agreement for five (5) years after termination of this Agreement for audit purposes.

7. Hold Harmless and Indemnity. The Contractor agrees to hold harmless and indemnify the City, its officers, officials, agents, employees, and representatives from and against any and all claims, costs, judgments, losses, or suits including Contractor's fees or awards, and including claims by Contractor's own employees to which Contractor might otherwise be immune under Title 51 arising out of or in connection with any willful misconduct or negligent error, or omission of the Contractor, his/her officers or agents.

It is specifically and expressly understood that the indemnification provided herein constitutes the waiver of the Contractor's waiver of immunity under Title 51 RCW solely for the purposes of this indemnification. The parties have mutually negotiated this waiver.

The City agrees to hold harmless and indemnify the Contractor, his/her/its officers, officials, agents, employees, and representatives from and against any and all claims, costs, judgments, losses, or suits including Public Defender's fees or awards, arising out of or in connection with any willful misconduct or negligent error or omission of the City, its officers or agents.

This Section 7 shall survive the termination or expiration of this Agreement and shall continue to be in effect for any claims or causes of action arising hereunder.

8. Insurance Requirements. The Contractor shall procure by the time of execution of this Contract, and maintain for the duration of this Contract, (i) insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the services hereunder by the Contractor, its agents, representatives, or employees, and (ii) a current certificate of insurance and additional insured endorsement when applicable. By requiring the minimum insurance coverage set forth in this Section 8, the City shall not be deemed or construed to have assessed the risks that may be applicable to the Contractor under this Contract. The Contractor shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage.
- a. General. Professional Liability, Errors and Omissions coverage, may be written on a "claims made" basis. If coverage is approved and purchased on a "claims made" basis, the Contractor warrants continuation of coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for not less than three (3) years from the date of completion of the work which is the subject of this Contract.
 - b. No Limitation on Liability. The Contractor's maintenance of insurance as required by this Contract shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.
 - c. Minimum Scope and Limits of Insurance. The Contractor shall maintain coverage at least as broad as, and with limits no less than:

- (i) Professional Liability: \$1,000,000.
- (ii) Insurance coverage must be placed with insurers with a Best's Underwriting Guide rating of no less than A:VIII, or, if not rated in the Best's Underwriting Guide, with minimum surpluses the equivalent of Best's surplus size VIII. Professional Liability, Errors and Omissions insurance coverage, if applicable, may be placed with insurers with a Best's rating of B+:VII. Any exception must be approved by the City.
- (iii) Coverage shall not be suspended, voided, canceled, reduced in coverage or in limits until after forty-five (45) calendar days' prior written notice has been given to the City.
- (iv) If at any time any of the foregoing policies fail to meet minimum requirements, the Contractor shall, upon notice to that effect from the City, promptly obtain a new policy, and shall submit the same to the City, with the appropriate certificates and endorsements, for approval.

d. Subcontractors. The Contractor shall include all subcontractors as insureds under its policies, or shall furnish separate certificates of insurance and policy endorsements for each subcontractor. Insurance coverages provided by subcontractors instead of the Contractor as evidence of compliance with the insurance requirements of this Contract shall be subject to all of the requirements stated herein.

9. Compliance with Laws. The Contractor shall comply with all applicable federal, state and local laws in performing this Agreement, including, but not limited to laws against discrimination.

10. Termination

- a. If the Contractor breaches any of its obligations hereunder, and fails to cure the same within five (5) days of written notice to do so by the City, the City may terminate this Agreement, in which case the City shall pay the Contractor only for the costs of services accepted by the City, in accordance with paragraph 4.
- b. Either party may terminate this Agreement upon ninety (90) days' written notice to the other party for any reasons other than stated in subparagraph "a" above, in which case the City shall pay the Contractor for all services performed by the Contractor pursuant to this Agreement prior to the date of termination in accordance with paragraph 4.
- c. Prior to termination, the Contractor shall resolve all assigned cases unless otherwise provided as follows:

- i. Upon notice of termination, the Contractor shall promptly, but in no event later than three (3) business days after notice of termination, identify to the City all pending cases. The City shall re-assign all cases that remain unresolved at the time of termination except for those cases in which special circumstances exist, such as imminent trial schedule, lengthy or complex course of litigation, special client circumstances, or other client or case-based interests that may require continued representation by the Contractor.
- ii. For those cases that the Contractor retains due to the existence of special circumstances, the terms of the contract will remain in force and effect until final resolution of said retained cases. The City will not assign any new cases to the Contractor during the period the Contractor is resolving retained cases under this provision.

d. Termination shall not affect the rights of the City under any other paragraph herein.

11. Non Assignment. The Contractor shall not subcontract, assign or delegate any of the rights, duties or obligations, covered by this Agreement without the prior express written consent of the City, which consent may be reasonably withdrawn.
12. Public Records Act. This Agreement and all public records associated with this Agreement shall be available from the City for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW (the "Act"). To the extent that public records then in the custody of the Contractor are needed for the City to respond to a request under the Act, as determined by the City, the Contractor agrees to make them promptly available to the City. If the Contractor considers any portion of any record provided to the City under this Agreement, whether in electronic or hard copy form, to be protected from disclosure under law, the Contractor shall clearly identify any specific information that it claims to be confidential or proprietary. If the City receives a request under the Act to inspect or copy the information so identified by the Contractor and the City determines that release of the information is required by the Act or otherwise appropriate, the City's sole obligations shall be to notify the Contractor (a) of the request and (b) of the date that such information will be released to the requester unless the Contractor obtains a court order to enjoin that disclosure pursuant to RCW 42.56.540. If the Contractor fails to timely obtain a court order enjoining disclosure, the City will release the requested information on the date specified.

The City has, and by this section assumes, no obligation on behalf of the Contractor to claim any exemption from disclosure under the Act. The City shall not be liable to the Contractor for releasing records not clearly identified by the Contractor as confidential or proprietary. The City shall not be liable to the Contractor for any records that the City releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

13. Conflicts Between Attachments and Text. Should any conflicts exist between any attached schedule and the text of this Agreement, the text of this Agreement shall prevail.
14. Governing Law and Stipulation of Venue. The laws of the State of Washington shall govern this Agreement and the parties stipulate that any lawsuit regarding this Agreement must be brought in Snohomish City, Washington.
15. Severability. Should any clause, phrase, sentence, or paragraph of this Agreement be declared invalid or void, the remaining provisions of this Agreement shall remain in full force and effect.
16. Entire Agreement. This Agreement is the complete expression of the terms and conditions hereunder. Any oral or written representations or understandings not incorporated herein are specifically excluded.

“City”

“Contractor”

City of Everett

Mayor

Date

Date

Approved as to Form:

City Attorney

Date

SCHEDULE A LEGAL DEFENSE SERVICES

The Contractor shall, in accordance with the requirements of this Agreement, provide attorney services as follows:

1. Duties and Responsibilities of Counsel: The Contractor will provide legal defense services as an attorney on case assignments made under this contract. The Contractor agrees to provide effective legal representation of all assigned clients from the date of notice of assignment through final adjudication. If a client has an appeal as a matter of right and wishes to appeal, the Contractor shall timely file a Notice of Appeal and a “Motion, Order and Affidavit of Indigence” in the Everett Municipal Court. Accordingly, in cases in which the Contractor is appointed as attorney of record, and unless Contractor is permitted by the court to withdraw at an earlier time, Contractor shall represent the defendant at all stages of the criminal process, from the time of appointment as attorney of record through the appeals process (provided that funding for appeals beyond superior court shall be pursuant to the terms of Title 15 of the Rules of Appellate Procedure), as well as during any period in which the court retains jurisdiction over the terms and conditions of any sentence or deferral. All post-sentencing hearings will be counted as part of Contractor's continuing representation of the defendant.
2. Responsibility for Expert Witness Fees and Other Costs Associated with Representation: Expert witness fees and other costs associated with representation are paid from the resources of the various courts.
3. Qualifications of Attorney. Contractor shall be admitted to practice law in the State of Washington and shall meet Standard Fourteen (14), “Qualification of Attorneys”, of the Washington Supreme Court’s Standards for Indigent Defense Services (adopted June 15, 2011) for the level of case complexity for which Contractor is contracting as set forth in Schedule B.
4. Continuing Legal Education (CLE). The Contractor shall attend at least seven (7) hours of trainings approved by the Washington State Office of Public Defense; e.g. a CLE sponsored by the Washington Defender Association, Washington Association of Criminal Defense Lawyers, or the Washington State Office of Public Defense. The City may request documentation of such attendance.
5. Attorney Certification. The Contractor must provide the City with quarterly certification forms, pursuant to CrRLJ 3.1.
6. Invoices: Contractor shall submit invoices within 60 days of the work being performed. Final billings shall be submitted within 60 days of the date of last action on the case. Failure to submit timely billings may result in denial of payment.

7. **Case Information. For each case, Contractor will provide the City the following information:**
- A. The date on which the case was assigned to Contractor, and the attorney assigned to the case;
 - B. The nature of the charge(s) and whether the defendant is in or out of custody at time of first contact and/or at time of arraignment;
 - C. The date of first contact with the defendant by the attorney assigned to the case;
 - D. A description of any substantive motions filed by the attorney to include:
 - 1. The nature of the motion;
 - 2. Whether there was a hearing on the motion;
 - 3. And, if there was a hearing, the outcome of the motion;
 - E. Whether an investigator was used. If not, why not
 - F. Whether there was an issue regarding competency, and if so, the nature of the issue;
 - G. The outcome of the case:
 - 1. Did the case proceed to trial, and if so, the outcome of the trial;
 - 2. If the case did not proceed to trial, what was the disposition
 - i. Guilty plea as charged;
 - ii. Guilty plea to a reduced charge (specifying the reduced charge);
 - iii. Case dismissed, with a reason for the dismissal (i.e., city's witness did not appear, investigation showed that defendant did not commit the crime and City dismisses in the interest of justice, dismissed as part of a global resolution, etc.)
 - iv. Bench warrant issued based on defendant's failure appear for trial.
8. **Public Records and Invoices:** Attorney invoices and time records submitted to the City are matters of public record. Please exercise appropriate discretion when filing an invoice or time record with regard to maintaining client confidences.

SCHEDULE B

COMPENSATION

1. Bench Warrant. On case types where the Contractor was paid a flat fee, if a defendant fails to appear the Contractor and will not bill again if the time between the issuance of a bench warrant and the date the bench warrant is quashed is within one year. If the time between the issuance of the bench warrant and the date the defendant quashes the bench warrant is greater than one year, the Contractor may bill the flat fee again. Nothing in this paragraph shall prevent the Contractor from requesting relief, under extraordinary case compensation, as set forth in Paragraph 4 below.
2. Withdrawal Prior to Final Adjudication. Payment for files from which the Contractor withdraws prior to final adjudication of the case will be in the City's sole discretion. The City will consider, among other things, the work performed by the Contractor prior to reassignment.
3. Extraordinary Case Compensation: The City may allow additional compensation for extraordinary cases where it is determined by the City that further compensation is reasonable and necessary under the circumstances of the case. Upon written documentation by the Contractor, the City shall consider additional compensation based upon the complexity of the case, the amount of hours devoted to the case whether the case has been assigned to the Mental Health Alternatives Program ("MAP"), and taking into consideration any other pertinent circumstances such as the number of pre-trial motions filed and argued. Any additional compensation is at the sole discretion of the City and must be expressly agreed to, in writing, signed by both the Contractor and the City.