

**CITY COUNCIL
AGENDA ITEM COVER SHEET**

ITEM NO: Consent C 8

DATE: October 23, 2008

SUBJECT: Public Defender – Contract for Services with Aimee Trua

CONTACT PERSON: Laura Koenig, Clerk/Deputy Finance Director

ISSUE:

The issue before the Council is authorizing the Mayor to sign a renewal contract with Aimee Trua for Public Defender services. There are no changes to the contract service monthly fee.

SUMMARY:

The City is required to provide Public Defenders to indigent criminal defendants charged under ordinances of the City. The Court is responsible for interviews and screening of defendants to determine if they qualify for indigent defense.

In 2004, the City entered into a contract with Aimee Trua to provide these services. The contract calls for a set dollar amount of \$1,700 per month for services provided without consideration to the number of cases handled. The total annual cost is \$20,400. There will be no increase in the monthly fee for 2009.

Prior to entering into a contract with one attorney, the City contracted with Snohomish County for Public Defender services. The County charges a set fee per case and it was not possible to project the annual costs (In 2003 the City paid \$25,188 and the first two months of 2004, paid \$8240).

ALTERNATIVES:

1. Authorize the Mayor to sign the revised contract for Public Defender services.
2. Do not authorize the Mayor to sign the contract and direct staff to issue a request for proposal for Public Defender services.

STAFF RECOMMENDATION

Staff recommends that the Mayor be authorized to sign a contract with Aimee Trua for Public Defender services.

MOTION:

Move to authorize the Mayor to sign a contract for Public Defender services with Aimee Trua.

Attachments: A. Contract for Services

CONTRACT FOR
PUBLIC DEFENSE SERVICES

THIS CONTRACT is entered into between the City of Sultan, a municipal corporation, herein referred to as the "City and Aimee Trua, herein referred to either as "Public Defender" or "Defender"

1. Scope of Services: Represents those indigent criminal defendants charged under ordinances of the City who qualify for appointed counsel and are screened upon or after May 19, 2004. The Public Defender shall provide Legal representation for each of these defendants from the time of screening for eligibility through trial, sentencing and appeals to the superior court, if necessary.
2. Independent Contractor: Public Defender and the City agree that the defender is an independent contractor with respect to the services provided pursuant to this agreement. Nothing in this agreement shall be considered to create the relationship of employer and employee between the parties hereto. Neither Defender nor any employee of the Defender shall be entitled to any benefits accorded to the City employees by virtue of the services provided under this agreement. The City shall not be responsible for paying, withholding or otherwise deducting any customary State or federal payroll deductions including, but not limited to, FICA, FUTA, state industrial insurance, state workers compensation, or otherwise assuming the duties of an employer with respect to the Defender or any employee of the Defender.
3. Applicant Screening: Determination for indigency for eligibility for appointed counsel under this contract shall be determined by an independent screening process as established by Snohomish County District Court, Evergreen Division. Should the Public Defender determine that the Defendant is not eligible for assigned counsel prior to the establishment of attorney/client privilege, the Defender shall so advise the City to reconsider the screening of that particular individual.
4. Associated Counsel: Any counsel associated with or employed by the Defender shall have the authority to provide the services called for herein, and the Public Defender may employ associate counsel to assist at Defender's expense. The Defender and all Defenders hired pursuant to this section shall be admitted to practice pursuant to the rules of the Supreme Court of the State of Washington.
5. Proof of Professional Liability Insurance: During the term of this agreement and any extensions hereof, the Defender shall secure and maintain a policy of comprehensive professional liability insurance with an insurance company licensed to do business in the State of Washington. Said policy shall have limits of not less than \$100,000. Defender shall provide the City with a copy of that policy within thirty days of the signing of this agreement or any extensions hereto.
6. Compensation: The City shall pay the Public Defender for services rendered under this contract as follows:
 - A. A flat fee of \$1,700.00 per month for all cases assigned; and
 - B. An additional fee of \$40.00 per hour up to a maximum of \$160.00 for any case which proceeds to jury trial, provided that, if it settles on the jury trial date, additional fees shall be paid at the \$40.0 per hour rate for the court appearance.
 - C. The Defender shall bill the City the first week of the month, or as soon thereafter as possible, for the flat fee and any additional work as defined in 6(B) for approval, which payment thereof shall be made in the regular course by the City. The Defender shall provide a report on the number of cases handled each month.
7. Services: The Defender shall appear at the hearings for the defendant at all stages until the defendant is sentenced. Upon sentencing, the defender shall withdraw.
8. Discovery Provided: The City shall provide through the Court or the prosecution, at no cost to the Defender, one copy of all discoverable material concerning each case assigned.

9. Code Provided: the City shall provide the Defender, at no cost, one copy of all criminal and traffic ordinances enacted by the City, and any amendments thereto adopted during the term of this contract.
10. No Assignments or Subcontracts: No assignments of transfer of this contract, nor any interest in this contract shall be made by either of the parties without prior written consent.
11. Attorney Conflict: In the event that representation of a defendant hereunder creates a conflict of interest, such that Defender cannot ethically represent the Defendant, or Defender for any reason elects not to represent the Defendant, said Defendant shall be referred back to the City for further assignment. If a separate defender needs to be appointed due to an ethical conflict of interest, the City shall pay the separate counsel a fee negotiated between the City and that counsel.
12. Term of this Agreement: Provisions of services pursuant to this agreement shall commence December 1, 2007 and the agreement shall remain in full force and effect through December 2008 unless terminated earlier by either party pursuant to the provisions herein.
13. Termination:
 - A. At the Election of Defender: The Defender may terminate this agreement without the necessity of substantiating cause upon expiration of thirty (30) days from the receipt by the City from the Defender written notice of such termination.
 - B. For Reasons Beyond Control of Parties: Either party may terminate this agreement without recourse by the other where performance is rendered impossible or impracticable for reasons beyond such party's reasonable control, such as but limited to , acts of nature, war or warlike operations, civil commotion, riot, labor dispute including strikes, walkout or lockout, sabotage or superior governmental control.
14. Amendments: No modifications or amendments of the provisions of this agreement shall be effective unless in writing and signed by authorized representatives of the parties hereto.
15. Entire Agreement: This instrument contains the entire agreement between the parties and may not be enlarged, modified, or altered unless in writing, signed by the parties and endorsed hereon.

Dated this day of 2008

Aimee Lou Trua, Public Defender

Carolyn Eslick, Mayor

Attest:

Laura J. Koenig, City Clerk