



TRINITY COUNTY

Office of the County Administrator

Richard Kuhns, Psy.D, County Administrative Officer
P.O. BOX 1613, WEAVERVILLE, CALIFORNIA 96093-1613
PHONE (530) 623-1382 FAX (530) 623-8365

REQUEST FOR PROPOSAL – COUNTY HEARING OFFICER

The Trinity County Administrator invites proposals from attorneys to provide County Hearing Officer services at an hourly rate of \$70 on an as needed basis to the County pursuant to Trinity County Code Chapters 8.64 and 8.90, and Resolution 2011-050. The County is seeking to contract with individuals, firms or associations.

All inquiries concerning this request for proposal (RFP) are to be directed in writing to Richard Kuhns, County Administration, PO Box 1613, Weaverville, CA 96093 or faxed to (530) 623-8365. No responses to oral inquiries will be given. All County personnel are specifically directed not to hold meetings, conferences or technical discussions with prospective contractors. Any interpretation or change in the RFP will be made only in writing in the form of an addendum to the RFP and will be furnished to all parties receiving an RFP. Upon request, a copy of the current contract will be provided.

Proposers shall complete the Proposal Cover Sheet and provide a curriculum vitae for all attorneys proposed to provide the services. **Proposals shall be submitted to Richard Kuhns, County Administrative Officer, 11 Court Street, Room 230, PO Box 1613, Weaverville, CA 96093.** All proposals will be evaluated by the County Administrative Office. Proposals will be treated confidentially to the extent permitted by law. All successful proposers will be required to execute a contract substantially in the form attached hereto. The selection of a contractor will be based upon relative overall capability to provide a competent level of service. The following factors will be evaluated:

1. Qualifications, experience and skills, and strength and depth of overall organization.
2. The proposer's understanding of legal and technical issues related to effectively providing services and general understanding of Code Enforcement and other Administrative Hearing procedures.
3. Any cost containment strategies proposed.
4. Quality of RFP response and overall approach.

The County reserves the right to reject any and all proposals, or cancel the RFP. Proposers must certify the truth and accuracy of the content of their respective proposals and fully comply with all requirements. False, incomplete or unresponsive statements may be cause for its rejection. The cost of developing a proposal is the sole responsibility of the proposer and is not chargeable to the County. All materials submitted in response to this RFP become the property of the County and will become public record after an award has been made or the RFP process has been terminated, except those materials which are labeled proprietary.

PROPOSAL: COUNTY HEARING OFFICER SERVICES

PROPOSAL COVER SHEET

IDENTIFICATION

Proposer

Name: _____

Address: _____

City: _____ Zip: _____

Phone No.: _____ Fax: _____

Email: _____

Authorized representative and/or contact

Name: _____

Address: _____

City: _____ Zip: _____

Phone No.: _____ Fax: _____

Email: _____

STATEMENT OF CERTIFICATION AND COMPLIANCE

The undersigned certified the truth and accuracy of the content of this proposal and agrees to furnish the services stipulated at the prices and terms stated in this proposal and fully comply with all provisions of this bid if the contract is awarded.

SIGNATURE OF LEAD ATTORNEY(S)

Signed by: _____

Title: _____

Signature: _____ Date: _____

STANDARD FORM PERSONAL SERVICES CONTRACT
COUNTY OF TRINITY
AND
(CONTRACTOR)

THIS AGREEMENT is made and entered into this _____ day of _____ 20____, by and between the COUNTY OF TRINITY, hereinafter referred to as "County," and **(NAME OF CONTRACTOR AND TYPE OF ENTITY THE PARTY IS, IE: sole proprietor, partnership, corporation)** hereinafter referred to as "Contractor".

RECITALS:

WHEREAS, County desires to retain a person or firm to provide administrative hearing officer services and

WHEREAS, Contractor warrants that it is qualified and agreeable to render the aforesaid services.

NOW, THEREFORE, for and in consideration of the agreement made, and the payments to be made by County, the parties agree to the following:

I. SCOPE OF SERVICES: Contractor agrees to provide all of the services described in Resolution 2011-056 attached hereto and by this reference made a part hereof.

II. ADDITIONAL SERVICES: The County may desire services to be performed which are relevant to this contract or services but have not been included in the scope of the services listed in Paragraph I above and Contractor agrees to perform said services upon the written request of County. These additional services could include, but are not limited to, any of the following:

- A. Serving as an expert witness for the County in any litigation or other proceedings involving the project or services.
- B. Services of the same nature as provided herein which are required as a result of events unforeseen on the date of this contract.

III. COUNTY FURNISHED SERVICES: The County agrees to:

- A. Facilitate access to and make provisions for the Contractor to enter upon public and private lands as required to perform their work.
- B. Make available to Contractor those services, supplies, equipment and staff that are normally provided for the services required by the type of services rendered by Contractor and as set forth in Resolution 2011-056
- C. Make available all pertinent data and records for review.

IV. FEES: The fees for furnishing services under this Contract shall be based on the rate schedule which is attached hereto as Exhibit "A" and by this reference incorporated herein. Said fees shall remain in effect for the entire term of this contract.

V. MAXIMUM COST TO COUNTY: Notwithstanding any other provision of this contract, in no event will the cost to County for the services to be provided herein exceed the maximum sum of \$25,000 including direct non-salary expenses.

VI. PAYMENT: The fees for services under this Contract shall be due within 60 calendar days after receipt by County of an invoice covering the service(s) rendered to date.

For any services involving a public works or construction project the County shall retain 10 percent of each monthly progress payment, which shall be due upon completion and acceptance by County of the work or termination of this Contract.

With respect to any additional services provided under this Contract as specified in paragraph II hereof, Contractor shall not be paid unless Contractor has received written authorization from County for the additional services prior to incurring the costs associated therewith. Said additional services shall be charged at the rates set forth on Exhibit "A".

Invoices or applications for payment to the County shall be detailed and shall contain full documentation of all work performed and all reimbursable expenses incurred. Where the scope of work on the contract is divided into various tasks, invoices shall detail the related expenditures accordingly. Labor expenditures need documentation to support time, subsistence, travel and field expenses. No expense will be reimbursed without adequate documentation. This documentation will include, but not be limited to, receipts for material purchases, rental equipment and subcontractor work.

VII. INSURANCE: Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Contractor, his agents, representatives, employees or subcontractors.

Minimum Scope and Limit of Insurance

- A. The Contractor shall maintain a commercial general liability (CGL) insurance policy [Insurance Services Office Form CG 00 01] covering CGL on an occurrence basis, including products and completed operations, property damage bodily injury and personal & advertising injury with limits in the amount of \$1,000,000, and a general aggregate limit of \$2,000,000.

The County, its officers, officials, employees, and volunteers are to be covered as additional insureds on the General Liability policy with respect to liability arising out

of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. Additional insured should read as follows:

Trinity County
PO Box 1613
Weaverville, CA 96093

- B. Contractor shall also provide comprehensive business or commercial automobile liability coverage including non-owned and hired automobile liability in the amount of \$1,000,000 per accident for bodily injury and property damage. Coverage shall be at least as broad as ISO Form CA0001 (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9).

The County, its officers, officials, employees, and volunteers are to be covered as additional insureds on the Automobile Liability policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. Additional insured should read as follows:

Trinity County
PO Box 1613
Weaverville, CA 96093

OR: (IF CONTRACTOR IS A SOLE-PROPRIETOR AND ONLY HAS PERSONAL AUTO INSURANCE, REPLACE TWO PARAGRAPHS UNDER “B” ABOVE WITH THE FOLLOWING): Contractor shall also provide personal automobile liability coverage including non-owned and hired automobile liability in the amount of \$300,000 per accident for bodily injury and property damage.

- C. The Contractor shall be required to carry professional liability coverage in the amount of \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

The insurer shall supply a Certificate of Insurance and endorsements signed by the insurer evidencing such insurance to County prior to commencement of work. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor’s obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time. Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the Entity. Insurance is to be placed with insurers with a current A.M. Best’s rating of no less than A:VII, unless otherwise acceptable to the Entity.

Any deductibles or self-insured retentions must be declared to and approved by the County. The County may require the Contractor to purchase coverage with a lower

deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

For any claims related to this contract, the Contractor's insurance coverage shall be primary coverage at least as broad as ISO CG 20 01 04 13 as respects the County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

Contractor hereby grants to County a waiver of any right to subrogation which any insurer of said Contractor may acquire against the County by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.

VIII. **WORKER'S COMPENSATION:** The Contractor acknowledges that it is aware of the provisions of the Labor Code of the State of California which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code and it certifies that it will comply with such provisions before commencing the performance of the work of this Contract. A copy of the certificates evidencing such insurance with policy limits of at least \$1,000,000 per accident for bodily injury or disease, shall be provided to County prior to commencement of work, or a signed County Workers' Compensation Exemption form.

IX. **NONDISCRIMINATORY EMPLOYMENT:** In connection with the execution of this Contract, the Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, national origin, political affiliation, ancestry, marital status or disability. This policy does not require the employment of unqualified persons.

X. **INTEREST OF PUBLIC OFFICIALS:** No officer, agent or employee of the County during their tenure or for one year thereafter shall have any interest, direct or indirect, in this Contract or the proceeds thereof.

XI. **SUBCONTRACTING AND ASSIGNMENT:** The rights, responsibilities and duties under this Contract are personal to the Contractor and may not be subcontracted, transferred or assigned without the express prior written consent of the County.

XII. **LICENSING AND PERMITS:** The Contractor shall maintain the appropriate licenses throughout the life of this Contract. Contractor shall also obtain any and all permits which might be required by the work to be performed herein.

XIII. **BOOKS OF RECORD AND AUDIT PROVISION:** Contractor shall maintain on a current basis complete books and records relating to this contract. Such records shall include, but not be limited to, documents supporting all bids and all expenditures for which

any reimbursement is sought. The books and records shall be original entry books. In addition, Contractor shall maintain detailed payroll records including all subsistence, travel and field expenses, and canceled checks, receipts and invoices for all items for which any reimbursement is sought. These documents and records shall be retained for at least five years from the completion of this contract. Contractor will permit County to audit all books, accounts or records relating to this contract or all books, accounts or records of any business entities controlled by Contractor who participated in this contract in any way. Any audit may be conducted on Contractor's premises or, at County's option, Contractor shall provide all books and records within a maximum of 15 days upon receipt of written notice from County. Contractor shall refund any moneys erroneously charged. If County ascertains that it has been billed erroneously by Contractor for an amount equaling 5% or more of the original bid, Contractor shall be liable for the costs of the audit in addition to any other penalty to be imposed. This paragraph applies to any contract which provides for reimbursement of expenses.

XIV. TERM OF AGREEMENT: This Agreement shall commence on _____ and shall terminate on _____.

XV. CONFIDENTIALITY: All information and records obtained in the course of providing services under this agreement shall be confidential and shall not be open to examination for any purpose not directly connected to the administration of this program. Both parties shall comply with State and Federal requirements regarding confidential information.

XVI. TITLE: It is understood that any and all documents, information, computer disk, and reports concerning this project prepared by and/or submitted to the Contractor, shall be the property of the County. The Contractor may retain reproducible copies of drawings and copies of other documents. In the event of the termination of this Contract, for any reason whatever, Contractor shall promptly turn over all information, writing, computer disk, and documents to County without exception or reservation. Contractor shall transfer from computer hard drive to disk any information or documents stored on hard drive and provide County with said disk.

XVII. TERMINATION:

A. If the Contractor fails to provide in any manner the services required under this Contract or otherwise fails to comply with the terms of this Contract or violates any ordinance, regulation or other law which applies to its performance herein, the County may terminate this Contract by giving five calendar days written notice to the party involved.

B. The Contractor shall be excused for failure to perform services herein if such services are prevented by acts of God, strikes, labor disputes or other forces over which the Contractor has no control.

C. Either party hereto may terminate this Contract for any reason by giving thirty (30) calendar days written notice to the other parties. Notice of Termination shall be by written notice to the other parties and be sent by registered mail.

D. In the event of termination not the fault of the Contractor, the Contractor shall be paid for services performed to the date of termination in accordance with the terms of this Contract.

XVIII. RELATIONSHIP BETWEEN THE PARTIES: It is expressly understood that in the performances of the services herein, the Contractor, and the agents and employees thereof, shall act in an independent capacity and as an independent contractor and not as officers, employees or agents of the County.

XIX. AMENDMENT: This Contract may be amended or modified only by written agreement of all parties.

XX. ASSIGNMENT OF PERSONNEL: The Contractor shall not substitute any personnel for those specifically named in its proposal unless personnel with substantially equal or better qualifications and experience are provided, acceptable to County, as evidenced in writing.

XXI. JURISDICTION AND VENUE: This Contract shall be construed in accordance with the laws of the State of California and the parties hereto agree that venue shall be in Trinity County, California.

XXII. INDEMNIFICATION: Contractor agrees to indemnify, defend at its own expense, and hold County harmless from any and all liabilities, claims, losses, damages, or expenses, including reasonable attorney's fees, arising from all acts or omissions to act of Contractor or its officers, agents, or employees in rendering services under this contract; excluding, however, such liabilities, claims, losses, damages, or expenses arising from County's sole negligence or willful acts.

XXIII. COMPLIANCE WITH APPLICABLE LAWS: The Contractor shall comply with any and all federal, state and local laws affecting the services covered by this Contract.

XXIV. ATTORNEY'S FEES: If any party hereto employs an attorney for the purpose of enforcing or construing this Agreement, or any judgment based on this Agreement, in any legal proceeding whatsoever, including insolvency, bankruptcy, arbitration, declaratory relief or other litigation, including appeals or rehearing, the prevailing party shall be entitled to receive from the other party or parties thereto reimbursement for all attorneys' fees and all costs, including but not limited to service of process, filing fees, court and court reporter costs, investigative costs, expert witness fees, and the cost of any bonds, whether taxable or not. If any judgment or final order be issued in that proceeding, said reimbursement shall be specified therein.

XXV. NOTICES: Notices to terminate, change or otherwise provide notice as provided in the contract shall be given to County at the following location:

Trinity County Administration
PO Box 1613
Weaverville, CA 96093
(530) 623-1382

Notices shall be given to Contractor at the following address:

(CONTACT NAME)
(NAME OF BUSINESS/CONTRACTOR)
(ADDRESS)
(ADDRESS)
(PHONE NUMBER AND/OR EMAIL ADDRESS)

IN WITNESS WHEREOF, the parties hereunto have executed this Contract on the date written below.

COUNTY OF TRINITY:

CONTRACTOR:

By _____
_____, Chairman
Trinity County Board of Supervisors

By _____
Name: _____
Title.: _____

Date: _____

Date: _____

Approved as to form:

RISK MANAGEMENT APPROVAL

MARGARET E LONG
County Counsel

By: _____
Shelly Nelson
Human Resources/Risk Management Director

EXHIBIT "A"

COMPENSATION OR FEES TO BE PAID TO CONTRACTOR

The fees for furnishing services under this contract shall be paid at a rate of \$70 per hour.

Time spent preparing for, hearing or considering and ruling on the assigned matter shall be compensated at this hourly rate. Contractor may bill for actual travel time to and from the hearing venue and his/her office or place of residence, up to a maximum of two (2) hours, at the rate of \$70 per hour.

Contractor shall be compensated at the applicable Internal Revenue Service's rate for actual mileage to and from hearing venue and his/her office or place of residence, whichever is closer.

Compensation for actual costs for overnight accommodations is available upon prior approval of the County Administrative Officer, or Department Head requesting services under this contract.

IN THE BOARD OF SUPERVISORS
COUNTY OF TRINITY, STATE OF CALIFORNIA
16th day of August 2011

RESOLUTION NO. 2011-056
AUTHORIZING THE COUNTY ADMINISTRATIVE OFFICER
TO DESIGNATE HEARING OFFICERS FOR THE PURPOSE
OF PROPOSED TRINITY COUNTY CODE ENFORCEMENT ACTIONS

The following Resolution is now offered and read:

WHEREAS, Government Code section 25845, as implemented by Trinity Code Chapter 8.64, authorizes the Board of Supervisors to declare certain conditions to be public nuisances, and to cause the abatement of such nuisances, following notice and a hearing;

WHEREAS, Government Code section 25845(i) authorizes the Board of Supervisors to delegate to a hearing officer the Board's authority to declare the existence, and compel the abatement, of public nuisances;

WHEREAS, Government Code section 53069.4, as implemented by Trinity County Code Chapter 8.90, authorizes the County to impose penalties for violations of the Trinity County Code, following notice and a hearing;

WHEREAS, Trinity County Code Chapter 8.90.130 provides for appeals of notices of violation issued per Chapter 8.90 to be heard by hearing officers; and

WHEREAS, Government Code section 27720 *et seq.* authorizes the County to designate the Office of Hearing Officer, contract with qualified individuals to provide hearing officer services, and establish the rules of procedure governing code enforcement proceedings.

NOW, THEREFORE, LET IT BE RESOLVED that the Trinity County Board of Supervisors establishes the Office of Hearing Officer under the authority of the County Administrative Officer;

BE IT FURTHER RESOLVED that the Trinity County Board of Supervisors delegates to the County Administrative Officer the authority to designate and contract with qualified individuals to provide hearing officer services; and

BE IT FURTHER RESOLVED that the Trinity County Board of Supervisors adopts the rules and procedures set forth in Exhibit A to govern all nuisance abatement and code enforcement hearings heard by any hearing officer pursuant to Chapters 8.64 or 8.90 of the Trinity County Code.

Upon motion of Supervisor Pflueger, seconded by Supervisor Chapman, and on the following roll call vote, to-wit:

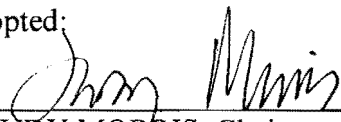
AYES: Chapman, Pflueger, Otto, Jaegel and Morris

NOES: None

ABSENT: None

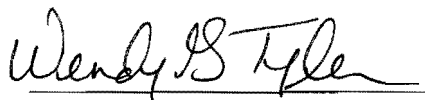
ABSTAINING: None

The foregoing resolution is hereby adopted:



JUDY MORRIS, Chairman
Board of Supervisors

ATTEST:



WENDY G. TYLER
Clerk of the Board of Supervisors

EXHIBIT A

TRINITY COUNTY RULES OF PROCEDURE FOR CODE ENFORCEMENT AND NUISANCE ABATEMENT HEARINGS BY HEARING OFFICERS

Pursuant to Government Code section 27721, the Board of Supervisors of Trinity County adopts the following rules and procedures to govern any nuisance abatement or code enforcement hearing heard under County Code Chapters 8.64 or 8.90.

Selection of Hearing Officer

Following the receipt of timely and proper notice of appeal, the County Administrative Officer, or his or her designee, shall assign a hearing officer for the matter appealed. The hearing officer shall be selected by random means from the panel of all hearing officers under contract with the County at the time the appeal is received, except that hearing officers whose contracts with the County would expire within 45 days of receipt of the notice of appeal shall be excluded.

Notice of the hearing officer assigned to the matter shall be provided in writing, and by mail, to the appellant at the same time, and in the same manner, as the notices of hearing required under Chapter 8.64 or 8.90. At the same time, the identities of the appellant shall be transmitted in writing to the selected hearing officer to allow him or her to determine whether any conflict of interest would exist precluding him or her from hearing the appeal.

The selected Hearing Officer shall promptly advise the County Administrative Officer if he or she believes a conflict of interest would exist because of the party or parties involved in the proceeding. If the appellant believes a conflict of interest would exist, he or she shall advise the County Administrative Officer in writing of the asserted conflict, and the facts and circumstances upon which the conflict is asserted, no later than five calendar days before the hearing on the appeal. Should a conflict of interest in fact exist, the County Administrative Officer shall ensure that a substitute hearing officer is selected, and may reschedule the appeal hearing if necessary to accommodate the selection of the new hearing officer.

For purpose of these rules and procedures, a hearing officer shall have a conflict of interest only if any of the grounds for disqualification under the California Political Reform Act of 1974 (Gov. Code, § 81000 *et seq.*) would exist were he or she to hear the appeal.

Rules of Procedure Governing Appeal Hearings

Hearings by hearing officers are informal and formal rules of evidence shall not apply. No party shall have any right to conduct discovery. Nor shall any party have the right to subpoena any witness. All parties shall have the right to be represented by counsel.

{DPC/00016940.}

At the hearing on the appeal, each party shall be able to present whatever relevant and non-cumulative evidence the party believes is necessary to support his, her, or its position. Evidence shall be deemed relevant and non-cumulative if it is the type of evidence that responsible persons are entitled to rely upon in the conduct of serious affairs.

Subject to the requirement that evidence be relevant and non-cumulative, witnesses may testify for any party and shall be sworn prior to testifying. Witnesses shall be examined informally, both by the party calling the witness and any party that cross-examines him or her.

Testimony may also be provided by written declaration provided under penalty of perjury. Because appeal proceedings are informal, however, the declarant's absence and unavailability for cross-examination shall not be cause for continuance or dismissal of the appeal proceeding, although such factors may be considered in assessing the weight of the evidence they declare.

The order of the appeal hearing shall be as follows:

- (1) Presentation of evidence by the Code Enforcement Officer, County Counsel, or other designated County representative;
- (2) Presentation of evidence by the Appellant or his or her counsel;
- (3) Rebuttal presentation by the County, if permitted by the Hearing Officer;
- (4) Surrebuttal presentation by the Appellant, if permitted by the Hearing Officer; and
- (5) Closing arguments or summation by the parties, if permitted by the Hearing Officer.

The appeal hearing shall be recorded in its entirety by digital or audio recording and stored electronically or digitally on tape, CD-Rom, DVD, or otherwise.

Following the issuance of his or her written ruling on the appeal, the Hearing Officer shall ensure that the originals of all written evidence submitted to him or her are promptly transmitted to the County Administrative Officer for storage.

Upon application of any party, and upon a showing of good cause, the Hearing Officer may continue the appeal hearing.

Failure of the Appellant to appear at the hearing shall constitute a waiver of his or her right to appeal and shall conclusively establish the existence of the code violation(s) or public nuisance(s) at issue.

Duties and Powers of the Hearing Officer

The Hearing Officer shall preside over the appeal hearing at all times. He or she shall rule on admissibility of evidence and all procedural matters presented.

The Hearing Officer shall take all actions necessary to ensure an orderly and fair proceeding. Such actions may include reasonable limitations on the volume of evidence the parties may submit, witnesses they may call, and overall time in which they may present evidence and argument.

Following the conclusion of the appeal, the Hearing Officer shall ensure that a written ruling is timely issued in accordance with County Code Chapters 8.64 or 8.90.