

**City of Springville  
Public Defender  
Request for Proposal**

**I. Introduction**

Springville City is accepting proposals from qualified law firms or individual attorneys to provide Public Defender services on a contractual basis in the Springville Justice Court. Contract services are estimated to commence on May 15, 2013.

**II. Time Schedule**

Springville City will follow the timetable below, which should result in a selection of a firm by approximately May 15, 2013. Proposals will be accepted from April 17 to April 29, 2013.

<b>Event</b>	<b>Time</b>	<b>Date</b>
Issue of RFP		April 17, 2013
Proposal Responses Due	4PM (MDT)	April 29, 2013
Effective Date of Contract		May 15, 2013

**III. Minimum Experience/Qualifications**

1. Each attorney who is proposed to perform services pursuant to this RFP must be a member in good standing with the Utah State Bar Association.
2. Public Defender may retain the assistance of other qualified attorneys in his or her firm. At all times, the designated Public Defender will supervise attorneys working under this Proposal to ensure that defendants charged in the Springville Municipal Court receive competent legal representation.
3. The Public Defender and any other attorneys performing services under this agreement shall:
  - a) Be familiar with the statutes, court rules, constitutional provisions, and case law relevant to criminal law;
  - b) Be familiar with the collateral consequences of a conviction, including possible immigration consequences and the possibility of civil commitment proceedings based on a criminal conviction;
  - c) Be familiar with mental health issues and be able to identify the need to obtain expert services; and
  - d) Complete a minimum of five (5) hours of continuing legal education within each calendar year in courses relating to their public defense practice.

#### **IV. Scope of Services**

The attorney or firm awarded the contract shall be designated Public Defender for the Springville City Justice Court, and shall be duly appointed to represent all defendants who are appointed legal counsel by the Springville Justice Court.

Representation as the City's Public Defender shall include but not be limited to:

1. Attending all scheduled court appearances. In the event of vacation or illness Public Defender is responsible for arranging coverage by another qualified attorney.
2. Acting as counsel available to all defendants at arraignments and in custody bail hearings on scheduled court days. Presently, Springville Justice Court session for the Public Defender is Tuesdays from 8:00 am to 5:00 pm., however Public Defender will have to make appearances at other times whenever noticed by the Court.
3. Representation of appointed cases at pre-trial hearings, trials, sentencing, and post-disposition proceedings; and
4. The Public Defender shall consult with defendants prior to pretrial hearings. Appointment as the City's Public Defender may require meetings with defendants at the Public Defender's office or at the Utah County Jail. Failure to consult with defendants prior to pretrial shall only be excused for good cause.
5. Pursuant to Utah Rules of Criminal Procedure, Public Defender services may include providing legal representation to persons in other Courts at other times. The City's Public Defender shall provide Springville City a contact telephone number that is available 24 hours a day to provide legal representation, in an emergency, including evenings, holidays, and weekends
6. When a defendant exercises his or her right to trial, the City's Public Defender shall diligently prepare for trial and ensure that the defendant receives adequate representation. Preparation for trial shall include but not be limited to: interviewing witnesses identified by the City Prosecutor, interviewing witnesses identified by the defendant, review of police reports and evidence, research legal issues, preparing a witness list on behalf of the defendant, and consultation with the defendant.
8. If a defendant represented by the City's Public Defender elects to appeal a conviction to Superior Court, the Public Defender is responsible for timely filing a Notice of Appeal to the Springville Justice Court.
9. Services do not extend to forfeiture hearings or hearings with any Department of Licensing.

## **V. COMPENSATION**

1. Please provide compensation schedules based on a flat annual fee. No additional fees, costs, any other reimbursable expenses will be allowed.
2. Payment by the City for the services will only be made after the services have been performed, an itemized billing statement is submitted in the form specified by the City and approved by the appropriate City representative. Payment shall be made on a monthly basis, thirty (30) days after receipt of such billing statement.

## **VI. Proposal Deadline and Submittal Instructions**

All proposals and/or questions should be directed to:

Troy Fitzgerald  
City Administrator  
110 Main St.  
Springville, UT 84663  
(801) 491-2700

All proposals must be in a sealed envelope and clearly marked in the lower left-hand corner: "Public Defender Services Proposal."

All proposals must be received by April 29, 2013, at 4:00 pm. Five (5) copies of the proposal must be presented. No Faxed or telephone proposals will be accepted.

The information requested below is a requirement for submitting a complete proposal. At the sole option of the City, incomplete proposals may not be considered.

1. Description of your law firm/individual attorney overall practice area(s) and the services the firm/individual attorney is capable of providing, including an explanation of how these services will best meet the City's needs. Please also include a description of related criminal law experience with agencies similar in size to Springville.
2. Identification of the attorney(s) proposed to act as the designated Public Defender. Include a clear and detailed description of how each proposed attorney meets the minimum experience/qualification identified in this RFP.
3. A list of at least three (3) references capable of speaking to the reputation and qualification of the law firm/individual attorney.
4. Proposals shall clearly set forth fees and fee structure to be charged for all public defender services as described in the scope of work. Any costs to be charged to the City must also be identified.

5. Disclosure of any litigation or judgments rendered against the law firm/individual attorney in any matter relating to professional activities of the firm/individual attorney, including any pending or founded complaints to the Utah State Bar Association.
6. Description of how the law firm/individual attorney handles conflict checks; description of how the law firm/individual attorney proposes to handle conflicts that may arise in performance of this Agreement.
7. If the City elects to contract with another law firm/individual attorney, whether your law firm/individual attorney is willing to handle cases for the City on a conflict-basis.
8. Responses to RFP must include a signed statement as follows signed by an authorized officer of the firm/individual attorney:

I/We have reviewed all documents presented as part of the City’s RFP for Public Defender Services, which include the advertisement for the RFP, the RFP, and the Agreement attached to the RFP. The undersigned proposes to perform all work in compliance with these documents as well as in compliance with all submitted proposal information. The undersigned further warrants that adequate staff services and facilities will be established to enable the effective provision of legal services.

9. The Attorney shall secure and maintain a policy of professional liability insurance in the amount of one million dollars (\$1,000,000) or more against claims arising out of work provided for in this Agreement. All insurance shall be obtained from an insurance company authorized to do business in the State of Utah. Excepting the professional liability insurance, Springville City shall be named on all insurance as an additional insured.
10. The following table shows the total number of criminal cases filed in Springville Justice Court:

<b>Year</b>	<b># Filed</b>
2006	3564
2007	3482
2008	5456
2009	5212
2110	4625
2011	5305
2012	5581

In 2012, the public defender was appointed on approximately 232 cases (including post-conviction reviews).

## **VII. Selection Criteria**

Selection criteria will be based on the lowest responsible bidder, taking into account the ability of the law firm/individual attorney to perform the duties as described above.

**VIII. General Terms and Conditions**

The City reserves the right to reject any and all proposals and to waive minor irregularities in any proposal.

The City reserves the right to request clarification of information submitted, and to request additional information from any proposer. Any proposal may be withdrawn up until the date and time set above for opening of the proposals. Any proposal not so timely withdrawn shall constitute an irrevocable offer, for a period of sixty (60) days, to provide to the City the services described in the attached specifications, or until one or more of the proposals have been approved by the City's administration, whichever occurs first.

**IX. Non-Collusion Affidavit Certificate**

State of Utah    )  
                                  )ss  
County of Utah )

The undersigned, being duly sworn, deposes and say that the person, firm, association, copartnership, or corporation herein named has not either directly or indirectly entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in the preparation and submission of a proposal to Springville City for consideration in the award of a contract on the improvement described as follows:

City of Springville  
Public Defender Services

\_\_\_\_\_  
Institution Name

\_\_\_\_\_  
Authorized Signature

Sworn before me, this \_\_\_\_\_ day of, \_\_\_\_\_ 2013.

\_\_\_\_\_  
Notary Public  
In and for the State of Utah

## AGREEMENT

This Independent Contractor Agreement (“Agreement”) dated effective as of this \_\_\_ day of \_\_\_\_, 2013, is between the City of Springville, a Utah Municipal Corporation, (“City”), 110 South Main, Springville, Utah 84663 and \_\_\_\_\_ (the “Contractor”), \_\_\_\_\_, \_\_\_\_\_, Utah \_\_\_\_\_.

NOW THEREFORE, in exchange for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in consideration of the mutual covenants of the parties set forth herein, the parties hereto hereby agree as follows:

**Responsibility of Contractor:** During the term of this Agreement, Contractor agrees to provide legal representation for indigent criminal defendants, with specific duties as set forth in Public Defender Scope of Services, attached as Exhibit A, and hereby incorporated by reference.

**Contract Price and Payment:** The City shall pay the Contractor the annual amount of \$\_\_\_\_\_ (the “Contract Price”). The Contract Price shall be for services beginning on May 15, 2013 and divided into 12 equal payments. The first payment shall be made on June 15, 2013, and each subsequent payment shall be paid on a monthly basis from the first payment date. Contractor shall send billing statements to the City on the 1st of every month.

**Term of the Contract:** Contractor agrees to commence the services required under this Agreement on May 15, 2013. The entire services performed will be completed on or before May 15, 2014. Any renewal to the term of this Agreement shall be mutually agreed to by both parties and in writing.

**Default:** A default hereunder shall occur if either party shall default in the performance or observation of any covenant or condition of this Agreement to be performed or observed, or by breach of any duty set forth in Exhibit A hereto. If Contractor fails to complete its assigned duties as set forth herein, Contractor shall be in default.

**Remedies:** In the event of any breach or default of this Agreement by either party hereto, as defined in the section entitled “Default,” then this Agreement may be declared terminated by the non-breaching party. This Agreement and the terms and conditions shall then expire upon receipt

of the notice of termination by the breaching party. The rights and remedies afforded to the non-breaching party in the foregoing sentence shall not be exclusive, but shall be in addition to all other legal rights and remedies. The exercise of any right or remedy by the non-breaching party shall not be to the exclusion of any other right or remedy.

**Termination:** This Agreement may be terminated at any time by either party with 30 days prior written notice of termination.

**Independent Contractor:** Contractor's relationship with City under this Agreement shall be that of an independent contractor. Contractor certifies that he has done work for others in a similar capacity. All training of Contractor's employees, if any, shall be done by Contractor and not by the City. Contractor is exercising its own discretion in the method and manner of performing its duties, and the City will not exercise control over contractor or its employees.

**Taxes and Laws:** Contractor acknowledges that, as an independent contractor, Contractor is responsible for paying all state and local taxes. Contractor is responsible for workman's compensation and other insurance required by law. Contractor certifies that Contractor has complied with all Federal, State and Local laws regarding business licenses, permits and certificates.

**Time is of the Essence:** Both parties acknowledge that time is of the essence.

**Indemnity:** Contractor and its successor and assigns hereby agrees to indemnify, defend (with counsel acceptable to the City) and hold the City, its elected officials, officers, employees and volunteers harmless from any and all liens, encumbrances, costs, demands, claims, judgments, injuries, employee claims and/or damage caused or arising out of (a) the acts and omissions of Contractor and its agents, servants, employees, and/or contractors and (b) any work performed by the Contractor, its agents, servants, employees, consultants and/or contractors. The terms and conditions of this provision shall remain effective after the expiration or termination of this Agreement, so long as the event for which the indemnification is needed occurred prior to such expiration or termination.

**Insurance:** Contractor shall, at Contractor's sole expense, maintain a policy of comprehensive professional liability insurance. *See* Public Defender Scope of Services, attached as Exhibit A.

**Miscellaneous:**

**Attorney's Fees:** If any party is required to retain legal counsel in order to enforce this Agreement, with or without the commencement of a formal legal action, such party shall be entitled to recover its attorney's fees and costs from the breaching party or parties. In addition, City shall be entitled to attorney's fees and costs for all expenses arising out of a default by the Contractor.

**Change Orders:** The parties may agree to change the scope of the work contained in the Project. Change Orders must be in writing and signed by both parties. Change Orders must contain the change agreed upon and a specific cost or credit associated with the change in work.

**Binding Effect:** This Agreement shall be binding on the parties and their respective heirs successors and assigns.

**Governing Law:** This Agreement shall be governed by the laws of the State of Utah.

**Modifications:** This Agreement shall not be amended or modified except by written document signed by the party to be charged with such amendment or modification.

**Notices:** Any notice, demand, request, consent, approval or other communication (collectively, the "Notices") required or permitted to be given by any provision of this agreement shall be in writing and sent by hand-delivery, by special courier (for example Federal Express), by United States Certified Mail (return receipt requested, postage prepaid), or by telefax, addressed to the party to be so notified. Notice pursuant to this Agreement shall be deemed given pursuant to the following rules: if hand delivered, at the time of delivery; if sent by special courier, on the third (3rd) day after deliver to the courier; if mailed, on the later of the date of receipt or the third day after deposit thereof in the United States Mails; and if sent by telefax, on the date that the telefax is acknowledged as received.

**Assignment:** Contractor may not assign this Agreement without the written consent of City.

**No Waiver:** No failure to exercise, delay in exercising or single or partial exercise of any right, power or remedy by any party hereto shall constitute a waiver thereof or shall preclude any other or further exercise of the same or any other right, power or remedy.

**Section Headings:** The headings and captions contained in this Agreement are for convenience only and shall not be considered in interpreting the provisions hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, to be effective for all

purposes as of the date first written above.

SPRINGVILLE CITY

By: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Venla Gubler, City Recorder

CONTRACTOR

By: \_\_\_\_\_

## **Exhibit A**

### **Public Defender Scope of Services**

1. Contractor shall perform services as a member in good standing with the Utah State Bar Association.
2. Contractor may retain the assistance of other qualified attorneys. At all times, the Public Defender will supervise any attorneys working helping him to perform the services found herein and ensure that defendants charged and represented by the Public Defender in the Springville Municipal Court receive competent legal representation.
3. Contractor and any other attorneys performing services under this agreement shall:
  - a) Be familiar with the statutes, court rules, constitutional provisions, and case law relevant to criminal law;
  - b) Be familiar with the collateral consequences of a conviction, including possible immigration consequences and the possibility of civil commitment proceedings based on a criminal conviction;
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  - a) Attending all scheduled court appearances. In the event of vacation or illness Public Defender is responsible for arranging coverage by another qualified attorney.
  - b) Acting as counsel available to all defendants at arraignments and in custody bail hearings on scheduled court days. Presently, Springville Justice Court session for the Public Defender is Tuesdays from 8:00 am to 4:30 pm., however Public Defender will have to make appearances at other times whenever noticed by the Court.
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  - d) Consulting with defendants prior to pretrial hearings. Appointment as the City's Public Defender may require meetings with defendants at the Public Defender's office or at the Utah County Jail. Failure to consult with defendants prior to pretrial shall only be excused for good cause.

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