



DAN JOHNSON
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

September 7, 2023

BCC Agenda Date/Item: _____

Board of County Commissioners
Clackamas County

Approval of Contract #8413 with Joe Turner, P.C., Municipal Hearings Official for professional hearings officer services. Total value is \$250,000 for five years (not to exceed \$50,000/yr). Funding is through budgeted County General Funds.

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|-------------------------------------|--|---------------------------|--------------|
| Previous Board Action/Review | 9/05/23: Request for consent | | |
| Performance Clackamas | Ensure safe, healthy, and secure communities Build public trust through good government | | |
| Counsel Review | Yes - Andrew Naylor | Procurement Review | Yes |
| Contact Person | Kristine Wallace | Contact Phone | 503-722-6759 |

EXECUTIVE SUMMARY: The Board of County Commissioners has adopted dog licensing and services regulations and procedures pursuant to ORS 203.035. that are enforced Dog Services. Where feasible and legally permissible, Dog Services offers a range of enforcement opportunities to all parties, including voluntary compliance, education, and mediation. When a greater level of enforcement is required a citation may be issued and a formal compliance hearing takes place. This hearing is heard by a hearings officer who serves as an impartial and unbiased decision-maker to hear these matters and issue fines, fees, costs, expenses, conditions, or restrictions. This provides accountability and motivates compliance with the ordinance and regulations which support the livability, health, and safety of people and pets in Clackamas County.

PROCUREMENT PROCESS: This proposal was advertised in accordance with ORS and LCRB rules on June 8, 2023, through RFP 2023-50. The County received one (1) proposal in response to the RFP from Joe Turner, P.C. An evaluation committee has evaluated the

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proposal and Joe Turner P.C. was the apparent successful proposer and was notified of the intent to award on July 31, 2023.

RECOMMENDATION: Staff respectfully recommends that the Board of County Commissioners approve contract #8413 with Joe Turner, P.C., Municipal Hearings Official for professional hearings officer services.

Respectfully submitted,

Dan Johnson

Dan Johnson
Director of Transportation & Development



**CLACKAMAS COUNTY
PERSONAL SERVICES CONTRACT
Contract #8413**

This Personal Services Contract (this “Contract”) is entered into between Joe Turner, P.C., Municipal Hearings Official (“Contractor”), and Clackamas County, a political subdivision of the State of Oregon (“County”), on behalf of its Department of Transportation and Development.

ARTICLE I.

- 1. Effective Date and Duration.** This Contract shall become effective upon signature of both parties. Unless earlier terminated or extended, this Contract shall expire on June 30, 2028

- 2. Scope of Work.** Contractor shall provide the following personal services: professional hearings officer services to conduct and decide quasi-judicial matters requiring a hearing including, but not limited to, violations involving dog services, canine involved livestock violations, and other matters requiring a hearings officer (“Work”), further described in **Exhibit A**.

- 3. Consideration.** The County agrees to pay Contractor, from available and authorized funds, a sum not to exceed Fifty Thousand dollars (\$50,000) per county fiscal year (June 30 – July 1), for a total contract value not to exceed Two Hundred and Fifty Thousand dollars (\$250,000) during the entire term of this Contract, for accomplishing the Work required by this Contract. Consideration rates are on a time and materials basis in accordance with the rates and costs specified in Exhibit B. If any interim payments to Contractor are made, such payments shall be made only in accordance with the schedule and requirements in Exhibit B.

- 4. Invoices and Payments.** Unless otherwise specified, Contractor shall submit monthly invoices for Work performed. Invoices shall describe all Work performed with particularity, by whom it was performed, and shall itemize and explain all expenses for which reimbursement is claimed. The invoices shall include the total amount billed to date by Contractor prior to the current invoice. If Contractor fails to present invoices in proper form within sixty (60) calendar days after the end of the month in which the services were rendered, Contractor waives any rights to present such invoice thereafter and to receive payment therefor. Payments shall be made in accordance with ORS 293.462 to Contractor following the County’s review and approval of invoices submitted by Contractor. Contractor shall not submit invoices for, and the County will not be obligated to pay, any amount in excess of the maximum compensation amount set forth above. If this maximum compensation amount is increased by amendment of this Contract, the amendment must be fully effective before Contractor performs Work subject to the amendment.

Invoices shall reference the above Contract Number and be submitted to: LKitts@clackamas.us

- 5. Travel and Other Expense.** Authorized: Yes No
If travel expense reimbursement is authorized in this Contract, such expense shall only be reimbursed at the rates in the County Contractor Travel Reimbursement Policy, hereby incorporated by reference and found at: <https://www.clackamas.us/finance/terms.html>. Travel expense reimbursement is not in excess of the not to exceed consideration.

- 6. Contract Documents.** This Contract consists of the following documents, which are listed in descending order of precedence and are attached and incorporated by reference, this Contract, Exhibit A, and Exhibit B.

7. Contractor and County Contacts.

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| Contractor Administrator: Joe Turner Phone: 503-663-7092 Email: jtpc@frontier.com | County Administrator: Laura Kitts Phone: Email: LKitts@clackamas.us |
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Payment information will be reported to the Internal Revenue Service (“IRS”) under the name and taxpayer ID number submitted. (See I.R.S. 1099 for additional instructions regarding taxpayer ID numbers.) Information not matching IRS records will subject Contractor payments to backup withholding.

ARTICLE II.

- 1. ACCESS TO RECORDS.** Contractor shall maintain books, records, documents, and other evidence, in accordance with generally accepted accounting procedures and practices, sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this Contract. County and their duly authorized representatives shall have access to the books, documents, papers, and records of Contractor, which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts. Contractor shall maintain such books and records for a minimum of six (6) years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.
- 2. AVAILABILITY OF FUTURE FUNDS.** Any continuation or extension of this Contract after the end of the fiscal period in which it is written is contingent on a new appropriation for each succeeding fiscal period sufficient to continue to make payments under this Contract, as determined by the County in its sole administrative discretion.
- 3. CAPTIONS.** The captions or headings in this Contract are for convenience only and in no way define, limit, or describe the scope or intent of any provisions of this Contract.
- 4. COMPLIANCE WITH APPLICABLE LAW.** Contractor shall comply with all applicable federal, state and local laws, regulations, executive orders, and ordinances, as such may be amended from time to time.
- 5. COUNTERPARTS.** This Contract may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.
- 6. GOVERNING LAW.** This Contract, and all rights, obligations, and disputes arising out of it, shall be governed and construed in accordance with the laws of the State of Oregon and the ordinances of Clackamas County without regard to principles of conflicts of law. Any claim, action, or suit between County and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the County of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. Contractor, by execution of this Contract, hereby consents to the personal jurisdiction of the courts referenced in this section.

7. INDEMNITY, RESPONSIBILITY FOR DAMAGES. Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay which may be caused by, or result from, any act, omission, or neglect of Contractor, its subcontractors, agents, or employees. The Contractor agrees to indemnify and defend the County, and its officers, elected officials, agents, and employees, from and against all claims, actions, losses, liabilities, including reasonable attorney and accounting fees, and all expenses incidental to the investigation and defense thereof, arising out of or based upon Contractor’s acts or omissions in performing under this Contract.

However, neither Contractor nor any attorney engaged by Contractor shall defend the claim in the name of County, purport to act as legal representative of County, or settle any claim on behalf of County, without the approval of the Clackamas County Counsel’s Office. County may assume its own defense and settlement at its election and expense.

8. INDEPENDENT CONTRACTOR STATUS. The service(s) to be rendered under this Contract are those of an independent contractor. Although the County reserves the right to determine (and modify) the delivery schedule for the Work to be performed and to evaluate the quality of the completed performance, County cannot and will not control the means or manner of Contractor’s performance. Contractor is responsible for determining the appropriate means and manner of performing the Work. Contractor is not to be considered an agent or employee of County for any purpose, including, but not limited to: (A) The Contractor will be solely responsible for payment of any Federal or State taxes required as a result of this Contract; and (B) This Contract is not intended to entitle the Contractor to any benefits generally granted to County employees, including, but not limited to, vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement benefits.

9. INSURANCE. Contractor shall secure at its own expense and keep in effect during the term of the performance under this Contract the insurance required and minimum coverage indicated below. The insurance requirement outlined below do not in any way limit the amount of scope of liability of Contractor under this Contract. Contractor shall provide proof of said insurance and name the County as an additional insured on all required liability policies. Proof of insurance and notice of any material change should be submitted to the following address: Clackamas County Procurement Division, 2051 Kaen Road, Oregon City, OR 97045 or emailed to the County Contract Analyst.

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| Required - Workers Compensation: Contractor shall comply with the statutory workers’ compensation requirements in ORS 656.017, unless exempt under ORS 656.027 or 656.126. |
| <input checked="" type="checkbox"/> Required – Commercial General Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage. |
| <input checked="" type="checkbox"/> Required – Professional Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per claim, with an annual aggregate limit of \$2,000,000 for damages caused by error, omission or negligent acts. |
| <input checked="" type="checkbox"/> Required – Automobile Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per accident for Bodily Injury and Property Damage. |

The policy(s) shall be primary insurance as respects to the County. Any insurance or self-insurance maintained by the County shall be excess and shall not contribute to it. Any obligation that County agree to a waiver of subrogation is hereby stricken.

10. LIMITATION OF LIABILITIES. This Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are

deemed inoperative to that extent. Except for liability arising under or related to Article II, Section 13 or Section 20 neither party shall be liable for (i) any indirect, incidental, consequential or special damages under this Contract or (ii) any damages of any sort arising solely from the termination of this Contract in accordance with its terms.

- 11. NOTICES.** Except as otherwise provided in this Contract, any required notices between the parties shall be given in writing by personal delivery, email, or mailing the same, to the Contract Administrators identified in Article 1, Section 6. If notice is sent to County, a copy shall also be sent to: Clackamas County Procurement, 2051 Kaen Road, Oregon City, OR 97045. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing, and immediately upon personal delivery, or within 2 hours after the email is sent during County's normal business hours (Monday – Thursday, 7:00 a.m. to 6:00 p.m.) (as recorded on the device from which the sender sent the email), unless the sender receives an automated message or other indication that the email has not been delivered.
- 12. OWNERSHIP OF WORK PRODUCT.** All work product of Contractor that results from this Contract (the "Work Product") is the exclusive property of County. County and Contractor intend that such Work Product be deemed "work made for hire" of which County shall be deemed the author. If for any reason the Work Product is not deemed "work made for hire," Contractor hereby irrevocably assigns to County all of its right, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark or trade secret, or any other state or federal intellectual property law or doctrine. Contractor shall execute such further documents and instruments as County may reasonably request in order to fully vest such rights in County. Contractor forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC § 106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications. Notwithstanding the above, County shall have no rights in any pre-existing Contractor intellectual property provided to County by Contractor in the performance of this Contract except to copy, use and re-use any such Contractor intellectual property for County use only.
- 13. REPRESENTATIONS AND WARRANTIES.** Contractor represents and warrants to County that (A) Contractor has the power and authority to enter into and perform this Contract; (B) this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms; (C) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work; (D) Contractor is an independent contractor as defined in ORS 670.600; and (E) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional standards. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.
- 14. SURVIVAL.** All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in Article II, Sections 1, 6, 7, 10, 12, 13, 14, 15, 17, 20, 21, 25, 27, 28 and 31 and all other rights and obligations which by their context are intended to survive. However, such expiration shall not extinguish or prejudice the County's right to enforce this Contract with respect to: (a) any breach of a Contractor warranty; or (b) any default or defect in Contractor performance that has not been cured.
- 15. SEVERABILITY.** If any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.

16. SUBCONTRACTS AND ASSIGNMENTS. Contractor shall not enter into any subcontracts for any of the Work required by this Contract, or assign or transfer any of its interest in this Contract by operation of law or otherwise, without obtaining prior written approval from the County, which shall be granted or denied in the County's sole discretion. In addition to any provisions the County may require, Contractor shall include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by this Article II, Sections 1, 7, 8, 13, 16 and 27 as if the subcontractor were the Contractor. County's consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.

17. SUCCESSORS IN INTEREST. The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.

18. TAX COMPLIANCE CERTIFICATION. The Contractor shall comply with all federal, state and local laws, regulation, executive orders and ordinances applicable to this Contract. Contractor represents and warrants that it has complied, and will continue to comply throughout the duration of this Contract and any extensions, with all tax laws of this state or any political subdivision of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318. Any violation of this section shall constitute a material breach of this Contract and shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract or applicable law.

19. TERMINATIONS. This Contract may be terminated for the following reasons: (A) by mutual agreement of the parties or by the County (i) for convenience upon thirty (30) days written notice to Contractor, or (ii) at any time the County fails to receive funding, appropriations, or other expenditure authority as solely determined by the County; or (B) if contractor breaches any Contract provision or is declared insolvent, County may terminate after thirty (30) days written notice with an opportunity to cure.

Upon receipt of written notice of termination from the County, Contractor shall immediately stop performance of the Work. Upon termination of this Contract, Contractor shall deliver to County all documents, Work Product, information, works-in-progress and other property that are or would be deliverables had the Contract Work been completed. Upon County's request, Contractor shall surrender to anyone County designates, all documents, research, objects or other tangible things needed to complete the Work.

20. REMEDIES. If terminated by the County due to a breach by the Contractor, then the County shall have any remedy available to it in law or equity. If this Contract is terminated for any other reason, Contractor's sole remedy is payment for the goods and services delivered and accepted by the County, less any setoff to which the County is entitled.

21. NO THIRD PARTY BENEFICIARIES. County and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.

22. TIME IS OF THE ESSENCE. Contractor agrees that time is of the essence in the performance of this Contract.

23. FOREIGN CONTRACTOR. If the Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State, Corporate Division, all information required by those agencies relative to this

Contract. The Contractor shall demonstrate its legal capacity to perform these services in the State of Oregon prior to entering into this Contract.

- 24. FORCE MAJEURE.** Neither County nor Contractor shall be held responsible for delay or default caused by events outside the County or Contractor's reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, Contractor shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.
- 25. WAIVER.** The failure of County to enforce any provision of this Contract shall not constitute a waiver by County of that or any other provision.
- 26. PUBLIC CONTRACTING REQUIREMENTS.** Pursuant to the public contracting requirements contained in Oregon Revised Statutes ("ORS") Chapter 279B.220 through 279B.235, Contractor shall:
- a. Make payments promptly, as due, to all persons supplying to Contractor labor or materials for the prosecution of the work provided for in the Contract.
 - b. Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of the Contract.
 - c. Not permit any lien or claim to be filed or prosecuted against County on account of any labor or material furnished.
 - d. Pay the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
 - e. As applicable, the Contractor shall pay employees for work in accordance with ORS 279B.235, which is incorporated herein by this reference. The Contractor shall comply with the prohibitions set forth in ORS 652.220, compliance of which is a material element of this Contract, and failure to comply is a breach entitling County to terminate this Contract for cause.
 - f. If the Work involves lawn and landscape maintenance, Contractor shall salvage, recycle, compost, or mulch yard waste material at an approved site, if feasible and cost effective.
- 27. NO ATTORNEY FEES.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Contract, each party shall be responsible for its own attorneys' fees and expenses.
- 28. CONFIDENTIALITY.** Contractor acknowledges that it and its employees and agents may, in the course of performing their obligations under this Contract, be exposed to or acquire information that the County desires or is required to maintain as confidential, including information that is protected under applicable law, including Personal Information (as "**Personal Information**" is defined in ORS 646A.602(11)).

Contractor agrees to hold any and all information that it is required by law or that the County marks as "Confidential" to be held in confidence ("**Confidential Information**"), using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and will use the Confidential Information for no purpose other than in the performance of this Contract, and to advise each of its employees and agents of their obligations to keep Confidential Information confidential.

Contractor agrees that, except as directed by the County, Contractor will not at any time during or after the term of this Contract, disclose, directly or indirectly, any Confidential Information to any person, and that upon termination or expiration of this Contract or the County's request, Contractor will turn over to the County all documents, papers, records and other materials in Contractor's possession which embody Confidential Information.

Contractor acknowledges that breach of this Contract, including disclosure of any Confidential Information, or disclosure of other information that, at law or in good conscience or equity, ought to remain confidential, will give rise to irreparable injury to the County that cannot adequately be compensated in damages. Accordingly, the County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of the County and are reasonable in scope and content.

Contractor agrees to comply with all reasonable requests by the County to ensure the confidentiality and nondisclosure of the Confidential Information, including if requested and without limitation: (a) obtaining nondisclosure agreements, in a form approved by the County, from each of Contractor's employees and agents who are performing services, and providing copies of such agreements to the County; and (b) performing criminal background checks on each of Contractor's employees and agents who are performing services, and providing a copy of the results to the County.

Contractor shall report, either orally or in writing, to the County any use or disclosure of Confidential Information not authorized by this Contract or in writing by the County, including any reasonable belief that an unauthorized individual has accessed Confidential Information. Contractor shall make the report to the County immediately upon discovery of the unauthorized disclosure, but in no event more than two (2) business days after Contractor reasonably believes there has been such unauthorized use or disclosure. Contractor's report shall identify: (i) the nature of the unauthorized use or disclosure, (ii) the Confidential Information used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action Contractor has taken or shall take to prevent future similar unauthorized use or disclosure. Contractor shall provide such other information, including a written report, as reasonably requested by the County.

Notwithstanding any other provision in this Contract, Contractor will be responsible for all damages, fines and corrective action (including credit monitoring services) arising from disclosure of such Confidential Information caused by a breach of its data security or the confidentiality provisions hereunder.

The provisions in this Section shall operate in addition to, and not as limitation of, the confidentiality and similar requirements set forth in the rest of the Contract, as it may otherwise be amended. Contractor's obligations under this Contract shall survive the expiration or termination of the Contract, as amended, and shall be perpetual.

29. KEY PERSONS. Contractor acknowledges and agrees that a significant reason the County is entering into this Contract is because of the special qualifications of certain Key Persons set forth in the contract. Under this Contract, the County is engaging the expertise, experience, judgment, and personal attention of such Key Persons. Neither Contractor nor any of the Key Persons shall delegate performance of the management powers and responsibilities each such Key Person is required to provide under this Contract to any other employee or agent of the Contractor unless the County provides prior written consent to such delegation. Contractor shall not reassign or transfer a Key Person to other duties or positions such that the Key Person is no longer available to provide the County with such Key Person's services unless the County provides prior written consent to such reassignment or transfer.

30. COOPERATIVE CONTRACTING. Pursuant to ORS 279A.200 to 279A.225, other public agencies may use this Contract resulting from a competitive procurement process unless the

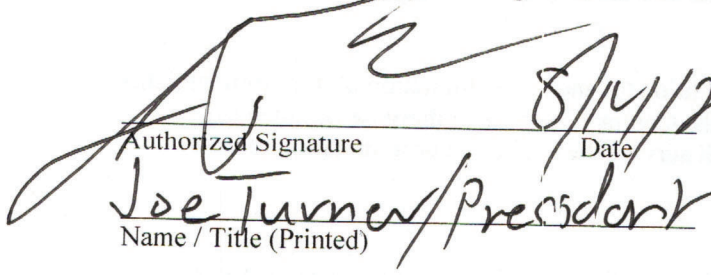
Contractor expressly noted in their proposal/quote that the prices and services are available to the County only. The condition of such use by other agencies is that any such agency must make and pursue contact, purchase order, delivery arrangements, and all contractual remedies directly with Contractor; the County accepts no responsibility for performance by either the Contractor or such other agency using this Contract. With such condition, the County consents to such use by any other public agency.

31. MERGER. THIS CONTRACT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES WITH RESPECT TO THE SUBJECT MATTER REFERENCED THEREIN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS CONTRACT. NO AMENDMENT, CONSENT, OR WAIVER OF TERMS OF THIS CONTRACT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY ALL PARTIES. ANY SUCH AMENDMENT, CONSENT, OR WAIVER SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. CONTRACTOR, BY THE SIGNATURE HERETO OF ITS AUTHORIZED REPRESENTATIVE, IS AN INDEPENDENT CONTRACTOR, ACKNOWLEDGES HAVING READ AND UNDERSTOOD THIS CONTRACT, AND CONTRACTOR AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

By their signatures below, the parties to this Contract agree to the terms, conditions, and content expressed herein.

Joe Turner, P.C. Municipal Hearings Official

Clackamas County

 8/14/23
Authorized Signature _____ Date _____ Signature _____ Date _____
Name / Title (Printed) Joe Turner/President Name: Tootie Smith

533037-99
Oregon Business Registry #

Title: Chair

DPC/OR
Entity Type / State of Formation

Recording Secretary

Approved as to Form:

**Andrew
Naylor**

Digitally signed by
Andrew Naylor
Date: 2023.08.15
14:41:24 -07'00'

County Counsel

EXHIBIT A
RFP 2023-50



REQUEST FOR PROPOSALS #2023-50

FOR

HEARINGS SERVICE OFFICER

BOARD OF COUNTY COMMISSIONERS

**TOOTIE SMITH, Chair
PAUL SAVAS, Commissioner
MARK SHULL, Commissioner
MARTHA SCHRADER, Commissioner
BEN WEST, Commissioner**

**Gary Schmidt
County Administrator**

**Thomas Candelario
Contract Analyst**

PROPOSAL CLOSING DATE, TIME AND LOCATION

DATE: July 11, 2023

TIME: 2:00 PM, Pacific Time

PLACE: <https://bidlocker.us/a/clackamascounty/BidLocker>

SCHEDULE

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| Request for Proposals Issued..... | June 8, 2023 |
| Protest of Specifications Deadline..... | June 15, 2023, 5:00 PM, Pacific Time |
| Deadline to Submit Clarifying Questions..... | June 22, 2023, 5:00 PM, Pacific Time |
| Request for Proposals Closing Date and Time..... | July 11, 2023, 2:00 PM, Pacific Time |
| Deadline to Submit Protest of Award..... | Seven (7) days from the Intent to Award |
| Anticipated Contract Start Date..... | July 2023 |

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- Section 2 – Instructions to Proposers
- Section 3 – Scope of Work
- Section 4 – Evaluation and Selection Criteria
- Section 5 – Proposal Content (Including Proposal Certification)

SECTION 1 NOTICE OF REQUEST FOR PROPOSALS

Notice is hereby given that Clackamas County through its Board of County Commissioners will receive sealed Proposals per specifications until **2:00 PM, July 11, 2023** (“Closing”), to provide Hearings Officer Services . No Proposals will be received or considered after that time.

Location of RFP documents: OregonBuys

RFP Documents can be downloaded from the state of Oregon procurement website (“OregonBuys”) at the following address <https://oregonbuys.gov/bsv/view/login/login.xhtml>, Document No. S-C01010-000007190 .

Prospective Proposers will need to sign in to download the information and that information will be accumulated for a Plan Holder's List. Prospective Proposers are responsible for obtaining any Addenda, clarifying questions, and Notices of Award from OregonBuys.

Submitting Proposals: Bid Locker

Proposals will only be accepted electronically thru a secure online bid submission service, **Bid Locker**. *Email submissions to Clackamas County email addresses will no longer be accepted.*

- A. Completed proposal documents must arrive electronically via Bid Locker located at <https://bidlocker.us/a/clackamascountry/BidLocker>.
- B. Bid Locker will electronically document the date and time of all submissions. Completed documents must arrive by the deadline indicated in Section 1 or as modified by Addendum. **LATE PROPOSALS WILL NOT BE ACCEPTED.**
- C. Proposers must register and create a profile for their business with Bid Locker in order to submit for this project. It is free to register for Bid Locker.
- D. Proposers with further questions concerning Bid Locker may review the Vendor’s Guide located at <https://www.clackamas.us/how-to-bid-on-county-projects> .

Contact Information

Procurement Process and Technical Questions: Thomas Candelario, tcandelario@clackamas.us

The Board of County Commissioners reserves the right to reject any and all Proposals not in compliance with all prescribed public bidding procedures and requirements, and may reject for good cause any and all Proposals upon the finding that it is in the public interest to do so and to waive any and all informalities in the public interest. In the award of the contract, the Board of County Commissioners will consider the element of time, will accept the Proposal or Proposals which in their estimation will best serve the interests of Clackamas County and will reserve the right to award the contract to the contractor whose Proposal shall be best for the public good.

Clackamas County encourages proposals from Minority, Women, Veteran and Emerging Small Businesses.

SECTION 2 INSTRUCTIONS TO PROPOSERS

Clackamas County (“County”) reserves the right to reject any and all Proposals received as a result of this RFP. County Local Contract Review Board Rules (“LCRB”) govern the procurement process for the County.

2.1 Modification or Withdrawal of Proposal: Any Proposal may be modified or withdrawn at any time prior to the Closing deadline, provided that a written request is received by the County Procurement Division Director, prior to the Closing. The withdrawal of a Proposal will not prejudice the right of a Proposer to submit a new Proposal.

2.2 Requests for Clarification and Requests for Change: Proposers may submit questions regarding the specifications of the RFP. Questions must be received in writing on or before 5:00 p.m. (Pacific Time), on the date indicated in the Schedule, at the Procurement Division address as listed in Section 1 of this RFP. Requests for changes must include the reason for the change and any proposed changes to the requirements. The purpose of this requirement is to permit County to correct, prior to the opening of Proposals, RFP terms or technical requirements that may be unlawful, improvident or which unjustifiably restrict competition. County will consider all requested changes and, if appropriate, amend the RFP. No oral or written instructions or information concerning this RFP from County managers, employees or agents to prospective Proposers shall bind County unless included in an Addendum to the RFP.

2.3 Protests of the RFP/Specifications: Protests must be in accordance with LCRB C-047-0730. Protests of Specifications must be received in writing on or before 5:00 p.m. (Pacific Time), on the date indicated in the Schedule, or within three (3) business days of issuance of any addendum, at the Procurement Division address listed in Section 1 of this RFP. Protests may not be faxed. Protests of the RFP specifications must include the reason for the protest and any proposed changes to the requirements.

2.4 Addenda: If any part of this RFP is changed, an addendum will be provided to Proposers that have provided an address to the Procurement Division for this procurement. It shall be Proposers responsibility to regularly check OregonBuys for any notices, published addenda, or response to clarifying questions.

2.5 Submission of Proposals: Proposals must be submitted in accordance with Section 5. All Proposals shall be legibly written in ink or typed and comply in all regards with the requirements of this RFP. Proposals that include orders or qualifications may be rejected as irregular. All Proposals must include a signature that affirms the Proposer’s intent to be bound by the Proposal (may be on cover letter, on the Proposal, or the Proposal Certification Form) shall be signed. If a Proposal is submitted by a firm or partnership, the name and address of the firm or partnership shall be shown, together with the names and addresses of the members. If the Proposal is submitted by a corporation, it shall be signed in the name of such corporation by an official who is authorized to bind the contractor. The Proposals will be considered by the County to be submitted in confidence and are not subject to public disclosure until the notice of intent to award has been issued.

No late Proposals will be accepted. Proposals submitted after the Closing will be considered late and will be returned unopened. Proposals may not be submitted by telephone or fax.

2.6 Post-Selection Review and Protest of Award: County will name the apparent successful Proposer in a Notice of Intent to Award published on OregonBuys. Identification of the apparent successful Proposer is procedural only and creates no right of the named Proposer to award of the contract. Competing Proposers shall be given seven (7) calendar days from the date on the Notice of Intent to Award to review the file at the Procurement Division office and file a written protest of award, pursuant to LCRB C-047-0740. Any award protest must be in writing and must be delivered by email, hand-delivery or mail to the address for the Procurement Division as listed in Section 1 of this RFP.

Only actual Proposers may protest if they believe they have been adversely affected because the Proposer would be eligible to be awarded the contract in the event the protest is successful. The basis of the written protest must be in accordance with ORS 279B.410 and shall specify the grounds upon which the protest is based. In order to be an adversely affected Proposer with a right to submit a written protest, a Proposer must be next in line for

award, i.e. the protester must claim that all higher rated Proposers are ineligible for award because they are non-responsive or non-responsible.

County will consider any protests received and:

- a. reject all protests and proceed with final evaluation of, and any allowed contract language negotiation with, the apparent successful Proposer and, pending the satisfactory outcome of this final evaluation and negotiation, enter into a contract with the named Proposer; OR
- b. sustain a meritorious protest(s) and reject the apparent successful Proposer as nonresponsive, if such Proposer is unable to demonstrate that its Proposal complied with all material requirements of the solicitation and Oregon public procurement law; thereafter, County may name a new apparent successful Proposer; OR
- c. reject all Proposals and cancel the procurement.

2.7 Acceptance of Contractual Requirements: Failure of the selected Proposer to execute a contract and deliver required insurance certificates within ten (10) calendar days after notification of an award may result in cancellation of the award. This time period may be extended at the option of County.

2.8 Public Records: Proposals are deemed confidential until the “Notice of Intent to Award” letter is issued. This RFP and one copy of each original Proposal received in response to it, together with copies of all documents pertaining to the award of a contract, will be kept and made a part of a file or record which will be open to public inspection. If a Proposal contains any information that is considered a **TRADE SECRET** under ORS 192.345(2), **SUCH INFORMATION MUST BE LISTED ON A SEPARATE SHEET CAPABLE OF SEPARATION FROM THE REMAINING PROPOSAL AND MUST BE CLEARLY MARKED WITH THE FOLLOWING LEGEND:**

“This information constitutes a trade secret under ORS 192.345(2), and shall not be disclosed except in accordance with the Oregon Public Records Law, ORS Chapter 192.”

The Oregon Public Records Law exempts from disclosure only bona fide trade secrets, and the exemption from disclosure applies only “unless the public interest requires disclosure in the particular instance” (ORS 192.345). Therefore, non-disclosure of documents, or any portion of a document submitted as part of a Proposal, may depend upon official or judicial determinations made pursuant to the Public Records Law.

2.9 Investigation of References: County reserves the right to investigate all references in addition to those supplied references and investigate past performance of any Proposer with respect to its successful performance of similar services, its compliance with specifications and contractual obligations, its completion or delivery of a project on schedule, its lawful payment of subcontractors and workers, and any other factor relevant to this RFP. County may postpone the award or the execution of the contract after the announcement of the apparent successful Proposer in order to complete its investigation.

2.10 RFP Proposal Preparation Costs and Other Costs: Proposer costs of developing the Proposal, cost of attendance at an interview (if requested by County), or any other costs are entirely the responsibility of the Proposer, and will not be reimbursed in any manner by County.

2.11 Clarification and Clarity: County reserves the right to seek clarification of each Proposal, or to make an award without further discussion of Proposals received. Therefore, it is important that each Proposal be submitted initially in the most complete, clear, and favorable manner possible.

2.12 Right to Reject Proposals: County reserves the right to reject any or all Proposals or to withdraw any item from the award, if such rejection or withdrawal would be in the public interest, as determined by County.

2.13 Cancellation: County reserves the right to cancel or postpone this RFP at any time or to award no contract.

2.14 Proposal Terms: All Proposals, including any price quotations, will be valid and firm through a period of one hundred and eighty (180) calendar days following the Closing date. County may require an

extension of this firm offer period. Proposers will be required to agree to the longer time frame in order to be further considered in the procurement process.

2.15 Oral Presentations: At County's sole option, Proposers may be required to give an oral presentation of their Proposals to County, a process which would provide an opportunity for the Proposer to clarify or elaborate on the Proposal but will in no material way change Proposer's original Proposal. If the evaluating committee requests presentations, the Procurement Division will schedule the time and location for said presentation. Any costs of participating in such presentations will be borne solely by Proposer and will not be reimbursed by County. **Note:** Oral presentations are at the discretion of the evaluating committee and may not be conducted; therefore, **written Proposals should be complete.**

2.16 Usage: It is the intention of County to utilize the services of the successful Proposer(s) to provide services as outlined in the below Scope of Work.

2.17 Review for Responsiveness: Upon receipt of all Proposals, the Procurement Division or designee will determine the responsiveness of all Proposals before submitting them to the evaluation committee. If a Proposal is incomplete or non-responsive in significant part or in whole, it will be rejected and will not be submitted to the evaluation committee. County reserves the right to determine if an inadvertent error is solely clerical or is a minor informality which may be waived, and then to determine if an error is grounds for disqualifying a Proposal. The Proposer's contact person identified on the Proposal will be notified, identifying the reason(s) the Proposal is non-responsive. One copy of the Proposal will be archived and all others discarded.

2.18 RFP Incorporated into Contract: This RFP will become part of the Contract between County and the selected contractor(s). The contractor(s) will be bound to perform according to the terms of this RFP, their Proposal(s), and the terms of the Sample Contract.

2.19 Communication Blackout Period: Except as called for in this RFP, Proposers may not communicate with members of the Evaluation Committee or other County employees or representatives about the RFP during the procurement process until the apparent successful Proposer is selected, and all protests, if any, have been resolved. Communication in violation of this restriction may result in rejection of a Proposer.

2.20 Prohibition on Commissions and Subcontractors: County will contract directly with persons/entities capable of performing the requirements of this RFP. Contractors must be represented directly. Participation by brokers or commissioned agents will not be allowed during the Proposal process. Contractor shall not use subcontractors to perform the Work unless specifically pre-authorized in writing to do so by the County. Contractor represents that any employees assigned to perform the Work, and any authorized subcontractors performing the Work, are fully qualified to perform the tasks assigned to them, and shall perform the Work in a competent and professional manner. Contractor shall not be permitted to add on any fee or charge for subcontractor Work. Contractor shall provide, if requested, any documents relating to subcontractor's qualifications to perform required Work.

2.21 Ownership of Proposals: All Proposals in response to this RFP are the sole property of County, and subject to the provisions of ORS 192.410-192.505 (Public Records Act).

2.22 Clerical Errors in Awards: County reserves the right to correct inaccurate awards resulting from its clerical errors.

2.23 Rejection of Qualified Proposals: Proposals may be rejected in whole or in part if they attempt to limit or modify any of the terms, conditions, or specifications of the RFP or the Sample Contract.

2.24 Collusion: By responding, the Proposer states that the Proposal is not made in connection with any competing Proposer submitting a separate response to the RFP, and is in all aspects fair and without collusion or fraud. Proposer also certifies that no officer, agent, elected official, or employee of County has a pecuniary interest in this Proposal.

2.25 Evaluation Committee: Proposals will be evaluated by a committee consisting of representatives from County and potentially external representatives. County reserves the right to modify the Evaluation Committee make-up in its sole discretion.

2.26 Commencement of Work: The contractor shall commence no work until all insurance requirements have been met, the Protest of Awards deadline has been passed, any protest have been decided, a contract has been fully executed, and a Notice to Proceed has been issued by County.

2.27 Nondiscrimination: The successful Proposer agrees that, in performing the work called for by this RFP and in securing and supplying materials, contractor will not discriminate against any person on the basis of race, color, religious creed, political ideas, sex, age, marital status, sexual orientation, gender identity, veteran status, physical or mental handicap, national origin or ancestry, or any other class protected by applicable law.

2.28 Intergovernmental Cooperative Procurement Statement: Pursuant to ORS 279A and LCRB, other public agencies shall have the ability to purchase the awarded goods and services from the awarded contractor(s) under terms and conditions of the resultant contract. Any such purchases shall be between the contractor and the participating public agency and shall not impact the contractor's obligation to the County. Any estimated purchase volumes listed herein do not include other public agencies and County makes no guarantee as to their participation. Any Proposer, by written notification included with their Proposal, may decline to extend the prices and terms of this solicitation to any and/or all other public agencies. County grants to any and all public serving governmental agencies, authorization to purchase equivalent services or products described herein at the same submitted unit bid price, but only with the consent of the contractor awarded the contract by the County.

SECTION 3 SCOPE OF WORK

3.1. INTRODUCTION

Clackamas County is seeking Proposals from vendors to provide Hearing Officer Services.

Please direct all Technical/Specifications or Procurement Process Questions to the indicated representative referenced in the Notice of Request for Proposals and note the communication restriction outlined in Section 2.19.

3.2 BACKGROUND

Clackamas County is seeking a qualified contractor to provide professional Hearings Officer Services to conduct and decide quasi-judicial matters requiring a hearing including, but not limited to, violations involving dog services, canine involved livestock violations, , and any other hearing that the County may designate. Hearings may be regularly scheduled or held when violations occur. The annual budget for hearing services will not exceed \$50,000 each year for a total of \$250,000 Total Contract Value..

Relevant sections of the Clackamas County Code are:

Chapter 2.07 Compliance Hearings Officer
Chapter 5.01 Dog Licensing and Services

The Clackamas County Code and specific ordinances may be viewed on the County's website:

<http://www.clackamas.us/code/>

Additionally, the contractor must be familiar with Oregon Revised Statute (ORS) 609 Dogs, Exotic Animals Dealers. This may be viewed at the State of Oregon website:

https://www.oregonlegislature.gov/bills_laws/ors/ors609.html

The Hearings Officer may be called upon to provide Hearings Officer Services:

C-046-0140 Delegation of Authority

The Local Contract Review Board hereby delegates to the County Hearings Officer the rights, power, and authority vested in the Local Contract Review Board to receive notices, conduct hearings, and make decisions regarding prequalification and disqualifications pursuant to ORS 279A.110, ORS279B.425, ORS279C.450, ORS 200.065(5) and ORS 200.75(1). In the event the County Hearings Officer is not available to conduct a timely hearing, the County Land use Hearings Officer may serve in the same capacity and is hereby delegated the same rights, powers and authority.

Stat. Auth: ORS 279A.065(5)(a) & 279.070

Stat. Implemented: ORS 279A.050, 279A.075

[Adopted by Order No. 2008-165, enacted 10/16/08]

3.3. SCOPE OF WORK

3.3.1. **Scope:**

- a) The Hearings Officer must be an attorney in good standing with an active status licensed to practice in the State of Oregon with a minimum of five (5) years of experience.
- b) The proposer for the hearings officer position shall be familiar with contested case litigation in the state court, administrative hearings and the rules of evidence and procedure.

- c) The proposer must be able to agreeably work with people, and to deal evenhandedly with both sides of a dispute.
- d) The proposer shall understand that the County is making absolutely no representations of tenure or expectations of continued service needs. The successful proposer for the Hearings Officer will be evaluated on an annual basis.
- e) Hearings Officer to provide a written decision and order consisting of an explanation of the facts upon which the Contractor has relied, pertinent provisions of the applicable County Ordinance, other relevant laws and the conclusions formed from the facts and the law for every administrative action under the relevant Ordinance. Specific timelines will be identified for each type of hearing.
- f) Provide a short 1-2 page summary of the findings in the instances of, dog ordinance violations and canine involved livestock violations. Summaries may be required for other hearings as directed by the County Administrator.
- g) Hearings Officer to provide office facilities and secretarial help for the preparation of all written decisions as necessary. The County will only provide the space for the actual hearing.
- h) Hearings Officer must arrange for an alternate Hearings Officer, approved in advance by the County Administrator, when the Contractor is unable to attend a scheduled hearing or has a conflict of interest.
- i) Provide a digital audio recording of the complete hearing proceedings to the Board of County Commissioners.
- j) Hearings Officer shall provide a copy of any rules or regulations promulgated concerning procedure and conduct of hearings to the Board of County Commissioners for review.
- k) Hearings Officer must keep accurate, itemized records (by case) for the purpose of computing compensable time and submit said records to Clackamas County Dog Services. . Payment will be only for time actually spent in preparing for and conducting hearings and preparing written orders. There will be no portal to portal compensation.
- l) Hearings Officer must be able to consistently, efficiently, promptly and fairly hear and decide cases. Delays in making decisions are discouraged, and will form a part of the basis for evaluating the performance of the Hearings Officer and renewing the contract on contract anniversaries.
- m) Hearings Officer must be able to preside and control the proceedings personally.
- n) Due to the wide range of individuals involved, the Hearings Officer must be able to work effectively with people. This is a basic job requirement.

3.3.1.1 The County will provide the following assistance to the Hearings Officer:

- a) County staff assistance to collect and account for any fines assessed by the Hearings Officer.
- b) Scheduling the time and place of all quasi-judicial hearings and notifying the appropriate parties of hearings pursuant to the applicable Clackamas County ordinance.
- c) A hearing room for hearings conducted by the Hearings Officer; necessary paper with County letterhead for all decisions to be rendered by the Hearings Officer; any recording equipment for said hearings.

3.3.2. Work Schedule:

The Hearings Officer will schedule hearings and provide notification of hearings to parties involved in each hearing.

3.3.3. Term of Contract:

The term of the contract shall be from the effective date through **June 30, 2028**, with the option of one (1) two - year renewal subject to the mutual agreement of the parties.

3.3.4 Sample Contract: Submission of a Proposal in response to this RFP indicates Proposer’s willingness to enter into a contract containing substantially the same terms (including insurance requirements) of the sample contract identified below. No action or response to the sample contract is required under this RFP. Any objections to the sample contract terms should be raised in accordance with Paragraphs 2.2 or 2.3 of this RFP, pertaining to requests for clarification or change or protest of the RFP/specifications, and as otherwise provided for in this RFP. This RFP and all supplemental information in response to this RFP will be a binding part of the final contract.

The applicable Sample Personal Services Contract for this RFP can be found at <https://www.clackamas.us/finance/terms.html>.

Personal Services Contract (unless checked, item does not apply)

The following paragraphs of the Professional Services Contract will be applicable:

- Article I, Paragraph 5 – Travel and Other Expense is Authorized
- Article II, Paragraph 28 – Confidentiality
- Article II, Paragraph 29 – Criminal Background Check Requirements
- Article II, Paragraph 30 – Key Persons
- Article II, Paragraph 31 – Cooperative Contracting
- Article II, Paragraph 32 – Federal Contracting Requirements
- Exhibit A – On-Call Provision

The following insurance requirements will be applicable:

- Commercial General Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for Bodily Injury and Property Damage.
- Professional Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence, with an annual aggregate limit of \$2,000,000 for damages caused by error, omission or negligent acts.
- Automobile Liability: combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence for Bodily Injury and Property Damage.

**SECTION 4
EVALUATION PROCEDURE**

4.1 An evaluation committee will review all Proposals that are initially deemed responsive and they shall rank the Proposals in accordance with the below criteria. The evaluation committee may recommend an award based solely on the written responses or may request Proposal interviews/presentations. Interviews/presentations, if deemed beneficial by the evaluation committee, will consist of the highest scoring Proposers. The invited Proposers will be notified of the time, place, and format of the interview/presentation. Based on the interview/presentation, the evaluation committee may revise their scoring.

Written Proposals must be complete and no additions, deletions, or substitutions will be permitted during the interview/presentation (if any). The evaluation committee will recommend award of a contract to the final County decision maker based on the highest scoring Proposal. The County decision maker reserves the right to accept the recommendation, award to a different Proposer, or reject all Proposals and cancel the RFP.

Proposers are not permitted to directly communicate with any member of the evaluation committee during the evaluation process. All communication will be facilitated through the Procurement representative.

4.2 Evaluation Criteria

| <u>Category</u> | <u>Points available:</u> |
|--|--------------------------|
| Proposer’s General Background and Qualifications | 0-30 |
| Scope of Work | 0-45 |
| Fees | 0-25 |
| Available points | 0-100 |

4.3 Once a selection has been made, the County will enter into contract negotiations. During negotiation, the County may require any additional information it deems necessary to clarify the approach and understanding of the requested services. Any changes agreed upon during contract negotiations will become part of the final contract. The negotiations will identify a level of work and associated fee that best represents the efforts required. If the County is unable to come to terms with the highest scoring Proposer, discussions shall be terminated and negotiations will begin with the next highest scoring Proposer. If the resulting contract contemplates multiple phases and the County deems it is in its interest to not authorize any particular phase, it reserves the right to return to this solicitation and commence negotiations with the next highest ranked Proposer to complete the remaining phases.

SECTION 5 PROPOSAL CONTENTS

5.1. Vendors must observe submission instructions and be advised as follows:

5.1.1. Proposals will only be accepted electronically thru Equity Hub's Bid Locker. Email submissions to Clackamas County email addresses will no longer be accepted.

5.1.2. Completed proposal documents must arrive electronically via Equity Hub's Bid Locker located at <https://bidlocker.us/a/clackamascounty/BidLocker>.

5.1.3. County reserves the right to solicit additional information or Proposal clarification from the vendors, or any one vendor, should the County deem such information necessary.

5.1.4. Proposal may not exceed a total of **20 pages** (single-sided), inclusive of all exhibits, attachments, title pages, pages separations, table of contents, or other information. The Proposal Certification Page will NOT count towards the final page count.

Provide the following information in the order in which it appears below:

5.2. Proposer's General Background and Qualifications:

- Description of the firm.
- Credentials/experience of key individuals that would be assigned to this project.
- Description of providing similar services to public entities of similar size within the past five (5) years.
- Description of knowledge of, municipal law, local government operations and regulations and applicable Oregon Revised Statutes (Specifically ORS 609)
- Description of what distinguishes the firm from other firms performing a similar service.

5.3. Scope of Work

- Provide a description of the firm's ability to meet the requirements in Section 3.
- Attach an example of a decision, opinion, or brief that you have authorized within the last two years.

5.4. Fees

Fees and fee schedules should outline all estimated expenses, hourly rates for all assigned individuals, service fees, anticipated travel, other reimbursable expenses. If travel expense reimbursement is included, such travel expense reimbursement will only be reimbursed in accordance with the Clackamas County Contractor Reimbursement Policy found at www.clackamas.us/bids/terms.

5.5. References

Provide at least three (3) references from clients your firm has served similar to the County in the past three (3) years, including one client that has newly engaged the firm in the past thirty-six (36) months and one (1) long-term client. Provide the name, address, email, and phone number of the references. Please note the required three references may not be from County staff, but additional references may be supplied

5.6. Completed Proposal Certification (see the below form)

PROPOSAL CERTIFICATION
RFP #2023-50

Submitted by: _____
(Must be entity's full legal name, and State of Formation)

Each Proposer must read, complete and submit a copy of this Proposal Certification with their Proposal. Failure to do so may result in rejection of the Proposal. By signature on this Proposal Certification, the undersigned certifies that they are authorized to act on behalf of the Proposer and that under penalty of perjury, the undersigned will comply with the following:

SECTION I. OREGON TAX LAWS: As required in ORS 279B.110(2)(e), the undersigned hereby certifies that, to the best of the undersigned's knowledge, the Proposer is not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" means the tax laws of the state or a political subdivision of the state, including ORS 305.620 and ORS chapters 316, 317 and 318. If a contract is executed, this information will be reported to the Internal Revenue Service. Information not matching IRS records could subject Proposer to 24% backup withholding.

SECTION II. NON-DISCRIMINATION: That the Proposer has not and will not discriminate in its employment practices with regard to race, creed, age, religious affiliation, sex, disability, sexual orientation, gender identity, national origin, or any other protected class. Nor has Proposer or will Proposer discriminate against a subcontractor in the awarding of a subcontract because the subcontractor is a disadvantaged business enterprise, a minority-owned business, a woman-owned business, a business that a service-disabled veteran owns or an emerging small business that is certified under ORS 200.055.

SECTION III. CONFLICT OF INTEREST: The undersigned hereby certifies that no elected official, officer, agent or employee of Clackamas County is personally interested, directly or indirectly, in any resulting contract from this RFP, or the compensation to be paid under such contract, and that no representation, statements (oral or in writing), of the County, its elected officials, officers, agents, or employees had induced Proposer to submit this Proposal. In addition, the undersigned hereby certifies that this proposal is made without connection with any person, firm, or corporation submitting a proposal for the same material, and is in all respects fair and without collusion or fraud.

SECTION IV. COMPLIANCE WITH SOLICITATION: The undersigned further agrees and certifies that they:

1. Have read, understand and agree to be bound by and comply with all requirements, instructions, specifications, terms and conditions of the RFP (including any attachments); and
2. Are an authorized representative of the Proposer, that the information provided is true and accurate, and that providing incorrect or incomplete information may be cause for rejection of the Proposal or contract termination; and
3. Will furnish the designated item(s) and/or service(s) in accordance with the RFP and Proposal; and
4. Will use recyclable products to the maximum extend economically feasible in the performance of the contract work set forth in this RFP.

Name: _____ Date: _____
Signature: _____ Title: _____
Email: _____ Telephone: _____
Oregon Business Registry Number: _____ OR CCB # (if applicable): _____

Business Designation (check one):

Corporation Partnership Sole Proprietorship Non-Profit Limited Liability Company

Resident Quoter, as defined in ORS 279A.120

Non-Resident Quote. Resident State: _____

EXHIBIT B
CONTRACTORS RESPONSE

JOE TURNER P.C.

Municipal Hearings Official

MEMBER OF THE OREGON & WASHINGTON STATE BARS AND
AMERICAN INSTITUTE OF CERTIFIED PLANNERS

30439 SE Jackson Road, Suite 200 • Gresham, Oregon 97080
Telephone (503) 663-7092 • Facsimile (503) 663-7289 • E-mail: jtpc@frontier.com

June 23, 20233

Clackamas County Procurement Division
Attention: Thomas Candelario, Contract Analyst
Clackamas County Public Services Building
2051 Kaen Road
Oregon City, OR 97045

SUBJECT: PROPOSAL FOR HEARINGS OFFICER SERVICES

Dear Mr. Candelario:

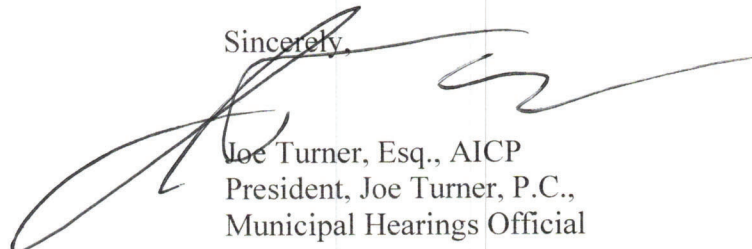
Please accept the enclosed proposal to provide Hearings Officer services. The proposal consists of this cover letter and:

- A six-page written statement describing my interest in, qualifications for and philosophical approach to the position of compliance hearings officer, and references;
- A table of decisions by jurisdiction
- Two sample decisions;
- My resume; and
- Signed copies of the "Proposal Response" Section of the RFP;

As the County's Hearings Officer I propose to conduct quasi-judicial public hearings and issue written decisions consistent with the County's Code and state law. I am the sole representative of the firm for this proposal. If accepted, I agree to provide hearings officer services consistent with this proposal.

As you will see by reading the enclosed, I am very interested in serving as the County's hearings officer. I am well suited for the position, because of my training, experience, ability, and attitude. I hope you will agree. Please contact me if you need more information or want to schedule an interview.

Sincerely,



Joe Turner, Esq., AICP
President, Joe Turner, P.C.,
Municipal Hearings Official

Proposal By Joe Turner P.C., Municipal Hearings Official To Provide Hearings Officer Services To Clackamas County, Oregon

The following is a proposal by the firm of Joe Turner P.C., Municipal Hearings Official, to provide Clackamas County (the "County") with Hearings Officer services for quasi-judicial dog services hearings. I am the sole employee of the corporation and I will be responsible for all work performed pursuant to this proposal.

General Background and Qualifications (Section 5.2)

I am a member of the Oregon and Washington Bars and I have worked as an attorney for more than twenty-five years. I understand the nature of the work to be done for the County, having enjoyed serving as Clackamas County's Dog Services' hearings officer for the past 12 years and as a hearings official in more than twenty other jurisdictions for as long as twenty-five years, including as a compliance hearings official for Metro, Washington County Oregon, Clark County Washington and the City of Vancouver Washington, and as a land use hearings official in these and other jurisdictions, including Clackamas County. I have conducted more than 3,500 hearings, including nearly 1,000 dog control hearings. My extensive experience as a hearings official in multiple jurisdictions in two states makes me uniquely qualified to review, understand and apply the laws of different jurisdictions.

The following table summarizes my experience as a hearings official.

| Jurisdictions served | Subject(s) | Started | Ended | Years |
|---------------------------------|----------------------------------|----------------|--------------|--------------|
| Clackamas County, OR | Dog Control & Sheriff's Hearings | 2011 | Current | 12 |
| Clackamas County, OR | Land use | 2021 | Current | 2 |
| Clackamas County, OR | Land use | 1999 | 2005 & 2006 | 7 |
| Gresham, OR | Land use | 2000 | Current | 23 |
| Tigard, OR | Land use | 2000 | Current | 23 |
| Sherwood, OR | Land Use | 2004 | Current | 19 |
| Metro, OR | Land use | 1997 | 2002 | 6 |
| Tigard, OR | Land use | 2009 | Current | 14 |
| Fairview, OR (referee) | Land use | 1997 | 2002 | 6 |
| Washington County, OR | Land Use | 2013 | Current | 10 |
| Washington County, OR (Interim) | Land Use | 2006 | 2007 | .75 |

| | | | | |
|-----------------------------|-------------------|----------------|--------------|--------------|
| Portland, OR | Land Use | 2015 | 2018 | 4 |
| Jurisdictions served | Subject(s) | Started | Ended | Years |
| Multnomah County, OR | Land Use | 2015 | Current | 8 |
| Hillsboro, OR | Land Use | 2015 | Current | 8 |
| Happy Valley, OR | Land Use | 2016 | Current | 7 |
| Clark County, WA | Land use/Enf | 2000 | Current | 23 |
| Vancouver, WA (Alternate) | Land use/Enf | 2010 | Current | 13 |
| Vancouver, WA | Land use/Enf | 2001 | 2010 | 22 |
| La Center, WA | Land use | 2001 | Current | 22 |
| Washougal, WA | Land use | 2003 | Current | 20 |

For all of these jurisdictions, I review a public record, coordinate with agency staff, provide notice of the hearing where required, manage the hearing process, swear in witnesses when required, ask frequent focused questions, make succinct understandable rulings, and orally announce a decision if possible.

In most cases I issue a written decision within two weeks after the close of the public record. In my written decisions I summarize the alleged violation and the oral and written testimony and evidence submitted into the record. I discuss the issues raised by all parties and how they relate to the applicable law. I provide clear, concise and legally sufficient findings in support of the decision affirming or denying the appeal. I impose specific requirements and fines where necessary to cure the violation and/or to ensure future compliance. I send a signed decision directly to the parties by regular mail, with a copy to the County. I also send an electronic copy of my decision to the County.

My approach to being a Hearings Officer can be distilled into the following:

- Be and appear to be unbiased; identify potential biases and declare or resolve them; refrain from familiar or prejudicial attitudes in a hearing; and avoid conflicts of interest and circumstances that could lead to a conflict.
- Adhere to the law; do not substitute personal judgment for that of the governing body; when forced to construe an ambiguity, explain why and how, consistent with the law.
- Be approachable, courteous, responsive, and instructive; remain calm, friendly, reflective and under control; explain simply how a hearing will be conducted and how people can participate in it; provide a fair and full chance to speak while maintaining the flow of the hearing; explain my actions.

- Write a well-organized and concise order that complies with the law in a timely manner; make it clear and capable of effective compliance; explain what the relevant facts and law are and how they were applied in a given case.

I have considerable experience in dealing with the public through my work as a hearings official. I have presided over more than 3,500 public hearings, including nearly 1,000 dog services cases and more than 1,100 other types of enforcement cases. (See the attached “Hearings Conducted” table). These types of hearings often involve issues that are highly emotional for the parties. I manage the hearing process to keep the parties calm and focused on the issues. I keep testimony relevant with focused questions and friendly, plain English. I make an effort to explain the laws so the cited parties understand the alleged violation and the actions needed to remedy the violation. I identify key issues in complex arguments. I write clearly and concisely and explain complex issues so they can be understood by all. I do so consistently on time and within budget. I generally issue an oral ruling at the conclusion of the hearing, explaining which party prevailed and why, based on the relevant facts and applicable laws. I issue a written decision, mailed to the parties and the County, within two weeks after the hearing.

I am sensitive to the public. The hearing process can intimidate the public. With my demeanor and words, I endeavor to help make people more comfortable so that they can say what they feel and understand how those feelings relate to the law. I try to ensure that the parties feel that I have heard and considered their issues, concerns and objections, even if I disagree with them. I try to educate, channel and reassure the public, showing compassion and empathy. At the same time, I protect the integrity of the process by keeping everyone focused on the law and the relevant facts. I engage appellants, witnesses and staff with equal respect.

Scope of Work (Section 5.3)

I meet all of the “Scope of Work” requirements listed in Section 3 of the RFP. As discussed above, while serving as the County’s hearings officer for the past six years I have reviewed and applied most of the relevant sections of the Clackamas County Code listed in Section 3.2. As noted above, I have extensive experience applying the provisions of the County Dog Licensing and Services ordinance, Chapter 5.01 of the Clackamas County Code, as well as the dog control and livestock provisions of ORS 609. I have conducted hearings and issued decisions in numerous cases involving dangerous dogs, dogs chasing and harming livestock. I also have considerable experience conducting hearings and making decisions about a variety of other types of enforcement proceedings including vehicle parking and towing, solid waste, and zoning violations. My experience makes me uniquely qualified to serve as the County’s hearings officer, as there are few enforcement issues that I have not encountered and addressed at some point in my career. I also have considerable experience serving as a land use hearings officer for Clackamas County and in other jurisdictions.

I am an attorney in good standing, licensed to practice law in Oregon with nearly 30 years of experience. (Section 3.3.1.a). As discussed above, I am very familiar with

contested case litigation, administrative hearings, and the rules of evidence, having served as a hearings official in numerous jurisdictions for more than 25 years. (Section 3.3.1.b). I know how to work with people and make them feel comfortable with the hearing process while maintaining the formality of the hearing. I treat both sides of the dispute with equal courtesy, being and appearing unbiased and impartial. (Section 3.3.1.c). I understand that the County makes no representation of tenure or continued service. (Section 3.3.1.d). In all cases I issue a written decision outlining the relevant facts and law and, when necessary, explaining why other issues raised by the parties are not relevant to the issue before me. For all cases I issue my decisions within two weeks after the close of the record. I mail the decisions to the parties, with copies to the relevant agency. I have included three sample enforcement decisions with this proposal packet. (Sections 3.3.1.e and f). I personally draft all written decisions. Currently I conduct the majority of hearings by telephone. When necessary, I work with County staff to schedule space in the County offices for conducting in-person hearings. (Section 3.3.1.g). I can provide for an alternate hearings officer when I am unavailable to conduct hearings due to vacation or conflicts. I generally coordinate with the County's current land use hearings officer to serve as hearings officer when needed. However I am generally able to schedule hearings around vacations and I rarely have conflicts of interest, since I do not represent private clients. (Section 3.3.1.h). I use a digital record to record all hearing proceedings. I provide copies of the hearing audio to the County. (Section 3.3.1.i). I have not promulgated specific rules or regulations beyond the requirements of the County code. However I begin every hearing by summarizing the hearing process and procedure so the parties understand how they can participate and present their case. I can provide the Board of County Commissioners with a copy of my hearing introduction if desired. (Section 3.3.1.j). I maintain accurate records of all time spent on each individual case, broken down by time spent reviewing the casefiles and preparing required notices, conducting the hearings, and drafting and mailing decisions. I provide an outline of my standard billing format with the attached financial component of this proposal. (Section 3.3.1.k). As noted above, I generally issue written decisions within two weeks after the close of the record in a particular case. My years of experience as a hearings official for Clackamas County and elsewhere make me very efficient in hearing cases and drafting decisions. There are very few issues that I have not previously considered and addressed. This allows me to issue decisions faster and at less cost to the County. (Section 3.3.1.l). As noted, I will be solely responsible for conducting all hearings pursuant to this proposal. (Section 3.3.1.m). I am able to work effectively with a broad range of people. Although the parties may not like my decision, they generally feel that their issues and concerns have been heard and that the decision is consistent with the facts and law. (Section 3.3.1.n).

This proposal includes two sample Dog Services decisions. These decisions reflect how I endeavor to provide a complete and concise summary of the facts and regulations involved in the case, the amount and basis for any monetary penalties imposed, and any future requirements or restrictions.

Fees (Section 5.4)

I will charge the County for my time and expenses to carry out the scope of the Hearings Officer duties, including preparing for hearings, providing notice to the parties, conducting hearings and other case-related procedures, preparing a timely and legally adequate final order, responding to needs of County staff, and responding to the Board of County Commissioners. I will not charge the County for travel time to and from hearings.

Labor and direct expenses will be charged at the following rates:

| Labor Expenses | |
|------------------------|-------------------|
| Hearings Officer labor | \$235.00 per hour |
| Direct Expenses | |
| Postage & delivery | Actual cost |
| Facsimiles | \$0.50 per page |
| Photocopy | \$0.10 per page |

The proposed rate reflects a cost of living increase over my prior billing rate, consistent with the Portland region Consumer Price Index ("CPI") Inflation Calculator (https://www.bls.gov/data/inflation_calculator.htm). My years of experience as a hearings official for Clackamas County and elsewhere make me very efficient in hearing cases and drafting decisions. There are very few issues that I have not previously considered and addressed. This allows me to issue decisions faster and at less cost to the County.

I will provide an itemized bill for each case in a timely and complete manner. The bill will identify the relevant case, the nature of the work and the number of hours spent on each task. The bill will break down the nature of the work into as many as four tasks. A typical billing statement will appear substantially as follows.

| ITEM | UNITS | RATE/UNIT | TOTAL |
|----------------------------------|------------------|-----------------|-------|
| <i>Date of hearing</i> | | | |
| LABOR COSTS | | | |
| <i>Casefile No. (Case Name)</i> | | | |
| Preparation | <i>hours</i> | \$235.00 | \$ |
| Hearing | <i>hours</i> | \$235.00 | \$ |
| Decision | <i>hours</i> | \$235.00 | \$ |
| <i>CASE NAME</i> SUBTOTAL | | | \$ |
| DIRECT COSTS | | | |
| Postage | <i>envelopes</i> | \$cost/envelope | \$ |
| TOTAL DIRECT COSTS | | | \$ |

| | | | |
|--|--|--------------|----------|
| | | TOTAL | \$ _____ |
|--|--|--------------|----------|

I will not charge the County for costs associated with a case if, based on the information the County provides me when it assigns a case, I find or should have found that I have an actual or potential conflict of interest or other good reason for not hearing the case, and the County decides to assign the case to another hearings officer. However I do not foresee any significant conflicts of interest. My current practice is limited to serving as a hearings official to local governments. I will not represent private clients in the County.

References (Section 5.5)

For references, contact any of the following individuals from other jurisdictions where I provide hearings official services:

| <i>Position(s)</i> | <i>Contact person</i> | <i>Contact person's title</i> | <i>Contact Info.</i> |
|--------------------|-----------------------------------|--|---|
| Hearings Officer | Tom McGuire (Long term client) | Community Development Director Tigard, OR | (503) 718-2490 tomm@tigard-or.gov |
| Hearing Examiner | Marty Snell (Long term client) | Community Development Director Clark County, WA | (360) 397-2375 Ext. 4137 Marty.Snell@clark.wa.gov |
| Hearing Examiner | Ariel Smith, (Recent client) | Community Development Director, City of Long Beach | (360) 642-4421 ASmith@longbeachwa.gov |

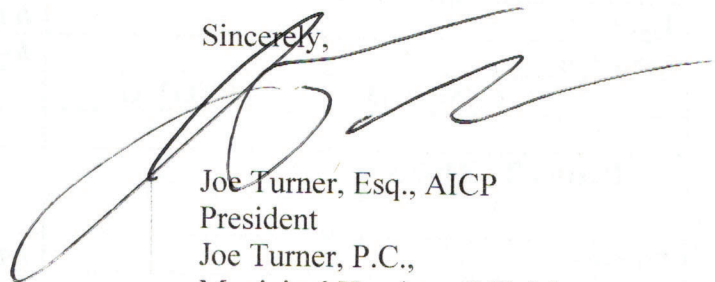
Proposal Response Form (Section 5.6)

This proposal packet includes a completed Proposal Response form.

Conclusion:

I am deeply interested in serving as Hearings Officer for Clackamas County. I am well suited for the position, because of my training, experience, ability, and attitude. I hope you will agree. Please contact me if you need more information.

Sincerely,



Joe Turner, Esq., AICP
President
Joe Turner, P.C.,
Municipal Hearings Official