

# CITY OF WASHINGTON

## PLANNING & DEVELOPMENT DEPARTMENT

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### MEMORANDUM

TO: Mayor Manier and Committee of the Whole  
FROM: Jon R. Oliphant, AICP, Planning & Development Director  
SUBJECT: Building Inspection Services  
DATE: January 5, 2018

**Summary:** Staff seeks input on filling the vacant Building Inspector position. General discussion is planned for the January 8 Committee of the Whole meeting.

**Background:** The City's Building Inspector position has been vacant since November following Wally King's retirement. A currently contracted employee has been assisting with inspections during that period. The time of year and the reduced residential new construction activity has made it a little easier to manage the workload. The responsibilities of the Building Inspector include residential and non-residential inspections and reviewing and approving building plans. The Building Inspector does electrical inspections for residential projects while RNS Electric inspects commercial projects.

Staff has looked into various options for filling this position. These include utilizing inspectors employed through third-party engineering firms, partnering with another municipality, contracting directly with any qualified individuals, or hiring as a part-time employee(s). Our desire would be for any individuals to be certified through the International Code Council (ICC). Of these options, staff has received interest from a currently contracted employee as well as two retired municipal employees who assisted with inspections following the tornado. Each are ICC-certified and have considerable experience as inspectors.

Hiring as a part-time employee(s) would reduce the hourly wage that would be required through a third-party (which is \$85-100/hour plus mileage) and allow for the employee(s) to have their liability insurance and worker's compensation to be covered by the city. The general hourly wage directly with an inspector figures to be between \$50-60 plus mileage based on conversations staff has had with other inspectors. Staff is currently looking into how having concurrent municipal employments would impact IMRF. If a contractual agreement were desired, Davis & Campbell has drafted an attached agreement that could be utilized.

Finally, consideration needs to be given to the permit fee structure depending on the hourly compensation. Staff feels that the new construction residential and commercial building permit fees adequately cover the time required for plan review and inspection. However, our accessory structure permit fees (\$20 plus \$2 per \$1,000 of the construction value) often would not cover the hourly wage, particularly for those permits that require 2-3 inspections per project such as room additions or detached garages. Increasing this fee may be necessary to more sufficiently cover the staff time associated with the project.

General discussion is planned for the January 8 Committee of the Whole meeting to gather input on how to proceed with filling the position.

**INDEPENDENT CONTRACTOR AGREEMENT  
BETWEEN THE CITY OF WASHINGTON AND "INSERT NAME HERE"  
FOR THE PROVISION OF SERVICES RELATED TO PROVIDING BUILDING  
INSPECTIONS AND REVIEWS**

THIS INDEPENDENT CONTRACTOR AGREEMENT (this "**Agreement**") is effective as of January \_\_\_\_, 2018 (the "**Effective Date**"), by and between the CITY OF WASHINGTON, an Illinois home-rule municipal corporation (the "**City**"), and XXXX ("**Name**").

**Background**

- A. The City requires all new residential and non-residential construction projects meet all appropriate building codes.
- B. The City requires inspections as part of the building process to ensure compliance with all appropriate building codes.
- C. The City desires to inspect all new residential and non-residential construction projects to ensure compliance with all appropriate building codes.
- D. The City desires to hire Name for all services related to inspecting new residential and non-residential construction projects pursuant to the terms of this Agreement, and Name desires to provide such services pursuant to the terms of this Agreement.

**Agreement**

NOW THEREFORE, in consideration of the mutual promises, covenants, and conditions herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

- 1. **Background.** The Background paragraphs set forth above are a material part of, and by this reference are expressly incorporated into, this Agreement.
- 2. **Services.** Name shall provide services to the City within twenty-four (24) hours of request of such services by the City. It is anticipated that services requested by the City and performed by Name will include but are not limited to:
  - (a) Inspections of new residential and non-residential construction projects;
  - (b) Review building plans as needed to ensure compliance with all appropriate building codes;
  - (c) Perform inspections of other residential and non-residential buildings as requested by the City.
- 3. **Payment.**
  - (a) **Rate.** In exchange for Name's performance of his obligations, the City shall pay Name at the rate of Sixty Dollars (\$60) per hour worked in the performance of his

obligations under this Agreement. In addition, the City will reimburse Name for use of his personal automobile in the course of performance of services for the City at the IRS mileage rate in effect on the date the travel occurred.

(b) Other Expenses. Except as otherwise provided in this Agreement or as may hereafter be established by an agreement in writing executed by the parties to this Agreement, all expenses incurred by each party in performing their obligations under this Agreement shall be borne by the party incurring the expense.

(c) Invoices. Name shall send the City from time to time a detailed invoice evidencing all reimbursable expenses and the time spent in performing his obligations under this Agreement. The City agrees to pay Name within thirty (30) days of the invoice date for services properly rendered to the City under this Agreement.

4. Relationship. Name and the City will be and shall act as an independent contractor and not as an agent or partner of, or joint venture with, the other party for any purpose and neither party by virtue of this Agreement shall have any right, power, or authority to act or create any obligation, express or implied, on behalf of the other party.

5. Confidentiality. In order to permit Name to perform his obligations under the terms of this Agreement, the City will permit Name to have reasonable access to the City's premises, data, information, records, computers, and other materials necessary to the performance of this Agreement. Name agrees that he will keep confidential and never divulge any of the following information (collectively, the "**Confidential Information**"): (i) knowledge or information not in the public domain which is furnished to him by the City; (ii) knowledge or information of which Name becomes aware as a result of access to the City's premises, data, information, records, computers, and other materials; and (iii) knowledge or information that Name otherwise obtains in the course of performing services under this Agreement. Immediately upon written request of the City or expiration or termination of this Agreement, Name shall return to the City all tangible Confidential Information and all property belonging to the City.

6. Representations and Warranties of Name. Name has full power, and authority to enter into, deliver, and perform this Agreement and to perform the services contemplated herein. Name has duly executed and delivered this Agreement, and this Agreement constitutes Name's valid and binding obligation, enforceable against Name in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, reorganization, or other laws affecting the enforcement of creditors' rights generally now or hereafter in effect, and subject to the availability of equitable remedies. The execution, delivery, and performance of this Agreement by Name and the consummation of the transactions contemplated herein, do not and will not (i) require the consent, approval, authorization, order, filing, registration, or qualification of or with any court, governmental authority, or third person, except that which already has been obtained, (ii) conflict with or result in any violation of or default under any provision of any mortgage, indenture, lease, agreement or other instrument, permit, concession, grant, franchise, or license to which Name is a party or (iii) violate any law, ordinance, rule, regulation, judgment, order, or decree applicable to Name.

7. Term.

(a) Initial Term. Unless earlier terminated as otherwise provided in this Agreement, the Term of this Agreement shall be in effect for one (1) year from the

Effective Date, and may be renewed by the parties by mutual agreement prior to or at the conclusion of the term hereof.

(b) Termination for Cause. In the event either the City or Name should fail to perform any covenant or obligation as provided herein, the other party shall provide to the defaulting party five (5) days written notice of the default, specifying therein the specific failure to perform. If the default is not cured or corrected within five (5) days of the date of delivery of the notice above provided, the non-defaulting party may terminate this Agreement by serving a Notice of Termination on the other party. From and after delivery of such Notice of Termination, this Agreement, and all future obligations hereunder, except as set forth in Sections 7 and 8(h), shall terminate and be of no further force and effect.

(c) Termination Without Cause. Either party may terminate this Agreement without cause by serving the other party with forty-five (45) days prior written notice of termination. From and after the effective date of such termination, this Agreement, and all future obligations hereunder, except as set forth in Sections 5 and 8(h), shall terminate and be of no further force and effect.

#### 8. Miscellaneous.

(a) Assignment. This Agreement is binding on the parties hereto and shall not be assignable or transferrable by any party hereto without the consent of the other. Nothing in this Agreement, expressed or implied, is intended to confer upon any person, other than the parties hereto, any rights or remedies under or by reason of this Agreement.

(b) Binding Effect. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors and assigns.

(c) Amendment and Waiver. This Agreement may be amended or modified at any time and in all respects, or any provision may be waived, by an instrument in writing executed by all parties hereto.

(d) Counterpart Execution. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

(e) Integrated Agreement. This Agreement constitutes the entire agreement between the parties, and there are no agreements, understandings, restrictions, warranties or representations between the parties relating to the subject matter hereof other than those set forth herein or herein provided for, and/or attached.

(f) Notice. The notices hereinabove provided shall be deemed to be delivered when deposited in the United States mail, by certified mail, return receipt requested, postage prepaid, addressed to the party at the respective addresses set forth below, or at such other addresses as the parties may from time to time designate in writing:

Name:

Name

\_\_\_\_\_  
\_\_\_\_\_

City:

City of Washington  
c/o Jon Oliphant  
301 Walnut Street  
Washington, IL 61571

(g) Attorneys' Fees. In the event any action or legal proceeding is commenced to enforce any provision in connection with this Agreement, the prevailing party shall be entitled to recover as part of such action or proceedings, or in a separate action brought for that purpose, reasonable attorneys' fees and court costs as may be fixed by the court.

(h) Indemnification of City. Name shall save and hold the City free, harmless, and indemnified from and against any and all liability, damages, claims, causes of action and responsibility whatsoever on account of any injury to any person or damage to any property arising out of or in any way connected with Name's services provided pursuant to, or breach of, this Agreement.

(i) Separability of Provisions. Each provision of this Agreement shall be considered separable; and if, for any reason, any provision or provisions herein are determined to be invalid and contrary to any existing or future law, such invalidity shall not impair the operation of or affect those portions of the Agreement which are valid.

(j) Construction of Agreement. Each party was or had the opportunity to be represented by legal counsel during the negotiation resulting in this Agreement and have their legal counsel review this Agreement. The parties agree that the rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

**IN WITNESS WHEREOF**, the parties have executed this Agreement on the date and year first above written.

**CITY OF WASHINGTON**

**NAME**

By \_\_\_\_\_  
Jon Oliphant,  
Planning and Development Director

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