

Subject: Discussion of Transition from Ruston Municipal Court to Contracted Court Services With City of Fircrest

Dept. Origin: Mayor

Prepared by: Jennifer Robertson
 City Attorney's Office

For Agenda of: July 17, 2018

Exhibits: Draft Interlocal Agreement for Court Services

Initial & Date

Concurred by Mayor: _____

Approved/form by City Atty: JSR/7-12-18

Approved by _____ Director: _____

Approved by Department Head: _____

Proposed Council Action:

Discussion only. Give direction to staff.

INFORMATION / BACKGROUND

Ruston originally established its own municipal court in 1961. Court is held one time monthly inside Ruston City Hall. The Court hears traffic infractions, parking infractions, criminal traffic cases, criminal non-traffic misdemeanors and any other matters within the jurisdiction of a Municipal Court such as criminal code enforcement cases.

The growth of the City and the caseload, combined with the current inadequate court facilities has led the City to investigate contracting out for these services. Under state law¹ a city may contract with another city for municipal court services. The City of Fircrest has a municipal court and is willing to serve as the Ruston Municipal Court. These services will include prosecution, and public defender related services.

The City currently contracts with Pierce County for Defense Services and with Ivar Gunderson for Prosecution Services. Both of these contracts have a 60-day termination provision. The City's Judge, Sandra Allen, has been appointed to a 4-year term. Her term expires on December 31, 2021. The City has agreed to negotiate with her in good faith if it converts to a contracted court system during her appointment term.

The expected annual cost for the Court services is \$232,000 for up to 2,500 cases, with addition cases costing the City \$90 per case. This expense will be offset to some degree by Ruston receiving any/all fines or other payments made to the Court on Ruston cases.

¹ RCW 3.50.815; 39.34.180.

Please note that the current Draft Court Services Interlocal Agreement has not been finalized between the parties and may have some minor revisions from the version that is in your Agenda Packet for July 17, 2018.

RECOMMENDATION / MOTION

Provide input to staff on whether the City should consider contracting out the municipal court services to the City of Fircrest. If the Council decides to pursue this contract, then staff will bring back a resolution to approve the contract once it is finalized. This could occur as early as August 17, 2018.

AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF FIRCREST AND THE CITY OF RUSTON FOR THE PROVISION OF MUNICIPAL COURT, PROSECUTION AND PUBLIC DEFENDER SERVICES

THIS INTERLOCAL AGREEMENT (“AGREEMENT”) is made and entered into pursuant to the Interlocal Cooperation Act, Chapter 39.34 of the Revised Code of Washington, on the 1st day of November 2018, by and between the City of Fircrest, a Washington municipal corporation (“Fircrest”), and the City of Ruston, a Washington Municipal corporation (“Ruston”), collectively referred to herein as the “parties”.

WHEREAS, the City of Ruston, “Ruston” is a non-charter code city which was incorporated in 1906 and assumed authority and jurisdiction with respect to criminal and traffic offense occurring within the corporate boundaries thereby created; and

WHEREAS, Ruston originally established its own municipal court in 1961 and desires to instead contract for its municipal court services with the City of Fircrest; and

WHEREAS, the City of Fircrest, “Fircrest” has the capacity to provide municipal court, prosecution, and public defender related services to Ruston in a manner beneficial to both parties and Ruston desires to use these services; and

WHEREAS, Fircrest and Ruston wish to cooperate and enter into this Agreement for the orderly and efficient processing of traffic infractions, parking infractions, criminal traffic cases, criminal non-traffic misdemeanors and any other matters within the jurisdiction of a Municipal Court through services provided by and held at Fircrest; and

WHEREAS, included in the services provided by Fircrest to Ruston shall be a detail of statistics identifying caseload, type of case and other matters of interest to Ruston; and

WHEREAS, the parties agree that provision of services as detailed in this Agreement are in the best interest of the citizens of both cities; and

WHEREAS, in accordance with RCW 3.50.815 and RCW 39.34.180, a city may contract with another city for municipal court services; and

WHEREAS, Title 39.34 of the Revised Code of Washington authorizes joint and cooperative Agreements between public agencies;

NOW, THEREFORE, pursuant to RCW Chapter 39.34, and in consideration of the mutual benefits and covenants described herein, the City of Fircrest and the City of Ruston agree as follows:

- A. Purpose.** The purpose of this Interlocal Agreement is to make all necessary arrangements for the processing of any matters within the jurisdiction of Ruston using municipal court (including a judge and court staff), prosecution, public defender and related services provided by Fircrest in Fircrest Municipal Court pursuant to RCW 39.34. This is to include any ancillary services such as statistical tracking and any work related to appeals. Jail and Police services are specifically excluded from this Agreement.
- B. Services.** Fircrest, through this Agreement, shall **provide** the following services to Ruston:
1. **Municipal Court Services.** Municipal Court services include all court services required by State statute, court rule, Fircrest City ordinance, or other regulation as now existing or hereafter amended. These services include, as applicable, the filing, processing, adjudication and penalty enforcement of all City cases currently pending and filed on November 1, 2018 or any date thereafter for the duration of this agreement, issuance of search and arrest warrants, procedures of establishing bail, arraignments and plea hearings, pretrial motions and evidentiary hearings, discovery matters, notification and subpoenaing of witnesses and parties, bench and jury trials, pre-sentence investigations, sentencing, the duties of courts of limited jurisdiction regarding appeals, and all other court functions as they relate to municipal court. Fircrest shall provide all necessary personnel to perform such services in a timely manner as required by law and court rule.
 2. **Appointment of Judicial Officers.** Ruston will appoint the Fircrest Municipal Court Judge as the Judge of the Ruston Municipal Court and acknowledges that the appointed municipal judge has the authority to appoint any pro tem judges to serve as Judges Pro Tem for the Ruston Municipal Court..
 3. **Prosecution Services.** All criminal cases covered by this Agreement shall be reviewed, filed and fully prosecuted by Fircrest City Prosecutor. Fircrest City Prosecutor shall have final case disposition authority on all cases except those assigned to outside counsel at the request of Ruston. Ruston shall support Fircrest’s prosecution of Ruston cases fully, including attendance at hearings, production of evidence and coordinating with the assigned prosecutor as needed to properly process each case. The City Attorney for Ruston, or designee, shall be authorized to directly prosecute any matter within Ruston jurisdiction upon notice to Fircrest within 15 days of filing of the case. All prosecution services are to be provided to Ruston with sufficient input and direction from Ruston to ensure consistency with the best interests of the citizens of Ruston.

4. Public Defender Services. Public Defender services shall be provided to Ruston as an extension of the current agreement between Fircrest and the current Public Defender.
5. Other Services. Fircrest and Ruston shall communicate and exchange information sufficient to evaluate the adequacy of services provided for in this Agreement. Fircrest is expected to provide ancillary services, including statistical information and appellate work. Ruston shall be responsible for transporting all Ruston in-custody defendants from Pierce County Jail, Nisqually Jail or any other jail that houses Ruston defendants on misdemeanor or gross misdemeanor charges.
6. Matters Reserved to Fircrest. Fircrest reserves the right to implement matters requiring compliance with statutory and judicial mandates, which includes, but is not limited to, the Standards for Indigent Defense and personnel matters pursuant to General Rule 29 of the Washington Courts.

C. Property. This Interlocal Agreement does not provide for the acquisition, holding or disposal of real or personal property. Ruston Police shall be responsible for all items of evidence related to criminal prosecution.

D. Financial Provisions. In consideration for the services provided in this Agreement, the parties agree to the following:

1. In the event that Ruston appoints Fircrest's judge as judge of the Ruston Municipal Court, Ruston shall pay to Fircrest an annual fee of \$232,000, which is based on a projected maximum of 2,500 total cases annually. The annual fee shall be determined based on the cost of the Fircrest Municipal Court and includes factors such as the cost of the courts system and administrative costs associated with running the court. The fee will be reviewed and adjusted on an annual basis. Ruston shall be notified of the changes to the calculation of court costs and administrative costs. This fee shall be invoiced and paid monthly.

2. If Ruston cases exceed 2,500 cases during the calendar year, Ruston will pay \$90 per case over 2,500 total cases in addition to the annual fee.

3. Ruston shall retain all fees, costs, penalties and fines, assessed to Ruston cases for the duration of this Agreement which shall be collected by Fircrest and disbursed to Ruston on a monthly basis. Any new programs established after the effective date of this Agreement shall not be included but shall be addressed by the parties in a separate amendment hereto.

E. Agreement Administration. The parties are expected to work cooperatively as though the employees of Fircrest are employees of Ruston when handling Ruston cases. The City Attorney for Ruston, or designee, is to consult with Fircrest departments as necessary regarding the prosecution of Ruston cases. Interested Ruston employees are to be invited to interdepartmental meetings regarding Court process. Where necessary Ruston employees are to be available to Ruston employees and/or Council to discuss court process, prosecutorial philosophy or other matters of interest to Ruston.

1. Dispute resolution. Disputes between the parties that cannot be resolved at the department level are to be resolved by the respective City Managers/Mayors. It is understood between the parties that this Agreement is of benefit to both parties and there is a common interest in working through issues to continue the Agreement.

Any disputes related to levels of compensation which cannot be resolved by the parties as described above may be resolved by binding arbitration in accordance with RCW 39.34.180(3). Such process may be invoked by either party in accordance with the procedures in RCW 39.34.180(3). In such case, the parties shall equally split the fees and costs of the arbitrator(s) in such arbitration.

2. Reporting. Fircrest shall provide Ruston with monthly reports summarizing court activity during which services are provided. Ruston shall identify any deficiencies in such monthly reports and, where feasible, Fircrest shall amend the reports accordingly.

3. Special Emphasis. Ruston shall identify any areas of special emphasis and Fircrest shall provide opportunities for input and reporting specific to those areas.

F. Indemnification. In executing this Agreement, Fircrest does not assume liability or responsibility for or in any way release Ruston from any liability or responsibility which arises in whole or in part from:

1. The existence of effect of any Ruston ordinance; or
2. Any prosecution conducted by Ruston's City Attorney or designee.

If any cause, claim, suit, action or administrative proceeding is commenced in which the enforceability and/or validity of any such ordinance or prosecution is at issue, Ruston shall defend the same at its sole expense and if judgment is entered or damages are awarded against Ruston, Fircrest or both, Ruston shall satisfy the same, including all chargeable costs and attorneys' fees.

Fircrest shall indemnify, defend, and hold harmless Ruston, its officers, agents and employees from and against any and all claims, actions, suits, liability, loss, costs, expenses, and damages of any nature whatever, including costs and attorneys' fees in defense thereof, for injuries, sickness or death of persons (including employees of Ruston), or damage to property, or the violation of any person's civil rights, which is caused by or arises out of Fircrest's acts, errors or omissions with respect to the subject matter of this Agreement, or any act or mission of any agency retained by or contracted with by Fircrest to provide services covered by this Agreement; provided, however, that

1. Fircrest's obligation to indemnify, defend and hold harmless shall not extend to injuries, sickness, death, damage or civil rights violations caused by or resulting from the actions or negligence of Ruston, its Police Department or its officers, agents or employees; and

2. Fircrest's obligation to indemnify, defend and the hold harmless for injuries, sickness death, damage or civil rights violations caused by or resulting from the concurrent actions of negligence of Fircrest or its agents and Ruston or its agents shall apply to the extent that Fircrest or its agents or negligence cause or contributed hereto.

Fircrest does not by this Agreement assume any contractual obligations to anyone other than Ruston, and Ruston does not assume any contractual obligations to anyone other than Fircrest. Fircrest and Ruston expressly eliminate any third-party beneficiary to this Agreement.

G. Termination. Either party shall have the right to terminate this Agreement, provided that the terminating party notifies the other party twelve (12) months prior to such termination to allow the parties sufficient time to address alternate measures.

H. Term. The initial term of this Agreement is November 1, 2018 through December 31, 2019 with the parties consulting on a regular basis to establish whether amendments are needed to achieve the best results possible for both parties. Without such notice by October 1st of each year the Agreement will automatically renew as is for the following fiscal year.

I. Amendment. Amendments to this Agreement must be in writing and may be made at any time during the term of the Agreement by agreement and signature of both parties.

CITY OF FIRCREST

CITY OF RUSTON

Scott Pingel
City Manager

Dated: _____

Attest:

Jessica Nappi
City Clerk

Approved as to form:

Michael B. Smith, City Attorney
Date: _____

Bruce Hopkins
Mayor

Dated: _____

Attest:

Judy Grams
City Clerk

Approved as to form:

Jennifer Robertson, City Attorney
Date: _____