



Board Agenda Item 33

DATE: January 8, 2018

TO: Board of Supervisors

SUBMITTED BY: Jean M. Rousseau, County Administrative Officer

SUBJECT: County Hearing Officer Form of Agreement

RECOMMENDED ACTION(S):

Adopt Resolution approving the form of agreement for county hearing officers, authorizing the County Administrative Officer to execute agreements with attorneys who will serve as county hearing officers, and authorizing the County Administrative Officer to modify hourly rates and insurance requirements equally for all hearing officers, subject to approval by County Counsel as to legal form.

Approval of the recommended action will approve the form of agreement for use with each county hearing officer, authorize the County Administrative Officer (CAO) to execute agreements in that form with attorneys who will serve and fill the five county hearing officer positions added with the creation of the Office of County Hearing Officer (Office) on October 31, 2017, and authorize the CAO to modify hourly rates and insurance requirements as needed as determined by the CAO, subject to certain limitations. The hearing officers will preside over administrative hearings. This item is countywide.

ALTERNATIVE ACTION(S):

Your Board may direct County Administrative Office staff to revise the language in the template.

FISCAL IMPACT:

The Net County Cost (NCC) associated with the recommended action for FY 2018-19 is not expected to exceed \$90,000. The hearing officers, which must be attorneys-at-law with at least five years' experience, would be employed as independent contractors. Funding for implementation of the Office is available in the Interest and Miscellaneous Expenditures Org 2540. Savings are anticipated from the decrease in civil litigation costs; however, at this time the savings are not measurable. Therefore, no savings are included as an offset to the estimated NCC.

DISCUSSION:

On October 31, 2017, the Board approved the creation of the Office and five county hearing officer positions. In addition, the Board authorized the delegation of appeals from administrative actions to the Office for final resolution and referral of quasi-legislative matters to the Office for recommendations to the Board.

The Board provided by ordinance that the CAO shall appoint county hearing officers, and authorized the CAO to execute employment agreements. The CAO proposes, however, to engage hearing officers as independent contractors, rather than as employees of the County.

The recommended action will approve the form of agreement to fill the five county hearing officer positions and authorize the CAO to sign agreements in that form with individuals who will serve as county hearing officers. The Department, through the Internal Service Department - Purchasing Division, expects to issue a Request for Statement of Qualifications by late January 2019 seeking hearing officers with the qualifications stated in California Government Code, Section 27724, in Chapter 2.81 of the Ordinance Code of Fresno County, and as provided in the proposed form of agreement. Each hearing officer is expected to maintain an active license to practice law in the state of California continuously during the term of office.

The recommended action will authorize the CAO to modify the hourly rate paid to hearing officers under the agreement, the insurance requirements under the agreement, or both, as needed as determined by the CAO, on condition that any modifications shall apply to all hearing officers equally and are subject to the approval of County Counsel as to legal form. As well, any modifications to the insurance requirements shall be made in consultation with County Risk Management.

The form of agreement deviates from County Risk Management's recommendations as it contains: (1) Commercial General Liability at less than the recommended coverage; (2) Professional Liability Insurance at less than the recommended coverage but as recommended for California attorneys by the State Bar Association; and, (3) omits the Cyber liability requirement.

REFERENCE MATERIAL:

BAI #31, October 31, 2017
BAI #10, October 17, 2017

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Resolution

CAO ANALYST:

Sonia M. De La Rosa