



## **Thurston County, Washington**

Community Planning and Economic Development  
3000 Pacific Ave SE  
Olympia, WA 98501

### **REQUEST FOR PROPOSAL (RFP)**

**Pro Tem Hearing Examiner/Administrative  
Hearing's Officer Professional Services  
Contract**

#### **Solicitation Documents**

The full **REQUEST FOR QUALIFICATION** that contains the details of required services and minimum requirements can be downloaded at:

<https://www.thurstoncountywa.gov/RFP-RFQ-RFS-Opportunities>

#### **Proposals Due Date**

**Proposals are due by not later than: 3:00 p.m. PST January 2, 2024 (UPDATED DUE DATE)**

#### **Proposal Acceptance Location**

**Sealed Proposals will only be received by:**

Jeremy Davis, Operations Manager  
Thurston County Community Planning and Economic Development Department  
Building Development Center  
3000 Pacific Ave SE, Suite 100  
Olympia, WA 98501

Thurston County reserves the right to reject any and all proposals, cancel this solicitation, and to waive any informalities or irregularities in procedure.

**REQUEST FOR PROPOSAL**  
**Pro Tem Hearing Examiner/Administrative**  
**Hearing's Officer Professional Services**  
**Contract**

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**REQUEST FOR PROPOSAL**  
**Pro Tem Hearing Examiner/Administrative**  
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**Contract**

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## **SECTION 1 – OVERVIEW OF SOLICITATION**

### **1.1 PURPOSE**

Thurston County is seeking Statements of Qualifications to enable the selection of an individual to serve as Thurston County's Pro Tem Hearing Examiner for cases related to the County's land use regulatory laws pursuant to Thurston County Code, Chapter 2.06, other implementing County ordinances and State of Washington statutes and regulations.

The Pro Tem Hearing Examiner must also serve as a Pro Tem Administrative Hearing's Officer for administrative hearings in accordance with Sections 8.1, 13.3, and 19.8 of Article I of the Thurston County Sanitary Code, Section 23.7 and 24.7 Article IV of the Thurston County Sanitary Code, Chapter 10.92 of the Thurston County Code, and any other matters referred, in writing, by the Chairman of the Board of Health.

### **1.2 REQUIRED SERVICES AND SCOPE OF WORK**

As the Health Administrative Hearing Officer the proposer will conduct administrative hearings as required for appeals and waivers as required under Sections 8.1, 13.3, and 19.8 of Article I of the Thurston County Sanitary Code, Section 23.7 and 24.7 of Article IV of the Thurston County Sanitary Code, Chapter 10.92 of the Thurston County Code, and any other matters referred, in writing, by the Chairman of the Board of Health; Review hearing requests to determine completeness and adequacy, prehearing conferences and settlement agreements as described in Article 1, Section 8.4 and 8.5; Preparation of detailed written findings, decisions and orders; Preparation of rules of procedure for the hearing officer process; Preparation of an annual report to the Board of Health; and Staff training on hearing processes, if requested.

The Pro Tem Hearing Examiner conducts hearings related to the County's land use regulatory laws pursuant to Thurston County Code, Chapter 2.06, and other implementing County ordinances and State of Washington statutes and regulations, and to conduct hearings on those matters listed below. In this regard, the proposer shall act as the Thurston County Hearing Examiner and conduct all business of the office, including but not limited to the following:

Conduct all pre-hearing activity which shall include, but not be limited to, working with staff to schedule hearings, conducting pre-hearing conferences, making decisions on pre-hearing motions; if necessary, viewing the site before or after the hearing, traveling to and from the hearing, and any other activity required for the conduct of a hearing. Receive and examine all available information as part of hearing preparation. Conduct public hearings and create an administrative record at the hearing for the following matters: Matters prescribed by the Thurston County Subdivision Ordinance (Title 18, Thurston County Code), matters prescribed by the Thurston County Zoning Ordinances (Titles 20, 21, 22, and 23 Thurston County Code), matters prescribed by the Critical Areas Ordinance (Chapter 17.15, Thurston County Code) and Shoreline Master Program: All matters except text amendments and map redesignation, plat vacations or amendments (pursuant to Chapter 58.17 RCW). Right-of-way vacations. Appeals of

Threshold determinations pursuant to Sections 17.09.160 of the Thurston County Code.

Other types of matters which a Hearing Examiner is authorized to decide by law or contract (e.g. non-land use, administrative appeals under local health or sanitary ordinances, grievances under labor contracts) which may be referred by the Board of County Commissioners. Draft and enter written Findings, Conclusions and Decisions for every hearing that has been held. Draft and enter written Findings, Conclusions and Decisions for every appeal in which there has been no hearing, but the County and the Appellant have stipulated to the administrative record. Provide written recommendations and decisions on appeals to the Board of County Commissioners when required by ordinance or law. Provide and draft modifications, amendments, reconsideration orders, clarification orders and any other similar documents for a Decision or Recommendation or Order that has been previously issued.

Thurston County provides a Land Use Clerk to coordinate, notice, and otherwise assist on setting up public hearings.

### **1.3 BUDGET AND CONTRACT PERIOD**

Compensation will be established by negotiation between the successful applicant(s) and Thurston County. Demand for services will drive the compensation model. Options include establishing a competitive hourly rate for various functions, or establishing a fixed monthly rate to provide all services. The tentative contract duration will be for a period of two (2) years with an option to extend.

### **1.4 MINIMUM QUALIFICATIONS**

- Law degree preferred.
- Five years' experience adjudicating land use and health code decisions as outlined in this RFP, including conducting public hearings.
- Experience presenting land use proposals or adjudicating land use cases in Washington State.
- Registered and licensed business in Washington State.

## **SECTION 2 – INFORMATION FOR PROPOSERS**

This section provides information and instructions for proposers responding to this solicitation. The County reserves the right, at its sole discretion, to reject the proposal of any proposer that fails to comply with the instructions outlined herein.

### **2.1 SOLICITATION DOCUMENTS**

All solicitation documents, including any addenda, are published on the Thurston County “Legal Notices and Announcements of Public Hearings” website at:

<https://www.thurstoncountywa.gov/RFP-RFQ-RFS-Opportunities>

### **2.2 COUNTY CONTACT**

Jeremy Davis, Operations Manager  
Thurston County Community Planning and Economic Development Department  
3000 Pacific Ave SE, Suite 100  
Olympia, WA 98501  
Email: [Jeremy.davis@co.thurston.wa.us](mailto:Jeremy.davis@co.thurston.wa.us)

### **2.3 PROPOSAL SUBMITTALS**

Submit three (3) copies (1 original and 2 copies) of the proposal in time to be received by **3:00pm, on January 2, 2024**. Late proposals will not be considered.

All correspondence shall be directed to:  
Jeremy Davis, Operations Manager  
Thurston County Community Planning and Economic Development  
3000 Pacific Ave SE, Suite 100  
Olympia, WA 98501

### **2.4 EXPENSES INCURRED**

The County will not be responsible for any costs associated with participation in this RFP including, but not limited to, preparation, submission, or presentation; interviews, if held; negotiation process; and contract execution. All expenses related to the proposal are the sole responsibility of the proposer.

### **2.5 REFERENCES AND REQUIRED RESOURCES**

Each proposer may be required, before the award of any contract, to show to the complete satisfaction of the County that it has the necessary facilities, ability, insurance, and financial resources to comply with the contract and furnish the services, materials, or goods specified herein in a satisfactory manner. Each proposer may also be required to provide history and references that will enable the County to be satisfied as to the proposer's qualifications and resources. Failure to meet the afore mentioned requirements may cause the County, at its sole discretion, to reject a proposal.

## 2.6 CONTRACT AWARD IS IN THE BEST INTEREST

Thurston County shall award the contract to the applicant whose proposal will best serve the interest of the County, taking into account, but not limited to, experience and expertise.

## SECTION 3 – PROPOSAL INFORMATION AND CONTENT

This Section provides the requirements for preparing and submitting the proposal. Proposal contents shall be assembled, identified, and arranged as specified below. Failure to include any of the requested contents and arrange the contents in the order specified shall be cause for rejection of the proposal as nonresponsive. All documents and electronic media submitted to the County pursuant to this solicitation shall, upon receipt by the County, become the property of the County.

### 3.1 PROPOSAL PROCEDURES

**All proposals must be in a sealed envelope and clearly marked** “Proposal for Pro Tem Hearing Examiner and Administrative Hearing’s Officer of Thurston County”.

- Submit three (3) copies (1 original and 2 copies); and
- No faxed, emailed, or telephone proposals will be accepted.

Proposals must be received by the County not later than 3:00 P.M. January 2, 2024. Late proposals will not be accepted or considered. Timely submission is solely the responsibility of the respective proposer.

Sealed proposals must be delivered via certified mail, express delivery, or courier to:

Thurston County Community Planning and Economic Development  
Department  
3000 Pacific Ave SE, Suite 100  
Olympia, WA 98501

### 3.2 PROPOSAL CONTENT

Each proposal shall include the following information, with each response labeled as indicated below:

- A CV that details academic and professional preparation (Law Degree preferred).
- Detail your previous experience conducting public hearings related to land use regulations and/or sanitary codes (limited to two pages).
- Demonstrated experience and knowledge of State of Washington land use statutes and regulations, and the Thurston County Code, including but not limited to the following matters:
  - Subdivision Ordinance
  - Critical Areas Ordinance
  - Shoreline Master Program
  - Road vacations
  - State Environmental Policy Act
  - Zoning Ordinances
  - Mineral Extraction Code

- h) Forest Land Conversion Ordinance
  - i) Comprehensive Plan
  - j) Growth Management Act
  - k) Sanitary Codes.
- D. A copy of a recent written decision that is related to a land use and/or zoning proposal, as well as related to a sanitary code proposal, as available.
- E. At least two professional references, including phone numbers and other contact information. This is limited to one page.
- F. Provide a list of all positions that may be assisting and describe their responsibilities for this work. Include professional qualifications/resumes of each member of the team responsible for performing work and issuing decision.

#### SECTION 4 – EVALUATION AND SELECTION

This request does not constitute an offer of employment or to contract for services. The County reserves the option to retain all proposals, whether selected or rejected. Once submitted, the proposals and any supplemental documents become property of the County. The County reserves the right to reject all proposals and re-advertise the RFP.

Selection will be made on the basis of the proposals as submitted. The Selection Committee members are not to be contacted by the proposers. Final approval will be by the Thurston County Board of County Commissioners.

EVALUATION CRITERIA	Scoring Maximum
<b>Minimum Qualifications identified in paragraph 1.4 have been met.</b>	10 Points
<b>Firm's Qualifications, Experience, and Past Performance</b> Firm is a registered licensed business in Washington State which has demonstrated knowledge in Washington State land use laws and processes. Firm has proven ability to meet deadlines required by code. County will review proposal and demonstrated experience outlined in the proposal (paragraph 3.2).	40 Points
<b>Recent Legally Defensible Decisions</b> Review and scoring of decision on a land use case. Review and scoring of decision on a sanitary code case.	20 Points
<b>Public Hearings</b> The respondent has direct experience conducting public hearings on land use and/or sanitary code cases.	10 Points
<b>Cost, Fee Structure and Organizational Capacity</b> The Proposal cost is reasonable, demonstrates an understanding of scope, and is an exceptional value for the county. Rates are reasonable.	20 Points
<b>TOTAL</b>	100 Points



Interviews for selected candidates are expected to take place in early January 2024 with a view to having the position filled by the end of February 2024. Interviews will be scored by the interview panel. Staff will collaborate with individual(s) selected to develop a mutually acceptable plan of work, including hearing schedule and implementation strategy.

<b>INTERVIEW and REFERENCES SCORING</b>	<b>Scoring Maximum</b>
<b>References</b>	20 Points
<b>Interview</b>	80 Points
<b>TOTAL</b>	100 Points

## **ATTACHMENT A**

### **THURSTON COUNTY / PRO TEM HEARING EXAMINER**

#### **STATEMENT OF WORK EXAMPLE**

The contractor is expected to perform the following professional services for the County as a *Pro Tem* Hearing Examiner in the event of scheduling or other conflicts with the County's primary Hearing Examiner:

- a. Conduct hearings related to the County's land use regulatory laws pursuant to Thurston County Code, Chapter 2.06, and other implementing County ordinances and State of Washington statutes and regulations, and to conduct hearings on those matters listed below. In this regard, the contractor shall act as the Thurston County Hearing Examiner and conduct all business of the office, including the following:
  - i. Conduct all pre-hearing activity which shall include, but not be limited to, working with staff to schedule hearings, conducting pre-hearing conferences, making decisions on pre-hearing motions; if necessary, viewing the site before or after the hearing, traveling to and from the hearing, and any other activity required for the conduct of a hearing. The determination of whether a site visit is required shall be at the sole determination of the contractor.
  - ii. Receive and examine all available information as part of hearing preparation.
  - iii. In coordination with the Thurston County Hearing Examiner, conduct public hearings and create an administrative record at the hearing for the following matters:
    - a) Matters prescribed by the Thurston County Subdivision Ordinance (Title 18, Thurston County Code).
    - b) Matters prescribed by the Thurston County Zoning Ordinances (Titles 20, 21, 22, and 23 Thurston County Code).
    - c) Matters prescribed by the Critical Areas Ordinance (Chapter 17.15, Thurston County Code).
    - d) Shoreline Master Program: All matters except text amendments and map redesignation.
    - e) Plat vacations or amendments (pursuant to Chapter 58.17 RCW).
    - f) Right-of-way vacations.
    - g) Appeals of Threshold Determinations pursuant to Section 17.09.160 of the Thurston County Code.

- h) Other types of matters which a Hearing Examiner is authorized to decide by law or contract (e.g. non-land use, administrative appeals under local health or sanitary ordinances, grievances under law or contracts) which may be referred by the Board of County Commissioners.
- iv. Draft and enter written Findings, Conclusions and Decisions/Recommendations, or other appropriate formal final document disposing of a matter (e.g., order of dismissal) for every hearing that has been held.
- v. Draft and enter written Findings, Conclusions and Decisions for every appeal in which there has been no hearing but the County and the Appellant have stipulated to the administrative record.
- vi. Provide written recommendations and decisions on appeals to the Board of County Commissioners when required by ordinance or law.
- vii. Provide and draft modifications, amendments, reconsideration orders, clarification orders and any other similar documents for a Decision or Recommendation or Order that has been previously issued.
- b. The contractor may work with the Land Use Clerk to coordinate hearing schedules with the County's primary Hearing Examiner.
- c. In order to effectively accomplish the duties specified in Section 2 of this contract (above), it is agreed the contractor shall:
  - i. Perform the following duties: the acceptance and identification of exhibits; create an audio record of all testimony presented at a hearing on equipment supplied by County; and preparation of the Findings and Conclusions and Decisions/Recommendations for each hearing.
  - ii. Coordinate with the Thurston County Hearing Examiner to meet annually with the Board of County Commissioners at their election either virtually or in-person, or submit written reports if the Board declines a meeting.
  - iii. Meet on request on a mutually agreed date with Community Planning and Economic Development Department staff and/or the Director on procedural and substantive issues.
- d. It is agreed that any vehicles used for site review or travel to and from the hearings shall be the contractor's vehicle and used at the contractor's sole risk, and, contractor shall hold harmless and indemnify Thurston County its elected officials, employees, agents and representatives from and against any and all claims, liability, loss or other damages, including attorneys' fees and costs, arising out of or in any way connected to the use of such vehicles.

- e. The contractor shall provide their own office and office equipment for drafting any documents.
  - f. The contractor shall provide the county with one electronically delivered report of Findings, Conclusions and Decision/Recommendation OR other final document disposing of each matter over which they have assumed jurisdiction (e.g., order of dismissal). Decisions/Recommendations shall include a list of all exhibits and the names of all persons who testified in each case. The report may be submitted electronically and shall be delivered or emailed to the assigned Hearing Clerk or designee within the time constraints imposed by the County and State law or as agreed to by the Applicant or Appellant of each hearing. The County's administrative staff for the office of the Hearing Examiner may format the report but may not change its contents without express direction by the contractor.
  - g. The contractor will be responsible solely to the Board of County Commissioners. However, the contractor shall be free of any supervision or other influence from the Board, the Chief Administrative Officer, or any other County official or employee with respect to any decision or recommendation made on a specific issue or permit.
2. The services to be performed by the County include a hearing clerk who will provide the following services on behalf of the Hearing Examiner *Pro Tem*:

*Pre-Hearing:*

- a. Schedule hearings.
- b. Send required hearing notices.
- c. Schedule and facilitate any telephonic or virtual pre-hearing conferences requested by the hearing officer.
- d. Transmit copies of the hearing exhibits to the hearing officer, either in hard copy form or electronically.
- e. Prepare the hearing room, including setting up the recording equipment, or in the virtual context, send virtual meeting invitations and host/facilitate the virtual hearings.
- f. Serve as the interface between the parties and the hearing officer for procedural questions, scheduling issues, and other appropriate communications outside of the public hearing. This is for the purpose of protecting the contractor from inappropriate ex parte communication by parties or members of the public.

*Hearing:*

- a. Provide and monitor recording equipment, and/or host the virtual hearing.

- b. Mark exhibits admitted into the record and keep an exhibit list.
- c. Track the names and, as needed, mailing addresses of those who testify at hearings.

*Post-Hearing:*

- a. Accept authorized post-hearing submittals and forward copies to the hearing officer.
- b. Distribute copies of the hearing officer's decision to parties of record.
- c. Transmit any post-hearing motions (e.g., requests for reconsideration, if authorized by the applicable ordinances) to the hearing officer.
- d. Maintain the official record of each case.
- e. Prepare the administrative record and transcripts if a contractor's decision is appealed.

**ATTACHMENT B**  
Thurston County  
Pro Tem Hearing Examiner Services

**PRICING FORM**

1. Attach a Billing Rate Schedule to include labor categories and hourly rates for each person providing services outlined in the statement of work for the proposal for services which shall be firm for the term of the contract except as otherwise agreed to in the final contract.
2. Prices shall include all possible direct and indirect costs, travel, insurance, overhead, labor, profit, rebates, services, fees, and any other expenses.

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The undersigned hereby certifies that they have examined and have read and thoroughly understand the Sample Contract including insurance requirements and the method by which payment will be made for said work.

Company Name: \_\_\_\_\_

Company Representative Name & Title: \_\_\_\_\_

BY: \_\_\_\_\_ **⇐ Sign here**  
**SIGNATURE OF AUTHORIZED REPRESENTATIVE**  
(NOTE: Signature is required for Proposal to be valid)

Title: \_\_\_\_\_

Physical Address: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

**ALL PROPOSERS MUST COMPLETE THIS SECTION**

Proposer acknowledges receipt of the following addenda:

Addendum No. \_\_\_\_\_ Date Received \_\_\_\_\_  
By \_\_\_\_\_

Addendum No. \_\_\_\_\_ Date Received \_\_\_\_\_  
By \_\_\_\_\_

Addendum No. \_\_\_\_\_ Date Received \_\_\_\_\_  
By \_\_\_\_\_

**ATTACHMENT C**  
**PROPOSAL FORM**

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**REQUEST FOR PROPOSAL (RFP)**

**THURSTON COUNTY PRO TEM HEARING EXAMINER**

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**SEALED PROPOSALS WILL ONLY BE RECEIVED AT:** Thurston County Community Planning and Economic Development, 3000 Pacific Avenue SW, STE 100 Olympia, Washington 98501.

**PROPOSALS ARE DUE NOT LATER THAN:** 3:00 p.m. local time on December 22, 2023.

THE SOLICITATION DOCUMENTS, including any addenda, are published on the Thurston County website at the following location <https://www.thurstoncountywa.gov/RFP-RFQ-RFS-Opportunities>

**THE UNDERSIGNED UNDERSTANDS AND ACKNOWLEDGES THAT THE SOLICITATION AND ALL ADDENDA HAVE BEEN EXAMINED PRIOR TO SUBMISSION OF PROPOSAL.**

**THE PROPER FULL LEGAL NAME OF THE FIRM OR ENTITY RESPONDING TO THIS SOLICITATION MUST BE WRITTEN IN THE SPACE PROVIDED BELOW. THIS PROPOSAL FORM MUST BE FULLY AND ACCURATELY COMPLETED AND SIGNED BELOW BY A PERSON AUTHORIZED TO LEGALLY AND CONTRACTUALLY BIND THE PROPOSER, OR THE PROPOSAL MAY BE REJECTED IN ENTIRETY:**

AUTHORIZED SIGNATURE \_\_\_\_\_

PRINTED NAME \_\_\_\_\_

TITLE \_\_\_\_\_

COMPANY NAME \_\_\_\_\_

COMPANY ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP CODE \_\_\_\_\_

PHONE \_\_\_\_\_ FAX \_\_\_\_\_

EMAIL \_\_\_\_\_

TAX ID NUMBER \_\_\_\_\_

IS THE COMPANY AUTHORIZED TO DO BUSINESS IN THE STATE OF WASHINGTON? YES \_\_\_\_\_ NO \_\_\_\_\_

NAME/TITLE OF COMPANY CONTACT \_\_\_\_\_

CONTACT'S PHONE \_\_\_\_\_ CONTACT'S EMAIL \_\_\_\_\_

## ATTACHMENT 4

### PROFESSIONAL SERVICES CONTRACT THURSTON COUNTY / [CONTRACTOR].

**THIS CONTRACT** is entered into in duplicate originals between **THURSTON COUNTY**, a municipal corporation, with its principal offices at 3000 Pacific Ave SE, Suite 100, Olympia, Washington 98501, hereinafter "**COUNTY**," and [NAME OF COMPANY], with its principal offices at [contractor address], hereinafter "**CONTRACTOR**."

In consideration of the mutual benefits and covenants contained herein, the parties agree as follows:

#### 1. DURATION OF CONTRACT

The term of this Contract shall begin on the date last executed below and shall terminate on [enter completion date].

#### 2. SERVICES PROVIDED BY THE CONTRACTOR

The CONTRACTOR represents that it is qualified and possesses the necessary expertise, knowledge, training, and skills, and has the necessary licenses and/or certification to perform the services set forth in this Contract.

The CONTRACTOR shall perform the following services:

a. A detailed description of the services to be performed by the CONTRACTOR is set forth in Exhibit A, which is attached hereto and incorporated herein by reference.

b. The CONTRACTOR agrees to provide its own labor and materials. Unless otherwise provided for in the Contract, no material, labor, or facilities will be furnished by the COUNTY.

c. The CONTRACTOR shall perform according to standard industry practice of the work specified by this Contract.

d. The CONTRACTOR shall complete its work in a timely manner and in accordance with the schedule agreed to by the parties.

e. The CONTRACTOR shall, from time to time, during the progress of the work, confer with the COUNTY. At the COUNTY'S request, the CONTRACTOR shall prepare and present status reports on its work.

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3. **SERVICES PROVIDED BY THE COUNTY**

In order to assist the CONTRACTOR in fulfilling its duties under this Contract, the COUNTY shall provide the following:

- a. Relevant information as exists to assist the CONTRACTOR with the performance of the CONTRACTOR'S services.
- b. Coordination with other County Departments or other Consultants as necessary for the performance of the CONTRACTOR'S services.
- c. Services documents, or other information identified in Exhibit A.

4. **CONTRACT REPRESENTATIVES**

Each party to this Contract shall have a contract representative. Each party may change its representative upon providing written notice to the other party. The parties' representatives are as follows:

- a. For CONTRACTOR:

Name of Representative: \_\_\_\_\_  
Title: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City, State and Zip Code: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
Fax Number: \_\_\_\_\_  
E-mail Address: \_\_\_\_\_

- b. For COUNTY:

Name of Representative: \_\_\_\_\_  
Title: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City, State and Zip Code: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
Fax Number: \_\_\_\_\_  
E-mail Address: \_\_\_\_\_

5. **COMPENSATION**

- a. For the services performed hereunder, the CONTRACTOR shall be paid based upon mutually agreed rates contained in Exhibit B, which is attached hereto and incorporated herein

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by reference. The maximum total amount payable by the COUNTY to the CONTRACTOR under this Contract shall not exceed **\$[enter dollar amount]**.

b. No payment shall be made for any work performed by the CONTRACTOR, except for work identified and set forth in this Contract or supporting exhibits or attachments incorporated by reference into this Contract.

c. The CONTRACTOR may, in accordance with Exhibit B, submit invoices to the COUNTY not more often than once per month during the progress of the work for partial payment of work completed to date. Invoices shall cover the time CONTRACTOR performed work for the COUNTY during the billing period. The COUNTY shall pay the CONTRACTOR for services rendered in the month following the actual delivery of the work and will remit payment within thirty (30) days from the date of receipt of billing.

d. The CONTRACTOR shall not be paid for services rendered under the CONTRACT unless and until they have been performed to the satisfaction of the COUNTY.

e. In the event the CONTRACTOR has failed to perform any substantial obligation to be performed by the CONTRACTOR under this Contract and such failure has not been cured within ten (10) days following notice from the COUNTY, then the COUNTY may, in its sole discretion, upon written notice to the CONTRACTOR, withhold any and all monies due and payable to the CONTRACTOR, without penalty until such failure to perform is cured or otherwise adjudicated. "Substantial" for purposes of this Contract means faithfully fulfilling the terms of the contract with variances only for technical or minor omissions or defects.

f. Unless otherwise provided for in this Contract or any exhibits or attachments hereto, the CONTRACTOR will not be paid for any billings or invoices presented for payment prior to the execution of the Contract or after its termination.

## **6. AMENDMENTS AND CHANGES IN WORK**

a. In the event of any errors or omissions by the CONTRACTOR in the performance of any work required under this Contract, the CONTRACTOR shall make any, and all necessary corrections without additional compensation. All work submitted by the CONTRACTOR shall be certified by the CONTRACTOR and checked for errors and omissions. The CONTRACTOR shall be responsible for the accuracy of the work, even if the work is accepted by the COUNTY.

b. No amendment, modification or renewal shall be made to this Contract unless set forth in a written Contract Amendment, signed by both parties and attached to this Contract. Work under a Contract Amendment shall not proceed until the Contract Amendment is duly executed by the COUNTY.

## **7. HOLD HARMLESS AND INDEMNIFICATION**

a. The CONTRACTOR shall hold harmless, indemnify and defend the COUNTY, its officers, officials, employees and agents, from and against any and all claims, actions, suits, liability, losses, expenses, damages, and judgments of any nature whatsoever, including costs and attorneys fees in defense thereof, for injury, sickness, disability or death to persons or damage to property or business, caused by or arising out of the CONTRACTOR'S acts, errors

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or omissions or the acts, errors or omissions of its employees, agents, subcontractors or anyone for whose acts any of them may be liable, in the performance of this Contract. Claims shall include, but not be limited to, assertions that information supplied or used by the CONTRACTOR or subcontractor infringes any patent, copyright, trademark, trade name, or otherwise results in an unfair trade practice. PROVIDED HOWEVER, that the CONTRACTOR'S obligations hereunder shall not extend to injury, sickness, death or damage caused by or arising out of the sole negligence of the COUNTY, its officers, officials, employees or agents. PROVIDED FURTHER, that in the event of the concurrent negligence of the parties, the CONTRACTOR'S obligations hereunder shall apply only to the percentage of fault attributable to the CONTRACTOR, its employees, agents or subcontractors.

b. In any and all claims against the COUNTY, its officers, officials, employees and agents by any employee of the CONTRACTOR, subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this Section shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the CONTRACTOR or subcontractor under Worker's Compensation acts, disability benefits acts, or other employee benefits acts, it being clearly agreed and understood by the parties hereto that the CONTRACTOR expressly waives any immunity the CONTRACTOR might have had under Title 51 RCW. By executing the Contract, the CONTRACTOR acknowledges that the foregoing waiver has been mutually negotiated by the parties and that the provisions of this Section shall be incorporated, as relevant, into any contract the CONTRACTOR makes with any subcontractor or agent performing work hereunder.

c. The CONTRACTOR'S obligations hereunder shall include, but are not limited to, investigating, adjusting and defending all claims alleging loss from action, error or omission, or breach of any common law, statutory or other delegated duty by the CONTRACTOR, the CONTRACTOR'S employees, agents or subcontractors.

## **8. INSURANCE**

a. **Professional Legal Liability:** The CONTRACTOR, if he is a licensed professional, shall maintain Professional Legal Liability or Professional Errors and Omissions coverage appropriate to the CONTRACTOR'S profession and shall be written subject to limits of not less than \$[1,000,000] per loss.

The coverage shall apply to liability for a professional error, act or omission arising out of the scope of the CONTRACTOR'S services defined in this Contract. Coverage shall not exclude bodily injury or property damage. Coverage shall not exclude hazards related to the work rendered as part of the Contract or within the scope of the CONTRACTOR'S services as defined by this Contract including testing, monitoring, measuring operations, or laboratory analysis where such services are rendered as part of the Contract.

b. **Workers' Compensation (Industrial Insurance):** The CONTRACTOR shall maintain workers' compensation insurance as required by Title 51 RCW and shall provide evidence of coverage to the Thurston County Risk Management Division.

The CONTRACTOR shall send to Thurston County at the end of each quarter written verification that premium has been paid to the Washington State Department of Labor and Industries for Industrial Insurance coverage. Alternatively, the CONTRACTOR shall provide

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certification of approval by the Washington State Department of Labor and Industries if self-insured for Workers Compensation.

c. **Commercial General Liability:** The CONTRACTOR shall maintain Commercial General Liability coverage for bodily injury, personal injury and property damage, subject to limits of not less than **[\$1,000,000]** per loss. The general aggregate limit shall apply separately to this Contract and be no less than **[\$2,000,000]**.

- i. The CONTRACTOR shall provide Commercial General Liability coverage which does not exclude any activity to be performed in fulfillment of this Contract. Specialized forms specific to the industry of the CONTRACTOR will be deemed equivalent provided coverage is no more restrictive than would be provided under a standard Commercial General Liability policy, including contractual liability coverage.
- ii. The CONTRACTOR'S Commercial General Liability insurance shall include the COUNTY, its officers, officials, employees and agents with respect to performance of services, and shall contain no special limitations on the scope of protection afforded to the COUNTY as additional insured.
- iii. The CONTRACTOR shall furnish the COUNTY with evidence that the additional insured provision required above has been met. An acceptable form of evidence is the endorsement pages of the policy showing the COUNTY as an additional insured.
- iv. If the CONTRACTOR'S liability coverage is written as a claims made policy, then the CONTRACTOR must evidence the purchase of an extended reporting period or "tail" coverage for a three-year period after project completion, or otherwise maintain the coverage for the three-year period.
- v. If the Contract is over \$50,000 then the CONTRACTOR shall also maintain Employers Liability Coverage with a limit of not less than \$1 million.

d. **Automobile Liability:** The CONTRACTOR shall maintain Business Automobile Liability insurance with a limit of not less than the **[Washington State Minimum Limits (as applicable)]** each accident combined Bodily Injury and Property Damages. Coverage shall include owned, hired, and non-owned automobiles.

e. **Other Insurance Provisions:**

- i. The CONTRACTOR'S liability insurance provisions shall be primary with respect to any insurance or self-insurance programs covering the COUNTY, its elected and appointed officers, officials, employees, and agents.
- ii. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the COUNTY, its officers, officials, employees, or agents.
- iii. The CONTRACTOR'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

- iv. The CONTRACTOR shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.
- v. The insurance limits mandated for any insurance coverage required by this Contract are not intended to be an indication of exposure nor are they limitations on indemnification.
- vi. The CONTRACTOR shall maintain all required policies in force from the time services commence until services are completed. Certificates, policies, and endorsements expiring before completion of services shall be promptly replaced.

f. **Verification of Coverage and Acceptability of Insurers:** The CONTRACTOR shall place insurance with insurers licensed to do business in the State of Washington and having A.M. Best Company ratings of no less than A-, with the exception that excess and umbrella coverage used to meet the requirements for limits of liability or gaps in coverage need not be placed with insurers or re-insurers licensed in the State of Washington.

- i. Certificates of Insurance shall show the Certificate Holder as Thurston County and include c/o of the Office or Department issuing the Contract. The address of the Certificate Holder shall be shown as the current address of the Office or Department.
- ii. Written notice of cancellation or change shall be mailed to the COUNTY at the following address:

Attn: Risk Analyst  
Human Resources  
2000 Lakeridge Drive S.W.  
Olympia, Washington 98502

- iii. The CONTRACTOR shall furnish the COUNTY with properly executed certificates of insurance or a signed policy endorsement which shall clearly evidence all insurance required in this section prior to commencement of services. The certificate will, at a minimum, list limits of liability and coverage. The certificate will provide that the underlying insurance contract will not be canceled or allowed to expire except on thirty (30) days prior written notice to the COUNTY.
- iv. The CONTRACTOR or its broker shall provide a copy of any and all insurance policies specified in this Contract upon request of the Thurston County Risk Management Division.

## 9. **TERMINATION**

a. The COUNTY may terminate this Contract for convenience in whole or in part whenever the COUNTY determines, in its sole discretion, that such termination is in the best interests of the COUNTY. The COUNTY may terminate this Contract upon giving ten (10) days

Contract No.:

written notice by Certified Mail to the CONTRACTOR. In that event, the COUNTY shall pay the CONTRACTOR for all costs incurred by the CONTRACTOR in performing the Contract up to the date of such notice. Payment shall be made in accordance with Section 5 of this Contract.

b. In the event funding for this project is withdrawn, reduced, or limited in any way after the effective date of this Contract, the COUNTY may summarily terminate this Contract notwithstanding any other termination provision of the Contract. Termination under this paragraph shall be effective upon the date specified in the written notice of termination sent by the COUNTY to the CONTRACTOR. After the effective date, no charges incurred under this Contract are allowable.

c. If the CONTRACTOR breaches any of its obligations hereunder, and fails to cure the breach within ten (10) days of written notice to do so by the COUNTY, the COUNTY may terminate this Contract, in which case the COUNTY shall pay the CONTRACTOR only for the costs of services accepted by the COUNTY, in accordance with Section 5 of this Contract. Upon such termination, the COUNTY, at its discretion, may obtain performance of the work elsewhere, and the CONTRACTOR shall bear all costs and expenses incurred by the COUNTY in completing the work and all damage sustained by the COUNTY by reason of the CONTRACTOR'S breach. If, subsequent to termination, it is determined for any reason that (1) the CONTRACTOR was not in default, or (2) the CONTRACTOR'S failure to perform was not its fault or its subcontractor's fault or negligence, the termination shall be deemed to be a termination under subsection a of this section.

#### **10. ASSIGNMENT, DELEGATION, AND SUBCONTRACTING**

a. The CONTRACTOR shall perform the terms of the Contract using only its bona fide employees or agents who have the qualifications to perform under this Contract. The obligations and duties of the CONTRACTOR under this Contract shall not be assigned, delegated, or subcontracted to any other person or firm without the prior express written consent of the COUNTY.

b. The CONTRACTOR warrants that it has not paid nor has it agreed to pay any company, person, partnership, or firm, other than a bona fide employee working exclusively for CONTRACTOR, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Contract.

#### **11. NON-WAIVER OF RIGHTS**

The parties agree that the excuse or forgiveness of performance, or waiver of any provision(s) of this Contract does not constitute a waiver of such provision(s) or future performance or prejudice the right of the waiving party to enforce any of the provisions of this Contract at a later time.

#### **12. INDEPENDENT CONTRACTOR**

a. The CONTRACTOR'S services shall be furnished by the CONTRACTOR as an Independent Contractor and not as an agent, employee, or servant of the COUNTY. The

CONTRACTOR specifically has the right to direct and control CONTRACTOR'S own activities in providing the agreed services in accordance with the specifications set out in this Contract.

b. The CONTRACTOR acknowledges that the entire compensation for this Contract is set forth in Section 5 of this Contract, and the CONTRACTOR is not entitled to any County benefits, including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, fringe benefits, or any other rights or privileges afforded to Thurston County employees.

c. The CONTRACTOR shall have and maintain complete responsibility and control over all its subcontractors, employees, agents, and representatives. No subcontractor, employee, agent or representative of the CONTRACTOR shall be or deem to be or act or purport to act as an employee, agent or representative of the COUNTY.

d. The CONTRACTOR shall assume full responsibility for the payment of all payroll taxes, use, sales, income or other form of taxes, fees, licenses, excises, or payments required by any city, county, federal or state legislation which is now or may during the term of this Contract be enacted as to all persons employed by the CONTRACTOR and as to all duties, activities and requirements by the CONTRACTOR in performance of the work on this project and under this Contract and shall assume exclusive liability therefore, and meet all requirements thereunder pursuant to any rules or regulations.

e. The CONTRACTOR agrees to immediately remove any of its employees or agents from assignment to perform services under this Contract upon receipt of a written request to do so from the COUNTY'S contract representative or designee.

### **13. COMPLIANCE WITH LAWS**

The CONTRACTOR shall comply with all applicable federal, state and local laws, rules and regulations in performing this Contract.

### **14. INSPECTION OF BOOKS AND RECORDS**

The COUNTY may, at reasonable times, inspect the books and records of the CONTRACTOR relating to the performance of this Contract. The CONTRACTOR shall keep all records required by this Contract for six (6) years after termination of this Contract for audit purposes.

### **15. NONDISCRIMINATION**

The CONTRACTOR, its assignees, delegates or subcontractors shall not discriminate against any person in the performance of any of its obligations hereunder on the basis of race, color, creed, ethnicity, religion, national origin, age, sex, marital status, veteran status, sexual orientation or the presence of any disability. Implementation of this provision shall be consistent with RCW 49.60.400.

**16. OWNERSHIP OF MATERIALS/WORK PRODUCED**

a. Material produced in the performance of the work under this Contract shall be “works for hire” as defined by the U.S. Copyright Act of 1976 and shall be owned by the COUNTY. This material includes, but is not limited to, books, computer programs, plans, specifications, documents, films, pamphlets, reports, sound reproductions, studies, surveys, tapes, and/or training materials. Ownership includes the right to copyright, patent, register, and the ability to transfer these rights. The COUNTY agrees that if it uses any materials prepared by the CONTRACTOR for purposes other than those intended by this Contract, it does so at its sole risk and it agrees to hold the CONTRACTOR harmless therefore to the extent such use is agreed to in writing by the CONTRACTOR.

b. An electronic copy of all or a portion of material produced shall be submitted to the COUNTY upon request or at the end of the job using the word processing program and version specified by the COUNTY.

**17. DISPUTES**

Differences between the CONTRACTOR and the COUNTY, arising under and by virtue of this Contract, shall be brought to the attention of the COUNTY at the earliest possible time in order that such matters may be settled, or other appropriate action promptly taken. Any dispute relating to the quality or acceptability of performance and/or compensation due the CONTRACTOR shall be decided by the COUNTY'S Contract representative or designee. All rulings, orders, instructions, and decisions of the COUNTY'S contract representative shall be final and conclusive, subject to the CONTRACTOR'S right to seek judicial relief pursuant to Section 18.

**18. CHOICE OF LAW, JURISDICTION AND VENUE**

a. This Contract has been and shall be construed as having been made and delivered within the State of Washington, and it is agreed by each party hereto that this Contract shall be governed by the laws of the State of Washington, both as to its interpretation and performance.

b. Any action at law, suit in equity, or judicial proceeding arising out of this Contract shall be instituted and maintained only in any of the courts of competent jurisdiction in Thurston County, Washington.

**19. SEVERABILITY**

a. If a court of competent jurisdiction holds any part, term or provision of this Contract to be illegal, or invalid in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.

b. If any provision of this Contract is in direct conflict with any statutory provision of the State of Washington, that provision which may conflict shall be deemed inoperative and null and void insofar as it may conflict and shall be deemed modified to conform to such statutory provision.

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c. Should the COUNTY determine that the severed portions substantially alter this Contract so that the original intent and purpose of the Contract no longer exists, the COUNTY may, in its sole discretion, terminate this Contract.

20. **ENTIRE AGREEMENT**

The parties agree that this Contract is the complete expression of its terms and conditions. Any oral or written representations or understandings not incorporated in this Contract are specifically excluded.

21. **NOTICES**

Any notices shall be effective if personally served upon the other party or if mailed by registered or certified mail, return receipt requested, to the addresses set out in Section 4. Notice may also be given by facsimile with the original to follow by regular mail. Notice shall be deemed to be given three days following the date of mailing or immediately if personally served. For service by facsimile, service shall be effective upon receipt during working hours. If a facsimile is sent after working hours, it shall be effective at the beginning of the next working day.

**The parties hereto acknowledge that the waiver of immunity set out in Section 7.b. was mutually negotiated and specifically agreed to by the parties herein.**

CONTRACTOR:

Thurston County, Washington

Firm: \_\_\_\_\_

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

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

Title: \_\_\_\_\_

Signature: \_\_\_\_\_  
(Authorized Representative)

Date \_\_\_\_\_

Date \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

**Approved as to Form by the Prosecuting Attorney's Office**

Reviewed 1/5/05

Contract No.:

EXHIBIT A

PROFESSIONAL SERVICES CONTRACT  
THURSTON COUNTY/ **[CONTRACTOR]**

SCOPE OF SERVICES

1. The services to be performed by the CONTRACTOR under this Contract, which are described in Section 2 of the Contract (SERVICES PROVIDED BY THE CONTRACTOR), are set forth as follows:

[list scope of services or tasks to be performed]

2. The services to be performed by the COUNTY under this Contract, which are described in Section 3 of the Contract (SERVICES PROVIDED BY THE COUNTY) are set forth as follows (if applicable):

[list scope or tasks to be performed]

EXHIBIT B

PROFESSIONAL SERVICES CONTRACT

THURSTON COUNTY/ **[CONTRACTOR]**  
**COMPENSATION**

1. The CONTRACTOR'S compensation under this Contract, which is described in Section 5 of the Contract (COMPENSATION), is set forth as follows:

**[state lump sum amount and additional break-out if available]**

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**NOTICE OF REQUEST FOR PROPOSALS  
FOR PRO TEM HEARING EXAMINER AND  
ADMINISTRATIVE HEARING'S OFFICER OF  
THURSTON COUNTY**

Thurston County is seeking proposals from applicants with experience and expertise to serve as Thurston County's Pro Tem Hearing Examiner for cases related to land use regulatory laws pursuant to Thurston County Code, other implementing County ordinances and State of Washington statutes and regulations and may serve as Administrative Hearing's Officer for administrative hearings in convened for causes identified in the Sanitary Code for Thurston County. The deadline for submittal of RFP responses is December 22, 2023.

This notice is not the full Request for Proposal. The full **REQUEST FOR PROPOSALS** that contains the details of required services and minimum requirements can be downloaded at:  
<https://www.thurstoncountywa.gov/RFP-RFQ-RFS-Opportunities>

Or with prior arrangement, picked up in person at:  
Thurston County Community Planning and Economic Development Department  
Building Development Center  
3000 Pacific Ave SE, Suite 100  
Olympia, WA 98501

**Closing Date and Mailing Address for Submittals**

1. Submit four (4) copies of the proposal in time to be received by **3:00 p.m., on December 22, 2023** at the address above.
2. No faxed, e-mailed, or telephone proposals will be accepted.
3. All proposals must be in a sealed envelope and clearly marked **"Proposal for Pro Tem Hearing Examiner and Pro Tem Administrative Hearing's Officer of Thurston County"**.

Questions should be directed to Jeremy Davis, Operations Manager, by telephone at (360) 867-2103, or by email at:  
[jeremy.davis@co.thurston.wa.us](mailto:jeremy.davis@co.thurston.wa.us)

Jamie Caldwell, Clerk of the Board

**DO NOT PUBLISH BELOW THIS LINE**