



City of Tukwila

Department of Community Development

Allan Ekberg, Mayor

Nora Gierloff, Director

INFORMATIONAL MEMORANDUM

TO: Planning & Community Development Committee

FROM: Nora Gierloff, Director of the Department of Community Development

BY: Jerry E Hight, Building Official

CC: Mayor Ekberg

DATE: November 7, 2022

SUBJECT: BHC Consultants Inc. plan review and inspections services

ISSUE

Should council approve a contract to continue current plan review and inspection services with BHC Consultants Inc. with a not to exceed amount of \$150,000.00 through the 2023/2024 budget. A new contract is needed because the current contract with BHC Consultants Inc. expires on 12/31/2022.

BACKGROUND

Due to the ongoing permit activity and larger projects such as Vietnamese Martyrs Church [\$6 mil (valuation), 64,118 sq ft remodel and addition] Blue Pearl Tukwila Pet Hospital [\$5 mil (valuation), 16,348 sq ft Interior Build-out / Interior Addition], CenterPoint Warehouse [\$39 mil (valuation), 414,528 sq ft tilt-up shell building], with ongoing permits from Boeing and Westfield Mall, it will be necessary to continue to have this outside review and inspection service.

DISCUSSION

Due to the current vacancies, staff is unable to dedicate the time required to review and inspect certain large projects. The Building Division has previously contracted our plan review and inspection services successfully with BHC Consultants Inc.

FINANCIAL IMPACT

\$150,000.00 for professional service until the end of the 2023/2024 budget. With the ongoing permit activity and larger projects for permits the amount of fees collected will cover the outside plan review and inspections cost. The 2023/2024 budget will reflect the consultant's ongoing review cost as well as the ongoing permit revenue.

RECOMMENDATION

Staff recommends the contract for BHC Consultants Inc. plan review and inspections services be placed on the November 21, 2022, Regular Council, Consent Agenda for approval.

ATTACHMENTS

Contract for BHC Consultants Inc. plan review and inspections services.
Exhibit A Scope and Schedule of Services
Exhibit B Schedule of Charges



PROFESSIONAL SERVICES AGREEMENT

(Includes consultants, architects, engineers, accountants, and other professional services)

THIS AGREEMENT is entered into between the City of Tukwila, Washington, hereinafter referred to as “the City”, and **BHC Consultants LLC**, hereinafter referred to as “the Consultant”, in consideration of the mutual benefits, terms, and conditions hereinafter specified.

1. **Project Designation.** The Consultant is retained by the city to perform plan review and inspections services for compliance with Washington State and Tukwila adopted codes.
2. **Scope of Services.** The Consultant agrees to perform the services, identified on Exhibit “A” attached hereto, including the provision of all labor, materials, equipment and supplies.
3. **Duration of Agreement: Time for Performance.** This Agreement shall be in full force and effect for a period **commencing upon 1/2/2023 and ending on 12/31/2024**, unless sooner terminated under the provisions hereinafter specified. Work under this Agreement shall commence upon written notice by the City to the Consultant to proceed. The Consultant shall perform all services and provide all work product required pursuant to this Agreement no later than **12/31/2024** unless an extension of such time is granted in writing by the City.
4. **Payment.** The Consultant shall be paid by the City for completed work and for services rendered under this Agreement as follows:
 - A. Payment for the work provided by the Consultant shall be made as provided on Exhibit “B” attached hereto, provided that the total amount of payment to the Consultant shall not exceed **\$150,000.00** without express written modification of the Agreement signed by the City.
 - B. The Consultant may submit vouchers to the City once per month during the progress of the work for partial payment for that portion of the project completed to date. Such vouchers will be checked by the City and, upon approval thereof, payment shall be made to the Consultant in the amount approved.
 - C. Final payment of any balance due the Consultant of the total contract price earned will be made promptly upon its ascertainment and verification by the City after the completion of the work under this Agreement and its acceptance by the City.
 - D. Payment as provided in this section shall be full compensation for work performed, services rendered, and for all materials, supplies, equipment and incidentals necessary to complete the work.
 - E. The Consultant’s records and accounts pertaining to this Agreement are to be kept available for inspection by representatives of the City and the state of Washington for a period of three (3) years after final payments. Copies shall be made available upon request.

5. **Ownership and Use of Documents.** All documents, drawings, specifications and other materials produced by the Consultant in connection with the services rendered under this Agreement shall be the property of the City whether the project for which they are made is executed or not. The Consultant shall be permitted to retain copies, including reproducible copies, of drawings and specifications for information, reference and use in connection with the Consultant's endeavors. The Consultant shall not be responsible for any use of the said documents, drawings, specifications or other materials by the City on any project other than the project specified in this Agreement.
6. **Compliance with Laws.** The Consultant shall, in performing the services contemplated by this Agreement, faithfully observe and comply with all federal, state, and local laws, ordinances and regulations, applicable to the services rendered under this Agreement.
7. **Indemnification.** The Consultant shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from intentional misconduct or the negligent acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

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, 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. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

8. **Insurance.** 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 performance of the work hereunder by the Consultant, its agents, representatives, or employees. Consultant's maintenance of insurance as required by the agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.
 - A. **Minimum Amounts and Scope of Insurance.** Consultant shall obtain insurance of the types and with the limits described below:
 1. **Automobile Liability** insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident. Automobile Liability insurance shall cover all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
 2. **Commercial General Liability** insurance with limits no less than \$2,000,000 each occurrence, \$2,000,000 general aggregate. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap independent contractors and personal injury and advertising injury. The City shall be named as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City using an additional insured endorsement at least as broad as ISO endorsement form CG 20 26.
 3. **Workers' Compensation** coverage as required by the Industrial Insurance laws of the State of Washington.

4. Professional Liability with limits no less than \$2,000,000 per claim and \$2,000,000 policy aggregate limit. Professional Liability insurance shall be appropriate to the Consultant's profession.
 - B. **Public Entity Full Availability of Contractor Limits.** If the Contractor maintains higher insurance limits than the minimums shown above, the Public Entity shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Contractor, irrespective of whether such limits maintained by the Contractor are greater than those required by this Contract or whether any certificate of insurance furnished to the Public Entity evidences limits of liability lower than those maintained by the Contractor.
 - C. **Other Insurance Provision.** The Consultant's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain that they shall be primary insurance with respect to the City. Any Insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Consultant's insurance and shall not be contributed or combined with it.
 - D. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.
 - E. **Verification of Coverage.** Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Contractor before commencement of the work. Upon request by the City, the Consultant shall furnish certified copies of all required insurance policies, including endorsements, required in this Agreement and evidence of all subcontractors' coverage.
 - F. **Notice of Cancellation.** The Consultant shall provide the City with written notice of any policy cancellation, within two business days of their receipt of such notice.
 - G. **Failure to Maintain Insurance.** Failure on the part of the Consultant to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days notice to the Consultant to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Consultant from the City.
9. **Independent Contractor.** The Consultant and the City agree that the Consultant is an independent contractor with respect to the services provided pursuant to this Agreement. Nothing in this Agreement shall be considered to create the relationship of employer and employee between the parties hereto. Neither the Consultant nor any employee of the Consultant shall be entitled to any benefits accorded City employees by virtue of the services provided under this Agreement. The City shall not be responsible for withholding or otherwise deducting federal income tax or social security or for contributing to the state industrial insurance program, otherwise assuming the duties of an employer with respect to the Consultant, or any employee of the Consultant.
10. **Covenant Against Contingent Fees.** The Consultant warrants that he has not employed or retained any company or person, other than a bonafide employee working solely for the Consultant, to solicit or secure this contract, and that he has not paid or agreed to pay any company or person, other than a bonafide employee working solely for the Consultant, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the City shall have the right to annul this contract without liability, or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

11. **Discrimination Prohibited.** Contractor, with regard to the work performed by it under this Agreement, will not discriminate on the grounds of race, religion, creed, color, national origin, age, veteran status, sex, sexual orientation, gender identity, marital status, political affiliation, the presence of any disability, or any other protected class status under state or federal law, in the selection and retention of employees or procurement of materials or supplies.
12. **Assignment.** The Consultant shall not sublet or assign any of the services covered by this Agreement without the express written consent of the City.
13. **Non-Waiver.** Waiver by the City of any provision of this Agreement or any time limitation provided for in this Agreement shall not constitute a waiver of any other provision.
14. **Termination.**
 - A. The City reserves the right to terminate this Agreement at any time by giving ten (10) days written notice to the Consultant.
 - B. In the event of the death of a member, partner or officer of the Consultant, or any of its supervisory personnel assigned to the project, the surviving members of the Consultant hereby agree to complete the work under the terms of this Agreement, if requested to do so by the City. This section shall not be a bar to renegotiations of this Agreement between surviving members of the Consultant and the City, if the City so chooses.
15. **Applicable Law; Venue; Attorney's Fees.** This Agreement shall be subject to, and the Consultant shall at all times comply with, all applicable federal, state and local laws, regulations, and rules, including the provisions of the City of Tukwila Municipal Code and ordinances of the City of Tukwila. In the event any suit, arbitration, or other proceeding is instituted to enforce any term of this Agreement, the parties specifically understand and agree that venue shall be properly laid in King County, Washington. The prevailing party in any such action shall be entitled to its attorney's fees and costs of suit. Venue for any action arising from or related to this Agreement shall be exclusively in King County Superior Court.
16. **Severability and Survival.** If any term, condition or provision of this Agreement is declared void or unenforceable or limited in its application or effect, such event shall not affect any other provisions hereof and all other provisions shall remain fully enforceable. The provisions of this Agreement, which by their sense and context are reasonably intended to survive the completion, expiration or cancellation of this Agreement, shall survive termination of this Agreement.
17. **Notices.** Notices to the City of Tukwila shall be sent to the following address:

City Clerk
City of Tukwila
6200 Southcenter Boulevard
Tukwila, WA 98188

Notices to Consultant shall be sent to the following address:

BHC Consultants LLC
1601 Fifth Avenue Suite #500
Seattle, Washington 98101

Invoices are to be sent to the Building Official at the following address:

Building Official
City of Tukwila
6300 Southcenter Boulevard #100
Tukwila, WA 98188

18. **Entire Agreement; Modification.** This Agreement, together with attachments or addenda, represents the entire and integrated Agreement between the City and the Consultant and supersedes all prior negotiations, representations, or agreements written or oral. No amendment or modification of this Agreement shall be of any force or effect unless it is in writing and signed by the parties.

DATED this _____ day of _____, 20_____.

CITY OF TUKWILA

CONSULTANT

Allan Ekberg, Mayor

By: Ronald A Dorn
Printed Name: Ronald A. Dorn
Title: President

Attest/Authenticated:

Approved as to Form:

City Clerk, Christy O'Flaherty

Office of the City Attorney

EXHIBIT A

SCOPE OF WORK

1. PLAN REVIEW

- A. BHC Consultants will review 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 City of Tukwila, except that BHC will confer with the 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).
- B. The services to be performed by BHC will not begin until receiving authorization from the City that identifies the specific tasks to be performed.
- C. BHC will not perform plan mark ups, make any complex 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's design professional. All notes and details must be on the approved permit set of plans.
- D. If corrections or additions are required, BHC will write a review letter addressed to the City and/or applicant. The City will then send BHC's review letter, along with any additional City requirements, 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.
- F. Upon completion of the plan review, BHC will indicate that the drawings have been reviewed and found to be in substantial compliance with applicable construction codes and ordinances. BHC's name, and date of compliance will be affixed to each sheet up to two sets of drawings or as otherwise requested by the City. The plan reviewer's signature will also be affixed to the cover sheet.
- G. 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 reserves the right to determine the process and method of Work by the Consultant. At its sole option, the City will determine if it wishes to contract with the Consultant on a time and materials basis or a percentage basis.
- B. The City will determine which plans are to be reviewed by BHC.
- C. The City will intake, track and process the permit applications and all revisions per current building and permit administration procedures.
- D. BHC will be responsible for the expedited transportation of permit review documents to the City. The City will be responsible for the expedited transportation of permit review documents to BHC.

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

Typical Review Times:

Project Type	Initial Review	Re-Review
Single-Family	10 days (2 weeks)	5 days (1 week)
Multi-Family	15 days (3 weeks)	10 days (2 weeks)
Commercial	20 days (4 weeks)	15 days (3 weeks)

Turn-around time for large, complex and non-typical types of permit applications is to be negotiated and agreed upon in writing by both parties.

- F. BHC 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/or the City with additional revision requests within the time frames specified above.
- G. The typical review times as noted above may be negotiated based on the number and/or complexity of projects the City wishes to send to BHC at one time or within a short window of time. BHC shall request revisions to estimated target date after consultation with the City.
- H. Plan reviews will be performed in accordance with currently adopted Washington State codes, and amendments, as identified in the Tukwila Municipal Code.

4. BUILDING INSPECTIONS

- A. Consultant will provide a certified building inspector to perform the following services; and
- B. Upon authorization by the City, inspector will perform building inspection work for the City.
- C. At the request by the City, the inspector shall be asked to perform one or more of the following inspection tasks:
 1. non-structural fire and life safety inspections
 2. structural inspections
 3. energy code inspections
 4. barrier free inspections
 5. mechanical and plumbing inspections
 6. electrical inspections
- D. 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 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.

- E. Inspections will be done in accordance with 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. The City shall guarantee a minimum of four (4) hours inspection work each day inspection services are provided.

EXHIBIT B – COMPENSATION

- 1. **LUMP SUM.** The City shall pay BHC a lump-sum fee for performing an initial review and one recheck for each project. The fee shall be based on a percentage of the plan review fee as tabulated below or as mutually agreed upon between the City and BHC. The plan review fee shall be based on the fees charged by resolution for the City.

<u>Commercial and Multi-Family Projects</u>	Percentage of Plan Review Fee	
	Valuation < \$2,000,000	Valuation \$2,000,000 To \$5,000,000
Complete Plan Review	75%	70%
Partial Plan Review (structural only or nonstructural only)	60%	50%
	Valuation \$5,000,001 to \$10,000,000	Valuation \$10,000,001 and up
Complete Plan Review	60%	50%
Partial Plan Review (structural only or nonstructural only)	40%	35%

Single Family Projects

Complete Plan Review	75% of Plan Review Fee
Partial Plan Review (structural only or nonstructural only)	50% of Plan Review Fee

- 1.1 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 an hourly rate identified in Schedule B.
- 1.2 Each billing statement will include the permit number, BHC task review number and owner or project name of the plans reviewed with the fee.
- 1.3 Billing statements will be issued for reviews that receive a complete initial review in the preceding month or other acceptable time period. All remaining fees for any project previously billed will be invoiced for total balance due after final review has been completed and plans returned to the City. Fees for large projects maybe invoiced over a several month period when agreeable to both the City and BHC.
- 1.4 On-call and other services will be provided as desired by the City and agreed upon by BHC on a time-and-expense basis using an hourly rate identified in Exhibit B.

2. HOURLY LABOR RATES SCHEDULES

<u>Classification</u>	<u>Hourly Rates</u>
Building Inspector (Combination)	\$91
Electrical Inspector	\$95
Plan Checker I (hourly charges)	\$160
Plan Reviewer II - Structural	\$195
Civil/site plan review (P.E.)	\$160
Principal Consultant (Building Official)	\$150
Administration assistance/Clerical	\$75

Overtime Services: 150% of Above Rates Shown
(No overtime will be charged without prior written authorization by the City.)

These rates are effective throughout the term of this contract.

On-call and other services will be provided as desired by the City and agreed upon by BHC in writing by both parties on a time-and-expense basis using an hourly rate identified in Schedule B.

REIMBURSABLE EXPENSES

Travel will be reimbursed for time and mileage at the current IRS mileage reimbursement rate

For all “on call” inspection and added services, mileage may be billed “portal to portal” at current IRS rate.

No further reimbursable expenses are included in this contract.