



City of Olathe

COUNCIL AGENDA ITEM

MEETING DATE: 5/19/2020

DEPARTMENT: Legal

STAFF CONTACT: Ron Shaver/Kristi Orbin

SUBJECT: Consideration of amendment to the contract for public defender services for the Municipal Court.

ITEM DESCRIPTION:

Consideration of amendment to contract with Donald J. Smith, Timothy J. Arehart, and Lenin Guerra for public defender services for the Municipal Court.

SUMMARY:

In 2018, a three-year contract was competitively bid and awarded to Donald J. Smith, Timothy J. Arehart, and Lenin Guerra for public defender services ("the 2018 Contract"). These three (3) attorneys collectively serve as the "Public Defender" in Olathe Municipal Court. The 2018 Contract allows the Municipal Judge or judge pro-tem to appoint, as needed, the Public Defender to represent an indigent defendant in Municipal Court. Under the 2018 Contract, the Public Defender performs legal services including but not limited to evaluating cases, meeting with defendants and witnesses, conducting legal research, preparing motions, and appearing with or on behalf of defendants during plea negotiations, court hearings, and trials. The fee structure of the 2018 Contract provides for flat fee of \$6,933.32 per month to the Public Defender.

Due to the public emergency of the COVID-19 pandemic, court dockets in the Olathe Municipal Court were cancelled during a portion of April and May 2020. Staff approached Mr. Smith, Mr. Arehart, and Mr. Guerra about amending the 2018 Contract to add a different fee structure during times when dockets have been cancelled. Mr. Smith, Mr. Arehart, and Mr. Guerra have agreed to Staff's recommended revision to the fee schedule. Under the proposed contract amendment (**Attachment A**), during any period of docket cancellation, the Public Defender will be paid \$150.00 per hour upon submission and approval of itemized invoices for legal services. During those periods, Staff anticipates very few, if any, legal services being performed by the Public Defender. For any month when dockets are partially cancelled, the flat fee will be prorated for the days when the dockets were not cancelled.

Staff recommends approval of the amendment to the 2018 Contract.

FINANCIAL IMPACT:

Estimated annual expenditures not to exceed \$83,200 will continue to be charged to the Municipal Court Administration budget for public defender services. Under the proposed contract amendment, when court dockets are cancelled, costs will be lower and result in cost savings through the end of the contract period. The exact amount of cost savings depends on the length of any docket cancellation periods.

ACTION NEEDED:

MEETING DATE: 5/19/2020

Approve contract amendment to the 2018 Contract with Donald J. Smith, Timothy J. Arehart, and Lenin Guerra.

ATTACHMENT(S):

A. Amendment to the 2018 Contract for Public Defender Services