

**TOWN OF
APPLE VALLEY, CALIFORNIA**

AGENDA MATTER

Subject Item:

SERVICE AGREEMENT WITH THE CALIFORNIA STATE OFFICE OF ADMINISTRATIVE HEARINGS.

Summary Statement:

With the addition of the administrative citation section being added to the municipal code, it has become necessary to have a hearing officer available in the event a citation is contested. Research has revealed the California State Supreme Court has ruled there are two appropriate options as to who can sit as a hearing officer.

1. Enter into an agreement with the State Office of Administrative Hearings.
2. Contract with the Office of County Hearing Officer

Option two: Contract with the County is not an option for the Town as the County Hearing Officer office does not exist in San Bernardino County.

A third option is to enter into an agreement with the defendant on a case by case basis to hire an independent "neutral" (typically a retired judge) agreed upon by both sides to sit as a hearing officer. Staff's research into this option revealed hearings conducted in this manner will be very costly with an \$800 filing fee plus a per hour cost varying from \$400-\$900.

Contracting with the State Office of Administrative Hearings is inexpensive with a current cost of a \$66 filing fee and \$187 per hour for the judge. There are no other fees involved. In addition to the lower cost, contracting with the State will reduce the Town's liability as the Town would be following the guidelines as set by the State Supreme Court.

Recommended Action:

Authorize the Town Manager initiate a Service Agreement with the State Office of Administrative Hearings.

Proposed by: Code Enforcement Item Number _____

T. M. Approval: _____ Budgeted Item Yes No N/A

A G R E E M E N T

THIS AGREEMENT, made and entered into on _____, at Sacramento, County of Sacramento, State of California, by and between the State of California, hereinafter called STATE, through its duly appointed Director of the Office of Administrative Hearings, and the TOWN OF APPLE VALLEY, hereinafter called TOWN.

WITNESSETH:

WHEREAS, the services of the Office of Administrative Hearings, Department of General Services, may be needed by TOWN for conducting hearings and issuing proposed decisions; and

WHEREAS, STATE has the authority to contract with TOWN for the rendering of hearing services pursuant to Government Code Section 27727, and is amenable to the furnishing of such services when required personnel are available by STATE,

NOW THEREFORE, IT IS MUTUALLY AGREED between the parties hereto as follows:

1. Upon request of TOWN, STATE will furnish the services of Administrative Law Judges to TOWN for the purpose of conducting hearings under the authority of Government Code Section 27727. The assignment of Administrative Law Judges for hearings will be at the discretion of the Director and/or Presiding Administrative Law Judges, who may elect to hear the matter themselves.

2. In consideration of the performance of such services by STATE, TOWN agrees to pay to STATE the cost of rendering such services. In the event a calendared case is taken off calendar, or needs to be re-calendared, other than by the Office of Administrative Hearings, and the Office of Administrative Hearings is unable to schedule the Administrative Law Judge for another case, TOWN agrees to pay STATE for the original hearing time or until the Judge is assigned to another case, whichever occurs first. Every effort will be made to promptly reassign the scheduled administrative law judge in the event a calendared matter is cancelled, taken off calendar, settled, re-calendared or continued. Costs shall be computed in accordance with the rates set forth in the Department of General Services Price Book current with the term of this Agreement. STATE agrees to submit invoices for services which are rendered hereunder.

3. This Agreement commences effective the date of first above written and shall continue in full force and effect until either party shall notify in writing the other party of its determination to terminate the Agreement, which termination shall occur sixty (60) days after the mailing of such notice.

IN WITNESS WHEREOF, this Agreement has been executed by and on behalf of the parties hereto, the day and year first above written.

TOWN OF APPLE VALLEY

Town Manager

OFFICE OF ADMINISTRATIVE HEARINGS

NOAH VALADEZ, Chief of Administration
(OAH 22, REV. 1/05)