



HEARING EXAMINER SERVICES Request for Qualifications and Proposals

The City of Lynden, Washington (“City”) is seeking a qualified person to contract for Hearing Examiner Services. **The deadline for submittals is 5:00 P.M. on DATE.**

I. Background

The City is in the process of transitioning from its current system, which relies on a volunteer Planning Commission to make recommendations on land use actions to the City Council for final decision, to a hearing examiner system to review certain limited types of land use applications, appeals, and other actions.

II. Qualifications

The City prefers that one person provide its hearing examiner services. However, proposals may designate one person as the hearing examiner and other individuals as pro tem hearing examiners. All proposed hearing examiners must:

- Be a licensed attorney in good standing and admitted to the bar of the State of Washington.
- Have previous experience in land use law or as a hearing examiner.
- Have demonstrated good judgment when applying law to specific facts.
- Be able to establish and maintain positive and effective control of hearing proceedings.
- Be able to develop and maintain the respect of City staff, community groups, government officials and the general public.
- Be able to prepare sound written decisions within prescribed timelines.
- Be able to travel to the City of Lynden for hearings and to visit project sites (when pandemic conditions and state laws permit).
- Familiarity with Whatcom County and the City of Lynden is desired but not necessary.

III. Scope of Services

The individual with whom the City contracts shall perform all duties of the Hearing Examiner and pursuant to the jurisdiction and authority established in the Lynden Municipal Code (LMC). Ch. 2.09 LMC, adopted **DATE**, establishes the office of the hearing examiner and lists the matters over which the hearing examiner has jurisdiction.

Most of the hearing examiner’s workload is expected to be quasi-judicial land use hearings, including variances, conditional use permits, and shoreline substantial development permits, as well as appeals of determinations made by staff, such as SEPA threshold determinations, administrative interpretations, administrative approvals, and decisions on fees to be assessed. The City’s need for

hearing examiner services is expected to be infrequent. In the past five years, the following types and numbers of matters have arisen that would now go to the hearing examiner:

	2015	2016	2017	2018	2019	2020
SEPA threshold determination appeals	2	0	1	0	0	1
Other administrative determination appeals	3	0	2	0	1	0
Conditional use permits	1	4	0	1	2	3
Variances	0	4	2	1	0	0
Shoreline substantial development permits	3	3	1	2	1	1

Hearings will occur on an as-needed basis. All hearings will be open record and open to the public. Hearings will be virtual until allowed to resume in-person by the state legislature or governor. After that time, hearings will be conducted at Lynden City Hall Annex, 205 4th Street, Lynden, Washington. City staff will schedule the hearing, mail public notices, advertise the hearing, provide staff support at hearings conducted by the Hearing Examiner to troubleshoot technological issues, mark exhibits, and record proceedings, mail decisions to parties of record, and generally provide administrative support as needed.

For each matter, the hearing examiner shall issue a written decision based on relevant ordinances, regulations, policies, statutes, and other authorities, supported by findings of fact and conclusions of law. The hearing examiner’s decisions are final, but, with the exception of shoreline permits, subject to appeal to the city council.

The hearing examiner shall perform all duties in a manner consistent with accepted practices for other similar services, such as conducting orderly and impartial hearings, creating a professional and courteous environment for applicants, citizens, and staff, and the timely preparation of findings and conclusions which are understandable and based upon all applicable law.

IV. Compensation

Please present detailed information on the proposed fee structure for the services proposed. Please specify any additional fees, charges, expenses, etc. that are or may be billable to the City. All rates quoted shall be full cost inclusive of sales tax and other government fees, taxes and charges and valid throughout the contract period unless otherwise amended and agreed to by both parties in writing.

The City shall make payment for services only after the services have been performed and an itemized billing statement is submitted. Statements shall specifically set forth the services performed, the name of the person performing such services, and the hourly labor charge rate for such person/service.

V. Instructions to Proposers

All proposals should be sent to:

Mike Martin, Lynden City Administrator
Administration Department
300 4th Street
Lynden WA 98264

All proposals must be in a sealed envelope and clearly marked in the upper left corner “RFP – Hearing Examiner.”

All proposals must be received by 5:00 PM on DATE. One original and <#> copies of the proposal must be presented. Faxed, e-mailed, or telephone proposals will be not accepted.

Proposals should be prepared simply and economically, providing a straight forward, concise description of the proposer’s capability to satisfy the requirements of the request. Special bindings and promotional materials are not desired. Emphasis should be on completeness, conciseness, and clarity of content.

The position will remain open until filled. The first round of proposals will be considered on DATE at TIME.

In addition to other relevant information, all proposals must contain or address all of the following:

- The name and Washington State Bar Association number of each individual attorney who is proposed to provide hearing examiner services and whether each attorney is proposed as the primary hearing examiner or a hearing examiner pro tem.
- A summary of qualifications, experience, and availability for each attorney who will provide hearing examiner services, illustrating the attorney’s specific experience in land use and administrative law.
- A description of the proposer’s approach to providing hearing examiner services and perspective about what constitutes a “good result” for hearings.
- A disclosure of any criminal or professional disciplinary findings that have been entered against any of the attorneys who would be providing hearing examiner services.
- A statement regarding whether any attorney or employee of the firm has or could reasonably be anticipated to have any conflict of interest with the City and, if so, how the conflict will be addressed.
- A cost proposal.
- A minimum of two (2) references, preferably from other local jurisdictions or governmental agencies.

Any questions related to the RFQ must be received sufficiently in advance of the deadline for submittals. Questions should be addressed to SOMEONE at <email> or <phone>.

VI. Selection Criteria

Selection will be based upon the ability of the proposer to best meet the requirements of this RFP. In its evaluation process, the City will consider the reputation(s) and qualifications of the specific individual(s) proposed for assignment to act as a hearing examiner, including the proposer's history of successfully fulfilling contracts of this type, experience in similar work, ability and history of meeting deadlines, and the proven or potential ability of the proposer to fully comply with all requirements of state law and city ordinance. The City may contact provided references and consider the feedback they provide. The City will also consider the completeness of the written proposal and the competitiveness of any alternative fee structure proposed.

VII. Terms and Conditions of Proposal Process

The City shall not be responsible for any costs incurred by a firm in preparing, submitting, or presenting its response to the RFP.

Any proposal may be withdrawn up until the date and time set for opening of the proposals. Any proposal not timely withdrawn shall constitute an irrevocable offer for a period of sixty (60) days to provide to the City the services described herein or until or more of the proposals have been approved by City administration, whichever first occurs.

The City reserves the right to reject any and all proposals and to waive minor irregularities in any proposal.

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

The City reserves the right to award any contract to another proposer if the successful proposer does not execute a contract within fifteen (15) business days after the award of the proposal.

The contract resulting from acceptance of a proposal by the City shall be in a form supplied or approved by the City, and shall reflect the specifications in this RFQ. The City reserves the right to reject any proposed agreement or contract that does not conform to the specifications contained in this RFP and which is not approved by the City Attorney's office.