



PACIFIC CITY COUNCIL AGENDA
Council Chambers - City Hall. 100 3rd Ave. SE

November 3, 2014
Monday

Special Meeting

*To be held at the end of the workshop
regularly scheduled for 6:30 p.m.*

1. **CALL TO ORDER**
2. **ROLL CALL OF COUNCIL MEMBERS**
3. **ACTION ITEMS**
- (3) **A. AB 14-178: Resolution No. 2014-214:** Authorizing the execution of an agreement with BHC Consultants for building inspection and plan review. (5 min.)
(Jack Dodge)
4. **ADJOURN**

Council may add other items not listed on this agenda unless specific notification period is required.

Please turn off cell phones during meeting and hold your questions for staff until the meeting has been adjourned.

Meeting materials are available on the City's website at: www.pacificwa.gov or by contacting the City Clerk's office at (253) 929-1105.

For ADA accommodations, please contact City Hall at (253) 929-1105 prior to the meeting. Thank you.



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Agenda Bill No. 14-178

TO: Mayor Guier and City Council Members

FROM: Jack Dodge, Community Development Manager

MEETING DATE: November 3, 2014

SUBJECT: Agreement with BHC Consultants for Building Inspections and Plan Review Services.

ATTACHMENTS: 1. Resolution No. 2014-214
2. Agreement between the City and BHC Consultants

Previous Council Review Date: N/A

Summary: While the building inspector/code enforcement officer is on long-term leave, the City is in need of building inspection and plan review services. BHC Consultants has agreed to provide these services in a temporary capacity until a temporary employee can be hired to perform these duties.

Recommended Action: Staff recommends approval of the agreement in order to provide Inspection and plan review services to the public.

Motion for Consideration: "I move to approve Resolution No. 2014-214 authorizing the mayor to execute an agreement with BHC Consultants for building inspection and plan review services."

Budget Impact: \$75 to \$130 per hour dependent on the type of inspection or plan review.

Alternatives: The Council may choose not to approve the agreement which will result in an interruption of services to the public.

**CONSULTANT SERVICES CONTRACT
BETWEEN THE CITY OF PACIFIC AND
BHC CONSULTANTS**

THIS AGREEMENT is made by and between the City of Pacific, a Washington municipal corporation (hereinafter the "City"), and BHC Consultants, LLC ("BHC") a limited liability corporation organized under the laws of the State of Washington, located and doing business at 1601 Fifth Avenue, Suite 500 Seattle, WA 98101.

RECITALS

WHEREAS, the City needs temporary Building Inspection and Building Code Enforcement Services and

WHEREAS, the Consultant has agreed to provide the City with Building Inspection and Building Official services as described herein;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

TERMS

I. Description of Work.

The Consultant shall perform all work described in Exhibit A, which is attached hereto and incorporated herein by this reference.

II. Payment

A. The City shall pay the Consultant an amount based on time and materials, not to exceed Twenty Thousand Dollars (\$20,000.00) for the services described in Section I herein. This is the maximum amount to be paid under this Agreement for the work described in Exhibit A, and shall not be exceeded without the prior written authorization of the City in the form of a negotiated and executed supplemental agreement. PROVIDED, HOWEVER, the City reserves the right to direct the Consultant's compensated services under the time frame set forth in Section IV herein before reaching the maximum amount.

B. The Consultant shall submit monthly invoices to the City after such services have been performed, and a final bill upon completion of all the services described in this Agreement. The City shall pay the full amount of an invoice within sixty (60) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

III. Relationship of Parties

The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the employees, agents, representatives, or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

IV. Duration of Work

The City and the Consultant agree that work will begin on the tasks described in Exhibit A immediately upon execution of this Agreement. The parties agree that the Building Inspection and Building Code Enforcement Services to be provided by the Consultant will be on a temporary, as-needed basis. When the City has need for the Consultant's services, the City will provide the work described in Exhibit A to the Consultant, which shall be completed by Consultant under the timelines as stated within Exhibit A, Section 2. The City and Consultant agree that this Agreement shall allow the City to ask the Consultant to provide such services under the terms of this Agreement until December 1, 2015, as long as the cost of such services does not exceed the amount described in Section II.

V. Termination

A. Termination of Agreement. The City may terminate this Agreement, for public convenience, the Consultant's default, the Consultant's insolvency or bankruptcy, or the Consultant's assignment for the benefit of creditors, at any time prior to completion of the work described in Exhibit A. If delivered to Consultant in person, termination shall be effective immediately upon the Consultant's receipt of the City's written notice or such date stated in the City's notice, whichever is later.

B. Rights Upon Termination. In the event of termination, the City shall pay for all services satisfactorily performed by the Consultant to the effective date of termination, as described on a final invoice submitted to the City. Said amount shall not exceed the amount in Section II above. After termination, the City may take possession of all records and data within the Consultant's possession pertaining to this Agreement, which

records and data may be used by the City without restriction. Upon termination, the City may take over the work and prosecute the same to completion, by contract or otherwise.

VI. Discrimination

In the hiring of employees for the performance of work under this Agreement or any sub-contract hereunder, the Consultant, its Subcontractors, or any person acting on behalf of such Consultant or sub-consultant shall not by reason of race, religion, color, sex, national origin, or the presence of any sensory, mental, or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

VII. Indemnification

The Consultant shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal Costs and attorneys' fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. The City's inspection or acceptance of any of the Consultant's work when completed shall not be grounds to avoid any of these covenants of indemnification.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, agents and Volunteers, the Consultant's liability hereunder shall be only to the extent of the Consultant's negligence.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONSULTANT'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER. THE CONSULTANT'S WAIVER OF IMMUNITY UNDER THE PROVISIONS OF THIS SECTION DOES NOT INCLUDE, OR EXTEND TO. ANY CLAIMS BY THE CONSULTANT'S EMPLOYEES DIRECTLY AGAINST THE CONSULTANT.

The provisions of this section shall survive the expiration or termination of this Agreement.

VIII. Insurance

A. The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise

from or in connection with the Consultant's own work including the work of the Consultant's agents, representatives, employees, sub-consultants or sub-contractors.

B. Before beginning work on the project described in this Agreement, the Consultant shall provide evidence, in the form of a Certificate of Insurance, of the following insurance coverage and limits (at a minimum):

1. Business auto coverage for any auto no less than a \$1,000,000 each accident limit, and

2. Commercial General Liability insurance no less than \$1,000,000 per occurrence with a \$2,000,000 aggregate. Coverage shall include, but is not limited to, contractual liability, products and completed operations, property damage, and employers liability, and

3. Professional Liability insurance with no less than \$1,000,000. All policies and coverage's shall be on a claims made basis.

C. The Consultant is responsible for the payment of any deductible or self-insured retention that is required by any of the Consultant's insurance. If the City is required to contribute to the deductible under any of the Consultant's insurance policies, the Contractor shall reimburse the City the full amount of the deductible within 10 working days of the City's deductible payment.

D. The City of Pacific shall be named as an additional insured on the Consultant's commercial general liability policy. This additional insured endorsement shall be included with evidence of insurance in the form of a Certificate of Insurance for coverage necessary in Section B. The City reserves the right to receive a certified and complete copy of all of the Consultant's insurance policies.

E. Under this agreement, the Consultant's insurance shall be considered primary in the event of a loss, damage or suit. The City's own comprehensive general liability policy will be considered excess coverage with respect to defense and indemnity of the City only and no other party. Additionally, the Consultant's commercial general liability policy must provide cross-liability coverage as could be achieved under a standard ISO separation of insured's clause.

F. The Consultant shall request from his insurer a modification of the ACORD certificate to include language that prior written notification will be given to the City of Pacific at least 3D-days in advance of any cancellation, suspension or material change in the Consultant's coverage.

IX. Exchange of Information

The City warrants the accuracy of any information supplied by it to the Consultant for the purpose of completion of the work under this Agreement. The parties agree that the

Consultant will notify the City of any inaccuracies in the information provided by the City as may be discovered in the process of performing the work, and that the City is entitled to rely upon any information supplied by the Consultant which results as a product of this Agreement.

X. Ownership and Use of Records and Documents

Original documents, drawings, designs and reports developed under this Agreement shall belong to and become the property of the City. All written information submitted by the City to the Consultant in connection with the services performed by the Consultant under this Agreement will be safeguarded by the Consultant to at least the same extent as the Consultant safeguards like information relating to its own business. If such information is publicly available or is already in Consultant's possession or known to it, or is rightfully obtained by the Consultant from third parties, the Consultant shall bear no responsibility for its disclosure, inadvertent or otherwise.

XI. City's Right of Inspection

Even though the Consultant is an independent contractor with the authority to control and direct the performance, and details of the work authorized under this Agreement, the work must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof. The Consultant agrees to comply with all federal, state, and municipal laws, rules, and regulations that are now effective or become applicable within the terms of this Agreement to the Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

XII. Consultant to Maintain Records to Support Independent Contractor Status

On the effective date of this Agreement (or shortly thereafter), the Consultant shall comply with all federal and state laws applicable to Independent contractors including, but not limited to the maintenance of a separate set of books and records that reflect all items of income and expenses of the Consultant's business, pursuant to the Revised Code of Washington (RCW) Section 51.08.195, as required to show that the services performed by the Consultant under this Agreement shall not give rise to an employer-employee relationship between the parties which is subject to RCW Title 51, Industrial Insurance.

XIII. Work Performed at the Consultant's Risk

The Consultant shall take all precautions necessary and shall be responsible for the safety of its employees, agents, and sub-consultants in the performance of the work hereunder and shall utilize all protection necessary for that purpose. All work shall be done at the Consultant's own risk, and the Consultant shall be responsible for any loss

of or damage to materials, tools, or other articles used or held by the Consultant for use In connection with the work.

XIV. Non-Waiver of Breach

The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances, shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options and the same shall be and remain in full force and effect.

XV. Resolution of Disputes and Governing Law

Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the City of Black Diamond shall determine the term or provision's true intent or meaning. The City of Black Diamond shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the Mayor or Administrator's determination in a reasonable time, or if the Consultant does not agree with the City's decision on the disputed matter, jurisdiction of any resulting litigation shall be filed in King County Superior Court, King County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The non-prevailing party in any action brought to enforce this Agreement shall pay the other parties' expenses and reasonable attorney's fees.

XVI. Written Notice

All communications regarding this Agreement shall be sent to the parties at the addresses listed on the signature page of the agreement, unless notified to the contrary. Unless otherwise specified, any written notice hereunder shall become effective upon the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated below:

CONSULTANT:

Craig Chambers
BHC Consultants
1601 Fifth Avenue
Suite 500
Seattle, WA 98101

CITY:

Attn: Jack Dodge
City of Pacific
100 – 3rd Ave. S.E.
Pacific, WA 98047

With a copy to the "City Clerk" at the same

address.

XVII. Assignment

Any assignment of this Agreement by the Consultant without the written consent of the City shall be void. If the City shall give its consent to any assignment, this paragraph shall continue in full force and effect and no further assignment shall be made without the City's consent.

XVIII. Modification and Severability

No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Consultant.

The provisions of this Agreement are declared to be severable. If any provision of this Agreement is for any reasons held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

XIX. Entire Agreement

The written provisions and terms of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever, this Agreement or the Agreement documents. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and any Exhibits attached hereto, which may or may not have been executed prior to the execution of this Agreement. All of the above documents are hereby made a part of this Agreement and form the Agreement document as fully as if the same were set forth herein. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail.

IN WITNESS WHEREOF, the parties have executed this Agreement on this ____ day of _____, 2014.

CONSULTANT

CITY OF PACIFIC

By: _____
Its Managing Member

By: _____
Leanne Guier, Mayor

Consultant: _____

APPROVED AS TO FORM:

City Attorney's Office

ATTEST:

City Clerk

EXHIBIT A SCOPE OF SERVICES

1. PLAN REVIEW

The City will determine which plans and building permit applications will be reviewed by BHC. BHC will review such plans submitted with building permit applications for structural and nonstructural code compliance in accordance with the currently adopted construction codes as adopted and amended by the state of Washington and the City of Pacific (Client), except that BHC will confer with the City Building Official and his/her agent on any portion of the review that specifically requires the approval of the Building Official as specified in the code(s).

- A. The specified services to be performed by BHC shall be specified in a letter of Authorization issued by the City for each set of plans and permit application.
- B. The BHC will not design for the applicant, make any structural changes on the plans, or make any changes that directly contradict other information on the plans. Significant changes must be made by or under the direction of the applicant or design professional.
- C. Reviews shall be done by BHC.
- D. If corrections or additions are required, the Consultant will write a review letter addressed to the applicant. This review letter will be sent to the City's agent. The City will then send the BHC review letter, along with any additional City requirements sent to the applicant. The correction letter will indicate to the applicant that they are required to submit the revisions/additions to the City per the submittal requirements for the permit type under review.
- E. When the plans and applications are consistent with the City's codes, BHC will indicate that the drawings have been reviewed and found to be in substantial compliance with applicable construction codes and ordinances. The reviewer's name and date of compliance will be affixed to each sheet in up to two sets of drawings including the cover sheet.
- F. Complete reviews will include structural, nonstructural, accessibility, energy, and ventilation requirements. Partial reviews will be indicated as either structural or nonstructural or as mutually agreed upon.

2. PROCESS:

- A. The City will determine which plans are to be reviewed by the Consultant.
- B. The City will intake, track, and process the permit applications and all revisions per current building and permit administration procedures.
- C. BHC will be responsible for the transportation and cost of returning permit review documents back to the City. The City will be responsible for the transportation and cost

of delivering permit review documents to BHC.

- D. The Consultant will complete the initial review and will have either approved the application and notified the City of approval or contacted the applicant and the City with corrections within the time frames listed below:

Project Type	Initial Review	Re-Review
Single-Family	15 days (2 weeks)	10 days (1 week)
Multi-Family	20 days (3 weeks)	10 days (2 weeks)
Commercial	20-30 days (4 weeks)	15 days (3 weeks)

Turn-around for all other types of permit applications is to be negotiated.

- E. The Consultant will review any revisions or additional information and will either indicate compliance with the code(s) against which it was checked and notify the City of compliance, or if the drawings are still not complete, contact the applicant and the City with additional revision requests within the time frames specified above.
- F. The review time may be negotiated based on the number and complexity of projects to be reviewed. The Consultant will not be held responsible for delays beyond the Consultant's control. During heavy workloads or schedule delays, the Consultant shall notify the City of revisions to estimated target dates.

3. BUILDING INSPECTION SERVICES:

BHC will provide a certified building inspector to perform the following services on an as-needed, on-call basis:

- A. Upon authorization by the CITY, inspector will perform building inspection work for the City.
- B. At the request by the CITY, the inspector shall be asked to perform one or more of the following inspection tasks:
 - a. non-structural fire and life safety inspections
 - b. structural inspections
 - c. energy code inspections
 - d. barrier free inspections
 - e. mechanical & plumbing inspections
- C. Inspector will provide building inspections in accordance with the currently adopted International Codes, Washington State Building Code (WAC 51-50 and 51-51), and Energy Code (WAC 51-11), and the applicable City Building Codes, except that inspector will confer with the City Building Official or his/her agent on any portion of the review that specifically requires an approval of the Building Official under the applicable Code(s), or that involves an unusual interpretation.

- D. Inspections will be done in accordance codes, ordinances and regulations in effect and will be performed in a courteous and professional manner. Up-to-date records of inspection status will be maintained on the job card in the field and on the office copy of the permit.

CITY shall guarantee a minimum of four (4) hours inspection work each day inspection services are provided.

4. ADDITIONAL SERVICES REQUIRED:

- A. Building Officials services can be provided for code interpretation and administrative needs such as ordinance review and update, staffing needs and department budget development and review.
- B. Civil/Site plan reviews will be charged at the hourly rates shown in Labor Rate Schedule.
- C. Pre permit plan review meetings to review code requirements and City department permit coordination will be charged at the hourly rates shown in Labor Rate Schedule.
- D. Review of supplemental plans or deferred submittals (information not provided at time of initial review but required for complete plan approval, i.e. truss specification /plans, fire protection/alarm details, etc.) will be charged at the hourly rates shown in Labor Rate Schedule.
- E. Revisions to plans that require additional plan review will be charged at the hourly rates shown in Labor Rate Schedule.
- F. Attendance at meetings when requested by the CITY will be charged at the hourly rates shown in Labor Rate Schedule.
- G. Fire Code, Fire Sprinkler, Fire Alarm plan reviews when requested by the CITY will be charged at the hourly rates shown in Labor Rate Schedule.
- H. Separate (not part of full review) mechanical and plumbing plan reviews will be charged at the hourly rates shown in Labor Rate Schedule.

SCHEDULE OF RATES, CHARGES AND FEES

<u>Classification</u>	<u>Hourly Rate</u>
Building Inspector (Combination)	\$75
Building Official/Inspections (Willie Hill)	\$90
Plan Reviewer – nonstructural	\$130
Structural P.E.	\$150
Civil/site plan review (P.E.)	\$130

1. PLAN REVIEW FEES:

The following fee schedule is intended to include the review of plans sent to BHC for review and approval. These will typically be for new construction and substantial remodel and alterations of both residential and commercial structures. Incidental over the counter plan review performed by BHC staff while onsite at the City will be included as part of the daily tasks performed at the hourly rate.

Residential:

Single Family Dwellings will be charged at 70% of City's collected Plan Review fee (complete review including structural, non-structural, mechanical, plumbing, State Energy, and applicable items in the City's Municipal Code) .

At the request of the City and concurrence by Consultant, plan review fees may be determined to be charged at the hourly rate as identified in labor rate schedule as opposed to the following "fixed fee" rates.

Non-Residential:

A. Complete Plan Review

IBC Non-structural Fire & Life Safety + Structural, disabled accessibility and/or State Energy Code, *IMC and/or UPC.*

70% of the City collected Plan Review fee.

(\$250 minimum)

B. Partial Review:

Will consist of one of the following:

- IBC Non-structural Fire & Life Safety including mechanical/plumbing when issued as part of a combination building permit, and State Energy and Accessibility review
- OR-
- IBC Structural ONLY

40% of the building plan review fee calculated. (\$250 minimum)

C. Mechanical/Plumbing (issued as separate permit)

When permit for such work is issued separately from a building combination permit and permit fee is based on valuation of such work separate from building permit, fee will be assessed at the partial review percentage noted above. If permit fee is based on unit fee

per the IMC or UPC, fee will be charged the hourly rate.

- D. Civil/Site Plan Review will be charged at the hourly civil plan review rates. These fees include the initial plan review plus one (1) recheck. When substantial revisions occur to previously reviewed and /or approved plans, additional fees shall be charged at the hourly rates shown in Labor Rate Schedule.

2. ADDITIONAL:

- A. All other review services and reviews in excess of two (the initial review plus one re-check) shall be paid on a time-and-expense basis using the hourly rate.
- B. In-house plan review and other services will be provided as desired by the City and agreed upon by the Consultant on a time-and-expense basis using an hourly rate.
- C. Valuation figures used to determine the plan review fees will be calculated based on the City's Fee Resolution. The plan review fee will be determined by the City and the proposed plan review fee amount shall be submitted to the Consultant for each project for review and approval.
- D.
- E. Each billing statement will include the permit application number and owner or project name of the plans reviewed with the fee.
- F. Billing statements will be issued for reviews that receive a complete initial review in the preceding month or other acceptable time period. A complete initial review shall constitute an earned fee for both City and Consultant.
- G. The City shall have the right to withhold payment to the Consultant for any work not completed in a satisfactory manner until such time that the consultant modifies such work to the satisfaction of the City.
- H. The cost of delivering plans for review to BHC will be incurred by the CITY. The cost of delivering reviewed plans back to City will be incurred by BHC.
- I. **Hourly rates shown are portal to portal** from inspector's residence or the Seattle office, whichever is less for on-call services.
- J. All mileage included by BHC inspector will be reimbursed at the most current IRS rate, currently .565 cents per mile. Mileage will not be assessed on travel using client supplied vehicle.
- K. Consultant staff's normal work days are Monday through Friday (8am~5pm). Office work on Saturdays, Sundays or CITY Holidays will be performed only at specific request of the City. Billing for work performed outside normal work hours are on Saturdays, Sundays, or CITY Holidays shall be at 150% of the rates shown above.
- L. This Schedule of Hourly Rates is effective as of January 1, 2014 and shall be effective for the duration of this Agreement.

