

CONTRACT FOR PUBLIC DEFENDER SERVICES – RENEWAL

THIS CONTRACT, entered into this 29th day of May, 2018 by and between the City of Olathe, Kansas, herein called the "City" and TIMOTHY J. AREHART, DONALD J. SMITH AND LENIN GUERRA, hereinafter called the "Public Defender."

WHEREAS, the Public Defender and the City, agree to the following:

1. The Public Defender shall provide legal representation to defendants when appointed to do so by a Municipal Judge or judge pro-tem of the Court.
2. The Public Defender shall conduct the defense of their clients in a professional, skilled manner consistent with standards set forth in the Kansas Rules of Professional Conduct and case law defining the duties of defense counsel in criminal cases.
3. The Public Defender shall conduct case evaluation, investigation and preparation including, but not limited to, meeting with defendants, conducting witness interviews, legal research, motion preparation, and related work as required on appointed cases.
4. The Public Defender shall appear personally with defendants whom they represent in all matters set in the Court including, but not limited to, the following dockets: arraignment, pre-trial plea, diversion appointment, motion hearing, contempt hearing, trial, sentencing, sentencing/house arrest review, order to show cause, revocation of probation/diversion, and other dockets as scheduled by the Court.
5. The Public Defender shall pay all costs and expenses incurred in the representation of defendants except as otherwise provided in this contract.
6. The Public Defender shall notify the Court immediately of any conflicts to the representation.
7. The Public Defender must remain an active member in good standing of the State Bar of Kansas. Further, the Public Defender must immediately inform the Court of any changes in the Public Defender's bar membership status and of any formal complaints prepared by the Disciplinary Administrator against the Public Defender.

8. If the Public Defender becomes aware of a material change in financial circumstances for any appointed defendant, it is the Public Defender's responsibility to notify the Court. If the Public Defender requests a re-determination of the indigence of any defendant whom the Public Defender represents and, if the Court makes a determination that said defendant is not indigent or partially indigent and allows the Public Defender to withdraw, the Public Defender agrees that no attorney working as Public Defender will represent said defendant for a fee.
9. The Public Defender shall maintain a current database of all cases to which Public Defender is appointed including names of defendants, case numbers and dates of appointment. Starting January 31, 2019, and on January 31st each year thereafter, the Public Defender shall produce and deliver to the Court Administrator a written report of all defendants, case numbers and dates of appointment for the previous calendar year.
10. The Public Defender agrees that representation of defendants on all appointed cases shall continue until the cases are terminated by dismissal, acquittal, sentencing, disposition following a motion to revoke diversion/probation, or satisfaction of appeal, including any restitution hearings that may be held after the sentencing, unless and until such representation passes onto another Public Defender by virtue of a new contract.
11. The Public Defender, if not bilingual, agrees to provide a bilingual attorney who is fluent in speaking, reading and writing the English and Spanish languages.
12. (a) The Public Defender shall verify and maintain minimum limits of Professional Liability / Malpractice Insurance, Business Insurance, Workers Compensation and Employers Liability Insurance as required by the City (see Attachment A). Public Defender shall provide written verification of required insurance to the Court Administrator by January 31st of each calendar year starting January 31, 2019.

(b) The Public Defender hereby agrees to indemnify and hold harmless the City, its departments and divisions, its employees and agents, from any and all claims, liabilities, expenses or lawsuits caused by the Public Defender's breach of contract or the negligent performance by the Public Defender (or by any person acting for the Public Defender or for whom the Public Defender is responsible).
13. The City shall provide and pay for interpreters for in-court matters.

ATTACHMENT A

14. The City may also pay reasonable compensation for other necessary support services, subject to prior motion and approval, when a finding is made by the Municipal Judge or judge pro tem that such services are indispensable to the interests of justice including, but not limited to: expert witnesses, investigators, competency evaluations and out-of-court interpreters.
15. In the event of conflicts of interest, the Court shall appoint such additional counsel as necessary. The expense for such additional counsel will be the sole responsibility of the City.
16. Discovery will be provided at no cost on those cases to which the Public Defender has been appointed.
17. (a) The term of this Contract shall be, upon approval of the Olathe City Council and contract execution by both parties, from May 1, 2018, through April 30, 2021, after which the City reserves the right to extend the contract for two (2) additional one year terms from the date of expiration, provided such extension(s) are mutually agreeable to the City and to the Public Defender.

(b) Notwithstanding the foregoing, this Contract may be terminated by the City upon sixty (60) days written notice, with or without cause. If this Contract is terminated, the Public Defender shall be paid for services performed to the date of receipt of such termination notice by the Public Defender.

(c) Any notices of termination to be given by either party to the other must be in writing and personally delivered or emailed to the following:

City of Olathe: Nicole Averell

naverell@olatheks.org

Public Defender: Timothy J. Arehart,
Donald J. Smith, Lenin Guerra

office@manningandsmith.net

18. Fees: Beginning May 1, 2018, through April 30, 2021, upon submission of invoices, the City will pay the Public Defender, for all legal services provided pursuant to this Contract, the base amount of \$83,199.84 per year payable at the rate of \$6,933.32 per month.

In the event this Contract is terminated and payment is for less than a full calendar month, the monthly compensation will be prorated for that month at a daily rate.

19. This Contract is non-assignable by the Public Defender.
20. This Contract shall be subject to the laws of the State of Kansas. In the event that any provision of the Contract shall be held to be invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties.
21. This Contract shall supersede all prior negotiations, representations, or agreements, whether written or oral. This contract may be amended only by written instrument signed by both the City and the Public Defender. Written and signed amendments shall automatically become part of the Contract and shall supersede any inconsistent provision herein; provided, however, that any apparent inconsistency shall be resolved, if possible, by construing the provisions as mutually agreeable.
22. No oral orders, objections, claims or notices by any party to the other shall affect or modify any of the terms or obligations contained in this Contract. None of the provisions of this contract shall be held to be waived or modified by reason of any act whatsoever, other than by a definitely agreed waiver or modification thereof in writing. No evidence of modification or waiver other than evidence of any such written waiver or modification shall be introduced in any proceeding.

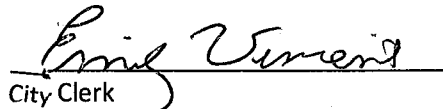
IN WITNESS WHEREOF, the parties have caused the Contract to be signed by their duly authorized representatives as of the date first above written.

CITY OF OLATHE, KANSAS

By:



Michael E. Copeland, Mayor

ATTEST:


City Clerk

(SEAL)

APPROVED AS TO FORM:

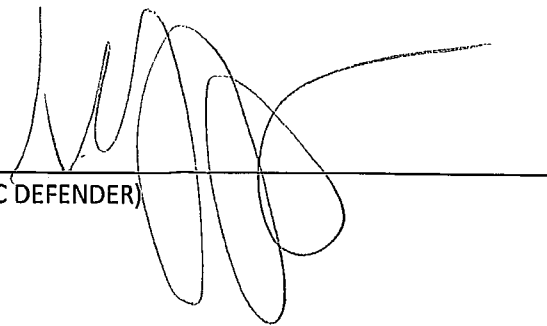

City Attorney/Deputy City Attorney/
Assistant City Attorney



ATTACHMENT A

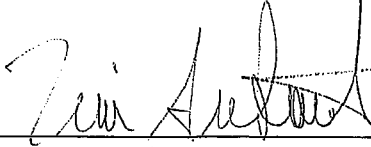
TIMOTHY J. AREHART, DONALD J. SMITH, LENIN GUERRA

By: _____
(PUBLIC DEFENDER)

A large, stylized handwritten signature in black ink, written over a horizontal line. The signature consists of several large, overlapping loops and a long, sweeping horizontal stroke extending to the right.

ATTACHMENT A

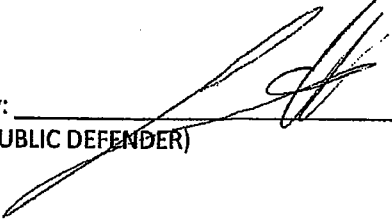
TIMOTHY J. AREHART, DONALD J. SMITH, LENIN GUERRA

By: 
(PUBLIC DEFENDER)

ATTACHMENT A

TIMOTHY J. AREHART, DONALD J. SMITH, LENIN GUERRA

By: _____
(PUBLIC DEFENDER)

A handwritten signature in black ink is written over the horizontal line of the signature line. The signature is stylized and appears to be a combination of initials and a surname.