

**Park City Municipal Corporation**  
**REQUEST FOR PROPOSALS (NON-BID) FOR**  
***PUBLIC DEFENDER LEGAL SERVICES***

NOTICE

REQUEST FOR PROPOSALS (NON-BID)  
*Public Defender Legal Services*

PROPOSALS DUE: By **3:00 p.m. on Friday, August 2, 2019**

PROJECT NAME: Public Defender Legal Services

RFP AVAILABLE: By 10:00 a.m. on Friday, July 19, 2019

PROJECT LOCATION: 445 Marsac Avenue, Park City, UT 84060

PROJECT DESCRIPTION (brief): The City desires to have legal services and tasks performed requiring specialized skills and other supportive capabilities by a qualified Public Defender.

PROJECT DEADLINE: The term of this agreement shall be for two (2) years, with the City's sole option to renew for an additional one (1) year.

OWNER: Park City Municipal Corporation  
P.O. Box 1480  
Park City, UT 84060

CONTACT: *Leah Langan, Executive Assistant*  
[Leah.langan@parkcity.org](mailto:Leah.langan@parkcity.org)  
**All questions shall be submitted in writing by 3:00 p.m. on Friday, July 26, 2019.**

**Park City reserves the right to reject any or all proposals received for any reason. Furthermore, the City shall have the right to waive any informality or technicality in proposals received when in the best interest of the City.**

**In the absence of the project manager, proposals should be dropped off to the City Recorder, located at 445 Marsac Avenue, Third Floor – Executive Department, Park City, UT 84060.**

## **I. Introduction**

The City desires to have legal services and tasks performed requiring specialized skills and other supportive capabilities by a qualified Public Defender.

## **II. Purpose of Project**

The Public Defender will provide legal defense to adults and juveniles charged with misdemeanors by the Park City Prosecutor, and who have been found eligible for appointment of legal counsel by the Summit County Justice Court or the Third District Court, Park City Department.

## **III. Scope of Project**

- A. The Public Defender will provide legal defense to adults and juveniles charged with misdemeanors by the Park City Prosecutor, and who have been found eligible for appointment of legal counsel by the Summit County Justice Court or by the Third District Court, Park City Department. The Public Defender agrees to be available in the courtroom at the Summit County Justice Center, 6300 North Silver Creek Road, Park City, Utah, on regularly scheduled Summit County Justice Center or Third District Court Park City Department sessions during the weekly arraignment calendar.
- B. Public Defender will be appointed as the Public Defender only on those cases which are to be prosecuted by the Park City Prosecutor in the capacity as the Park City Prosecutor.
- C. The City will contract out and arrange for any case for which Public Defender cannot represent indigent defendants due to a conflict of interest. Indigent defendant is a term defined in Utah Code 78B-22 and used throughout this document for clarity. Public Defender is required to immediately inform City Attorney of any such conflict.
- D. The term of this Agreement shall be for two (2) years, with the City's sole option to renew for an additional one (1) year.

## **IV. Content of Proposal**

Proposals will be evaluated on the criteria listed below. Proposals shall be limited to ten (10) pages.

1. The demonstrated experience and legal qualifications of the applicant;
2. The ability and willingness of the applicant to fulfill all required duties;
3. Acceptance of the terms of Park City Municipal Corporation's Provider/Professional Services Agreement.

Proposals must include, but are not limited to:

A detailed statement of past criminal practice experience, including education, jurisdictions, types of cases, any noteworthy cases and any other relevant legal experience. Please include your philosophy about criminal defense and the criminal justice system, and provide references. The proposal should include responses to the following:

1. How many jury trials have you tried in the past five (5) years? Career?
2. Describe your Drug Court experience
3. What qualities should a public defender possess?
4. Describe your DUI and DV experience
5. Do you have ties to or a history with Park City?
6. How will you ensure compliance with the core principles for the provision of constitutionally adequate indigent defense representation in the State of Utah?

The proposal should include responses to the applicant's qualifications for each required duty.

Qualifications and duties:

1. Applicant is a member in good standing of the Utah Bar and will maintain active membership in the Bar throughout the term of contract.
2. Applicant is competent in the practice of criminal law, with a minimum of five (5) years of experience as a criminal defense attorney.
3. Applicant is a citizen of the United States or a permanent resident alien.
4. Attorney shall be available to meet clients in Park City or Western Summit County outside of the weekly arraignment calendar and this information shall be made known to the clients served under this agreement.
5. Applicant is not party to any litigation which would place his licensing or standing with the Utah Bar in jeopardy.
6. Applicant has and will maintain while serving as Public Defender professional malpractice insurance with, at a minimum, limits of \$1,000,000.00 per person and an aggregate of \$1,000,000.00 per occurrence.
7. Applicant will maintain sufficient continuing professional education credits while serving as Public Defender in order to keep abreast of all current legal trends.
8. While serving as Public Defender, applicant will be available and accessible to indigent clients reasonably in advance of any hearing or trial, make reasonable efforts to visit indigent clients who are incarcerated in the Summit County Jail;

admitted to a hospital or otherwise confined at the earliest possible moment; return telephone calls as soon as reasonably possible and otherwise be reasonably accessible to all indigent defendants.

9. Public Defender will confer with clients, attend all matters before the court including scheduling conferences, all hearings and trials, and all other matters required to ensure adequate representation including, but not limited to probation revocation hearings and restitution hearings.
10. Attorney will provide legal defense to adults and juveniles charged with misdemeanors by the Park City Prosecutor, and who have been found eligible for appointment of legal counsel by the Summit County Justice Court or by the Third District Court, Park City Department. The Public Defender agrees to be available in the courtroom at the Summit County Justice Center, 6300 North Silver Creek Road, Park City, Utah, on regularly scheduled Summit County Justice Center or Third District Court Park City Department sessions during the weekly arraignment calendar.
11. Public Defender will maintain adequate and proper records of the representation for each assigned indigent defendant.
12. Public Defender will provide the Park City Council an annual report of the number and types of cases or matters handled, specifying the types and classes of offenses, courts, particular clients, non-jury trials, jury trials, hearings other than trials, plea-negotiated settlements and/or such other factors or statistical information as may be reasonably requested by the City that do not violate attorney-client privilege.
13. Representation of indigent defendants includes appeals in the District Court from Justice Court and through appellate review, if warranted.

#### Compensation

1. The City will compensate Public Defender for his/her actual time in providing legal service to defendants pursuant to the Agreement with Park City Municipal Corporation.
2. Public Defender will receive an hourly rate as stated in the Agreement with Park City Municipal Corporation.
3. The City will reimburse Public Defender for out-of-pocket expenses, such as investigations, subpoenas, or expert witnesses.
4. The City will not reimburse Public Defender for travel time to and from court or for costs of doing business, e.g., secretarial/legal assistant support, phone, and/or copying costs.

Park City Municipal Corporation reserves the right to reject any and all proposals for any reason. Proposals lacking required information will not be considered. All submittals shall be public records in accordance with government records regulations (“GRAMA”) unless otherwise designated by the applicant pursuant to UCA §63G-2-309, as amended. The award of contract is subject to approval by City Council.

**Price may not be the sole deciding factor.**

## **V. Selection Process**

Proposals will be evaluated on the factors listed in Section IV, Content of Proposal, above.

The selection process will proceed on the following schedule:

- A. A pre-submission meeting will not be held.
- B. Proposals will be received by Park City by **3:00 p.m. on Friday, August 2, 2019**, at the Executive Office located at 445 Marsac Avenue, Park City, UT 84060.
- C. A selection committee will review all submitted RFPs.
- D. Interviews may be conducted the week of August 5 or 12, 2019.
- E. It is anticipated that City Council will vote on the contract award on Thursday, August 15, 2019.

Applicants NOT selected for a contract should indicate on the Application whether they wish to remain on a conflict roster for compensation at a rate per hour to be determined.

## **VI. Park City Municipal Standard Service Provider Agreement**

A. The successful proposal will be required to enter into Park City’s Provider/Professional Service Agreement, in its current form, with the City. A draft of the Agreement is attached to this RFP as Exhibit “A” and incorporated herein. If there is a conflict between the written and numerical amount of the proposal, the written amount shall supersede.

**B. ANY INQUIRIES RELATED TO INDEMNIFICATION OR INSURANCE PROVISIONS CONTAINED IN PARK CITY MUNICIPAL CORPORATION’S STANDARD AGREEMENT MUST BE SUBMITTED TO PARK CITY MUNICIPAL CORPORATION NO LATER THAN THE**

**PROPOSAL/SUBMITTAL DEADLINE. PARK CITY MAY, IN ITS SOLE DISCRETION, CONSIDER SUCH INQUIRIES. ANY CHANGES TO PARK'S CITY'S STANDARD INSURANCE AND INDEMNIFICATION PROVISIONS SHALL BE APPROVED IN PARK CITY'S SOLE DISCRETION.**

Any service provider who contracts with Park City is required to have a valid Park City business license.

**VII. Information to be submitted**

To be considered, two (2) copies of the proposal must be received at the Park City Executive Office, 445 Marsac Avenue, Park City, UT 84060, Attn: Leah Langan, Executive Assistant, by **3:00 p.m. on Friday, August 2, 2019.**

**VIII. Preparation of Proposals**

A. Failure to Read. Failure to Read the Request for Proposal and these instructions will be at the offeror's own risk.

B. Cost of Developing Proposals. All costs related to the preparation of the proposals and any related activities are the sole responsibility of the offeror. The City assumes no liability for any costs incurred by offerors throughout the entire selection process.

**IX. Proposal Information**

A. Equal Opportunity. The City will make every effort to ensure that all offerors are treated fairly and equally throughout the entire advertisement, review, and selection process. The procedures established herein are designed to give all parties reasonable access to the same basic information.

B. Proposal Ownership. All proposals, including attachments, supplementary materials, addenda, etc., shall become the property of the City and will not be returned to the offeror.

C. Rejection of Proposals. Park City Municipal Corporation reserves the right to cancel or modify the terms of this RFP and/or the project at any time and for any reason preceding contract award and reserves the right to accept or reject any or all proposals submitted pursuant to this request for proposals. Park City will provide respondents written notice of any cancellation and/or modification. Furthermore, the City shall have the right to waive any informality or technicality in proposals received when in the best interest of the City.

D. No proposal shall be accepted from, or contract awarded to, any person, firm (with designated primary attorney) or corporation that is in arrears to the City, upon debt or contract, or that is a defaulter, as surety or otherwise, upon any obligation to the

City, or that may be deemed irresponsible or unreliable by the City. Offerors may be required to submit satisfactory evidence that they have the necessary financial resources to perform and complete the work outlined in this RFP.

E. Park City Municipal Corporation's policy is, subject to Federal, State and local procurement laws, to make reasonable attempts to support Park City businesses by purchasing goods and services through local vendors and service providers.

F. If bidder utilizes third parties for completing RFP requirements, list what portion of the RFP will be completed by third parties and the name, if known, of the third party.



**EXHIBIT “A”**  
**PARK CITY MUNICIPAL CORPORATION MINOR SERVICE PROVIDER/PROFESSIONAL SERVICES AGREEMENT**

THIS AGREEMENT (“Agreement” is made and entered into in duplicate this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by and between **PARK CITY MUNICIPAL CORPORATION**, a Utah municipal corporation, (“City”), and \_\_\_\_\_ (“Public Defender”).

WITNESSETH:

WHEREAS, the City desires to have certain services and tasks performed as set forth below requiring specialized skills and other supportive capabilities; and

WHEREAS, the City is required to provide legal services for indigent defendants charged with criminal acts and eligible for appointment of counsel by the Third District Court, Park City Department, Park City, Utah, as provided by law; and

WHEREAS, the Public Defender, contracted by the City to perform the above-described legal services, represents that he/she is qualified and possesses sufficient skills and the necessary capabilities, including legal and professional expertise, where required to perform the services and/or tasks set forth in this Agreement.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, the parties hereto agree as follows:

**1. SCOPE OF SERVICES.**

- A. The Public Defender will provide legal defense to adults and juveniles charged with misdemeanors by the Park City Prosecutor, and who have been found eligible for appointment of legal counsel by the Summit County Justice Court or by the Third District Court, Park City Department. The Public Defender agrees to be available in the courtroom at the Summit County Justice Center, 6300 North Silver Creek Road, Park City, Utah, on regularly scheduled Summit County Justice Center or Third District Court Park City Department sessions during the weekly arraignment calendar.
- B. Public Defender will be appointed as the Public Defender only on those cases which are to be prosecuted by the Park City Prosecutor in the capacity as the Park City Prosecutor.
- C. The City will contract out and arrange for any case for which Public Defender cannot represent indigent defendants due to a conflict of interest. Public Defender is required to immediately inform City Attorney of any such conflict.

2. **REQUIREMENT FOR BAR MEMBERSHIP.**

Throughout the term of this Agreement, Public Defender will maintain active membership in the Utah State Bar. In the event that Public Defender fails to maintain Utah State Bar membership, this Agreement will be rendered null and void, and no further payment under this Agreement will be made to Public Defender unless and until he/she has remedied any defect in the licensure.

3. **TERM.**

The term of this Agreement shall commence on \_\_\_\_\_, **2019**, of execution on this Agreement and shall terminate on \_\_\_\_\_, unless extended by mutual written agreement of the Parties.

4. **COMPENSATION AND METHOD OF PAYMENT.**

- A. Payments for services provided hereunder shall be made monthly following the performance of such services.
- B. The City will pay Public Defender at a rate of \_\_\_\_\_ **Dollars (\$XXX)** per hour. City will compensate Public Defender for his/her actual time in providing legal services to defendants pursuant to this Agreement.
- C. The City will reimburse Public Defender for out-of-pocket expenses, such as extraordinary investigations, subpoenas, or expert witnesses. The City will not reimburse Public Defender for costs of doing business, e.g., secretarial/legal assistant support, insurance, phone, travel, and/or copying costs.
- D. The Public Defender shall submit to the City Attorney or his designee on forms approved by the City Attorney, a monthly invoice for Public Defender services rendered during each month of the term of service. The monthly invoice shall include an itemization of Public Defender cases/case number, court date, accounting of time for court appearance and preparation, and any out-of-pocket expenses. Invoices shall be submitted to: Park City Municipal Corporation, City Attorney, P.O. Box 1480, Park City, Utah 84060.

**5. REPORTS AND INSPECTIONS.**

- A. The Public Defender, at such times and in such forms as the City may require, shall furnish the City such statements, records, reports, data, and information as the City may request pertaining to matters covered by this Agreement.
- B. The Public Defender shall at any time during normal business hours and as often as the City may deem necessary, make available for examination of all its records and data with respect to all matters covered, directly or indirectly, by this Agreement and shall permit the City or its designated authorized representative to audit and inspect other data relating to all matters covered by this Agreement. The City may, at its discretion, conduct an audit at its expense, using its own or outside auditors, of the Public Defender's activities, which relate directly or indirectly to this Agreement.
- C. Nothing herein shall apply to any records or matters protected by attorney-client privilege.

**6. INDEPENDENT CONTRACTOR RELATIONSHIP.**

The parties intend that an independent Public Defender/City relationship will be created by this Agreement. No agent, employee, or representative of the Public Defender shall be deemed to be an employee, agent, or representative of the City for any purpose, and the employees of the Public Defender are not entitled to any of the benefits the City provides for its employees. The Public Defender will be solely and entirely responsible for its acts and for the acts of its agents, employees, or representatives during the performance of this Agreement.

**7. HOLD HARMLESS INDEMNIFICATION.**

- A. The Public Defender shall indemnify and hold the City and its agents, employees, and officers, harmless from and shall process and defend at its own expense any and all claims, demands, suits, at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against the City arising out of, in connection with, or incident to the execution of this Agreement and/or the Public Defender's defective performance or failure to perform any aspect of this Agreement; provided, however, that if such claims are caused by or result from the concurrent negligence of the City, its agents, employees, and officers, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Public Defender; and provided further, that nothing herein shall require the Public Defender to hold harmless or defend the

City, its agents, employees and/or officers from any claims arising from the sole negligence of the City, its agents, employees and/or officers.

- B. The Public Defender expressly agrees that the indemnification provided herein constitutes the Public Defender's limited waiver of immunity as an employer under Utah Code Section 34A-2-105; provided, however, this waiver shall apply only to the extent an employee of Public Defender claims or recovers compensation from the City for a loss or injury that Public Defender would be obligated to indemnify the City for under this Agreement. This limited waiver has been mutually negotiated by the parties, and is expressly made effective only for the purposes of this Agreement. The provisions of this section shall survive the expiration or termination of this Agreement.
- C. No liability shall attach to the City by reason of entering into this Agreement except as expressly provided herein. The Public Defender shall maintain its own malpractice/professional liability insurance. Nothing herein shall waive any defense or limit of liability of the Utah Government Immunity Act.

## **8. COMPLIANCE WITH LAWS.**

- A. The Public Defender, in the performance of this Agreement, shall comply with all applicable federal, state, and local laws and ordinances, and any other standards or criteria as described in this Agreement to assure quality of services.
- B. In lieu of requesting and signing for individual defendant(s) discovery reports and criminal histories separately, the Public Defender will sign an annual acknowledgement receiving criminal histories for all Defendants that are being represented by him/her in Summit County Justice Court/District Court pursuant to state laws. Any dissemination to any unauthorized person or agency may result in both civil and criminal liability (attached hereto as **Exhibit "A"**).
- C. Dissemination of criminal histories in the custody of the Park City Attorney's Office shall be forwarded to respective individuals pursuant to Motions for Discovery which have been filed with a respective court in Summit County, Utah. Each defendant's criminal history report will be stamped (attached hereto as **Exhibit "B"**) before dissemination will be forwarded to the Public Defender. Said Public Defender agrees to maintain criminal history files in their possession with the highest possible confidentiality and security pursuant to the State of Utah's Bureau of Criminal Identification regulations. If any files are lost under the Public Defender's possession, he/she will report it immediately to the Park City Attorney's Office - Terminal Agency Coordinator (TAC) to disclose to the

Field Representative for the State of Utah's Bureau of Criminal Identification.

**9. NONDISCRIMINATION.**

- A. The City is an equal opportunity employer.
- B. In the performance of this Agreement, the Public Defender will not discriminate against any Defendant or recipient of any services or benefits provided for in this Agreement on the grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap.
- C. If any assignment or subcontracting has been authorized by the City, said assignment or subcontract shall include appropriate safeguards against discrimination. The Public Defender shall take such action as may be required to ensure full compliance with provisions in the immediately preceding paragraphs herein.

**10. ASSIGNMENTS/SUBCONTRACTING.**

- A. The Public Defender shall not assign its performance under this Agreement or any portion of this Agreement without the written consent of the City, and it is further agreed that said consent must be sought in writing by the Public Defender not less than thirty (30) days prior to the date of any proposed assignment. The City reserves the right to reject without cause any such assignment.
- B. Any legal/professional service subcontract not listed in the Agreement must have express advance approval by the City.

**11. CHANGES.**

Either party may request changes to the scope of services and performance to be provided hereunder, however, no change or addition to this Agreement shall be valid or binding upon either party unless such change or addition be in writing and signed by both parties. Such amendments shall be attached to and made part of this Agreement.

**12. POLITICAL ACTIVITY PROHIBITED.**

None of the funds, materials, property or services provided directly or indirectly under the Agreement shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office.

**13. PROHIBITED INTEREST.**

No member, officer, or employee of the City shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

**14. TERMINATION.**

A. Either party may terminate this Agreement, in whole or in part, at any time, by at least thirty (30) days written notice to the other party. The Public Defender shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Public Defender shall promptly submit a termination claim to the City. If the Public Defender has any property in its possession belonging to the City, the Public Defender will account for the same, and dispose of it in a manner directed by the City.

B. If the Public Defender fails to perform in the manner called for in this Agreement, or if the Public Defender fails to comply with any other provisions of the Agreement and fails to correct such noncompliance with three (3) days written notice thereof, the City may immediately terminate this Agreement for cause. Termination shall be effected by serving a notice of termination on the Public Defender setting forth the manner in which the Public Defender is in default. The Public Defender will only be paid for services performed in accordance with the manner of performance set forth in this Agreement.

**15. NOTICE.**

Notice provided for in this Agreement shall be sent by certified U.S. Mail to the addresses designated for the parties on the signature pages of this Agreement.

**16. ATTORNEYS FEES AND COSTS.**

If any legal proceeding is brought for the enforcement of this Agreement, or because of a dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party shall be entitled to recover from the other party, in addition to any other relief to which such party may be entitled, reasonable attorney's fees and other costs incurred in that action or proceeding.

**17. JURISDICTION AND VENUE.**

A. This Agreement has been and shall be construed as having been made and delivered within the State of Utah, and it is agreed by each party hereto

that this Agreement shall be governed by laws of the State of Utah, both as to interpretation and performance.

- B. Any action of law, suit in equity, or judicial proceeding for the enforcement of this Agreement, or any provisions thereof, shall be instituted and maintained only in any of the courts of competent jurisdiction in Summit County, Utah.

**18. SEVERABILITY.**

- A. If, for any reason, any part, term, or provision of this Agreement is held by a court of the United States to be illegal, void or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.
- B. If it should appear that any provision hereof is in conflict with any statutory provision of the State of Utah, said provision which may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform in such statutory provisions.

**19. ENTIRE AGREEMENT.**

The parties agree that this Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded. Further, any modification of this Agreement shall be in writing and signed by both parties. Failure to comply with any of the provisions stated herein shall constitute material breach of contract and cause for termination. Both parties recognize time is of the essence in the performance of the provisions of this Agreement. It is also agreed by the parties that the forgiveness of the nonperformance of any provision of this Agreement does not constitute a waiver of the provisions of this Agreement.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed the day and year first hereinabove written.

**PARK CITY MUNICIPAL CORPORATION**, a  
Utah municipal corporation  
445 Marsac Avenue  
Post Office Box 1480  
Park City, UT 84060-1480

\_\_\_\_\_  
Diane Foster, City Manager

Attest:

\_\_\_\_\_  
City Recorder's Office

Approved as to form:

\_\_\_\_\_  
City Attorney's Office



**PUBLIC DEFENDER**

(Name) \_\_\_\_\_

(Address) \_\_\_\_\_

(City, State, Zip)

Tax ID#: \_\_\_\_\_

Utah State Bar#: \_\_\_\_\_

\_\_\_\_\_  
Name / Title

\_\_\_\_\_  
Signature

STATE OF UTAH            )  
  ) ss.  
COUNTY OF SUMMIT    )

On this \_\_\_\_ day of \_\_\_\_\_, 2019, personally appeared before me \_\_\_\_\_, whose identity is personally known to me/or proved to me on the basis of satisfactory evidence and who by me duly sworn/affirm (with designated primary attorney) ed, did say that he is the (title) \_\_\_\_\_ of \_\_\_\_\_, and acknowledged that he/she signed it voluntarily for its stated purpose as \_\_\_\_\_ (title) for \_\_\_\_\_, a \_\_\_\_\_ corporation.

\_\_\_\_\_  
Notary Public