

# Request for Proposals

## Hearings Officer Services

**1. PURPOSE OF REQUEST:** The City of Keizer is soliciting requests for proposals for the purpose of contracting with a qualified Hearings Officer. The Hearings Officer conducts quasi-judicial hearings on land use matters on behalf of the City Council, and makes decisions or recommendations supported by findings and conclusions. The Hearings Officer also acts as Hearings Examiner and conducts other hearings as provided by statute, ordinance, or at the direction of the City Council or City Manager.

**2. BRIEF SCOPE OF SERVICES:** The Hearings Officer shall perform the duties of the Hearings Officer (or Hearings Examiner) set forth by this Request for Proposals and/or the Contract for services. The City will enter into a three year contract with an option to renew for two additional 2-year terms for this position.

**3. SCOPE OF SERVICES:**

**3.1.** The Hearings Officer shall provide personal services on an “assignment by assignment” basis and for a “not to exceed” fee based on the established rates for the contract. The City makes no guarantee as to the volume of work, if any, that will be assigned in any given contract year.

**3.2.** The Hearings Officer agrees to provide services for all projects offered by the City unless multiple projects exceed the Hearings Officer’s ability to complete the work within the required time frames. The City, at its sole discretion, can offer a project to another Hearings Officer if the Hearings Officer cannot perform within the required time frame and/or the City determines it is in the City’s best interest to do so.

**3.3.** The Hearings Officer shall be familiar or shall familiarize him/herself with the Keizer Development Code, Keizer Comprehensive Plan, Keizer Station Master Plan (if appropriate), and other applicable land use regulations. Such familiarization shall occur within the context of case review and shall not be charged separately.

The Hearings Officer shall be assigned on a case-by-case “as-needed” basis to conduct contested case proceedings in addition to land use and limited land use proceedings. The number of cases assigned in a year may vary. The Hearings Officer shall accept all cases assigned, unless conflicts exist.

Upon assignment of cases to the Hearings Officer, the Hearings Officer shall within three (3) days of assignment determine whether he/she has any conflict of interest, bias, or prehearing contacts, with respect to the case or the parties thereof. If such condition exists, whether apparent or real, the Hearings Officer shall notify the City within the 3-day period, whereupon the Hearings Officer may decline the assignment or the City may withdraw the assignment. The Hearings Officer shall not charge the City for time spent in determining whether these conditions exist or for any time devoted to a case in which one of these conditions is later found to exist.

The Hearings Officer may visit the site of each land use case prior to preparation of his/her report, but shall not devote more than one (1) hour for each view, including travel time from City Hall to the site, unless otherwise approved by the City.

After the initial hearing date has been scheduled, City staff shall provide required notice.

**3.4.** Hearings shall be held at the Keizer City Hall, or in facilities obtained or approved by the City at the City's expense.

The Hearings Officer shall conduct the hearings. The Hearings Officer shall conduct the hearings in a fair and efficient manner and may establish time limits for hearing participants. Hearings may be continued if necessary, but completion of hearings in a timely manner is of the essence. The Hearings Officer shall ensure that all applicable rules and guidelines are met. City staff, in a given case, may certify to the Hearings Officer specific questions related to the case. In that event, the Hearings Officer shall specifically respond to each such question in the Findings, Conclusions, and Recommendations. Decisions and Recommendations of the Hearings Officer shall be in accordance with and based on Oregon law related to the subject of the hearing. The Hearings Officer shall interpret the applicable standards as they apply to the subject of the hearing. In addition, the Hearings Officer shall comply with all contested case procedures adopted by the City and with any of the applicable laws affecting hearing procedures. Other than determining compliance with the applicable criteria, the Hearings Officer shall consider only those issues raised by the parties.

**3.5.** The Hearings Officer shall prepare and submit to the City the original and one (1) copy of each Decision (e.g. Findings of Fact, Conclusions of Law and Decision) which shall include a list of Parties, rulings on motions and on admissibility of evidence, Findings of Fact, Conclusions of Law, a decision, and a statement for reasons for decision. The Hearings Officer shall file the Decision with the City on or before the 21st day following the conclusion of the hearing of each case. The Hearings Officer shall prepare the Decision consistent with the standards of good practice of the legal profession.

**3.6.** The Hearings Officer shall keep accurate and detailed records for the purpose of computing compensable time and shall submit said records to the City no later than the end of the next succeeding month in which the services were completed. Travel time to and from City Hall shall not be charged. Such records shall include the following information: description of service performed, to whom service should be charged, date of service, time spent for each charge and each direct expense. The level of detail of this information shall be such that each charge is clearly understandable.

Payment shall be made by the City in lump sum within 30 days of the invoice delivery.

The Hearings Officer agrees to perform all services and deliver to City all materials outlined in the Scope of Services at the contracted rate per hour for a total not to exceed \$750.00 per case unless otherwise agreed to in writing by the City. The Hearings Officer shall not charge the City for any time that is not directly related to the case the Hearings Officer is considering.

**3.7.** The Hearings Officer will meet annually with the Community Development Director, Department Directors, and/or management staff to discuss procedures, rules,

problems, and any matters that may be of concern to the Officer, the Council, the Directors, and/or staff. Such meeting shall not be charged to the City.

**3.8.** The Hearings Officer may from time to time review and make suggestions to the Community Development Director for modifications to the Keizer Development Code as the Officer feels necessary.

**4. Performance Guidelines:** The following are the performance expectations for the Hearings Officer. The performance of the Officer may be evaluated in accordance with the following guidelines and measures of effectiveness.

**4.1.** The logic of findings and conclusions and the reasoning of recommendations and decisions.

**4.2.** The decorum, demeanor and effectiveness of the Officer(s) in the management and conduct of the proceedings assigned.

**4.3.** The efficiency, effectiveness and service demonstrated, including cost effectiveness, timeliness, and responsiveness.

**4.4.** Preparation of reports, including format, clarity, comprehensibility, timeliness, thoroughness, completeness, grasp of and responsiveness to the issues presented, and familiarity with and application of applicable and relevant criteria, policies, regulations, and/or law. Reports are defensible on appeal to the City Council and further appeal bodies.

**4.5.** Availability for hearings normally scheduled in the evening on a regular monthly basis.

**4.6.** Provide decisions that are clearly and solely based on the applicable criteria of the City's comprehensive plan, applicable ordinances and development code.

**4.7.** Ability to provide all secretarial and clerical support for the preparation of decisions and their distribution to the Applicant and City.

**4.8.** Ability to coordinate with City Staff to carry out the public hearing and decision making functions.

**4.9.** Ability to submit timely billings.

**5. ESTIMATED TIME SCHEDULE.** The City anticipates the following general timeline for receiving and evaluating proposals and selecting a Hearings Officer. The timeline listed below may be changed if it is in the City's best interest to do so.

Issue RFP	October 8, 2020
Submittal of Proposals by 5:00 p.m.	November 5, 2020
Selection Committee Recommendation	November 19, 2020
Notify Successful Applicant	December 1, 2020
Council Approves Contract	December 21, 2020

## 6. INSTRUCTIONS TO PROPOSERS.

6.1. All proposals will be sent to:

HAND DELIVERED OR  
DELIVERY SERVICE  
City of Keizer  
c/o Tracy Davis  
City Recorder  
930 Chemawa Road NE  
Keizer, OR 97303

UNITED STATES POSTAL SERVICE  
  
City of Keizer  
c/o Tracy Davis  
City Recorder  
P.O. Box 21000  
Keizer, OR 97307

6.2. All mailed proposals must be in a sealed envelope and clearly marked in the lower left-hand corner: **“RFP – HEARINGS OFFICER”**.

6.3. All proposals must be physically received by 5:00 p.m. on November 5, 2020. Proposals must be signed, sealed and delivered to City Hall by the above date. Faxed or electronic proposals will **NOT** be accepted. Proposers are cautioned that failure to comply may result in non-acceptance of the proposal.

6.4. Proposals should be prepared simply and economically, providing a straight forward, concise description of provider capabilities to satisfy the requirements of the request. Special bindings, colored displays, promotional materials, etc. are not desired. Emphasis should be on completeness and clarity of content.

6.5. The City will notify the Hearings Officer of the recommendation by December 1, 2020.

6.6. All proposals must include the following information:

6.6.1. Background Information including the following:

- a) Attorney Status. Provide Law Degree information: State name of school, year of graduation from law school, and in case of a proposal being submitted by a firm, provide the information for all attorneys anticipated to provide services to the City. Provide Oregon State Bar number, and if applicable, fully explain any disciplinary sanctions.
- b) Hearings Officer Experience. List chronologically your Hearings Officer experience and/or experience as attorney specializing in land use or administrative judge or other hearings officer position or arbitration.
- c) Land Use Law. A clear understanding of the Oregon land use system and law as demonstrated by education and experience.

- d) Public Forum. Demonstrated ability to work in a public forum and under pressure.
- e) Land Use Regulations. Working knowledge of City Regulations relating to land use or development for the City of Keizer and/or other municipalities.
- f) Code Enforcement Process. General knowledge of the code enforcement process is helpful, but not required.
- g) Availability. State your general availability for purposes of scheduling hearings. Usually one hearing per month is scheduled on a regular basis. However, there may be more or less hearings scheduled in a particular month. Hearings are normally to be scheduled in the evenings.
- h) Other Hearings Officer or administrative law judge experience. Please list any other experience you have had as a Hearings Officer or administrative law judge. Non-legal experience may be listed. Please list jurisdictions, types of experience, and approximate dates of service.

**6.6.2.** A statement describing your view of the roles and duties of a Hearings Officer in a municipal setting and your approach to conducting public hearings.

**6.6.3.** A statement of the principles you believe lead to good public hearings and how you approach participants (particularly “problem” participants) in public hearings.

**6.6.4.** Your definition of a “good result” in a contested matter.

**6.6.5.** Up to three Hearings Officer’s reports (recommendations or decisions) for hearings you have conducted, or other similar written report demonstrating similar experience.

**6.6.6.** Provide the proposed hourly rate for the Hearings Officer. If an assistant will be assigned to administer routine case elements, list the hourly rate for that assistant and identify the types of tasks to be assigned to the assistant. Reimbursable expenses should also be listed.

**7. EVALUATION CRITERIA:** A selection committee comprised of the Interim Community Development Director, the Finance Director, and the City Manager will be used for the purposes of evaluating all proposals received by the time and date set for receipt of proposals. The City reserves the right to change the make-up of the committee depending on the availability of the proposed members. Each evaluation criterion listed below will be weighted separately and is based upon the values listed below. City reserves the right to conduct selected interviews.

Evaluations of submittal packet will be based on the criteria listed below.

**General qualifications: (30 points)**

- Background, training and experience in:
  - Land Use Law
  - Code Enforcement Law
- Background, training, and experience as Hearings Officer
- Experience working in public sector
- State Bar disciplinary record

**Conduct of public hearings: (30 points)**

- View of the role and duties of Hearings Officer
- Approach to conducting public hearings
- Principles that lead to good public hearings
- Approach to participants in public hearings
- Definition of a “good result” in a contested matter coming before the Hearings Officer

**Decision making (30 points)**

- Thoroughness of decisions
- Clarity of decisions
- Ability to identify issues, facts and relevant rules
- Application of the rules and law to the facts

**Fee Proposal (10 points)**

**8. TERMS AND CONDITIONS.**

**8.1.** Questions regarding this Request for Proposal may be directed to the Community Development Director at 503-856-3441. Any communications will be considered unofficial and non-binding on the City. Only formal amendments to this RFP or the contract signed by both parties shall be binding.

**8.2.** The City reserves the right to reject any and all proposals and to waive irregularities and informalities in the submittal and evaluation process. This RFP does not obligate the City to pay any costs incurred by respondents in the preparation and submission of their Proposals. Furthermore, the Request for Proposal does not obligate the City to accept or contract for any expressed or implied services.

**8.3.** The City reserves the right to request clarification of information submitted, and to request additional information from any proposer.

**8.4.** The City reserves the right to award any contract to the next most qualified proposer, if the successful proposer does not execute a contract within fifteen (15) days after the award of the proposal.

**8.5.** Any proposal may be withdrawn up until the date and time set above for opening of the proposals.

**8.6.** The City reserves the right to negotiate all elements of the submittals, proposals, terms and conditions, and/or scope of services as part of the contract negotiation process prior to any formal authorization of the contract by the City. All parties understand that if any adjustments are made to the original scope as a result of contract negotiations, a resulting change in price/cost may be necessary.

**8.7.** The successful proposer must comply with the City of Keizer equal opportunity requirements. The City of Keizer is committed to a program of equal employment opportunity regardless of race, color, creed, sex, age, nationality or disability.

**8.8.** As a result of the selection of a proposer to supply services to the City, proposer agrees to make no reference to the City in any literature, promotional material, brochures, sales presentation or the like without the express written consent of the City.

**8.9.** Submittal of a signed proposal swears that the document is genuine and not a sham or collusive, and not made in the interest of any person not named, and that the proposer has not induced or solicited others to submit a sham offer, or to refrain from proposing.

**8.10.** In addition to nondiscrimination and affirmative action compliance requirements previously listed, the proposer ultimately awarded a contract shall comply with federal, state and local laws, statutes and ordinances relative to the execution of the work. This requirement includes, but is not limited to, protection of public and employee safety and health, environmental protection, waste reduction and recycling, the protection of natural resources, permits; fees, taxes, and similar subjects.