

RESOLUTION NO. 2985

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, AUTHORIZING THE MAYOR TO SIGN A CONTRACT WITH LDC, INCORPORATED TO PROVIDE ON-CALL CONSULTING SERVICES.

WHEREAS, starting October 16, 2021, both the Assistant Planner/Code Enforcement and Associate Planner positions will be vacant; leaving only one staff member to complete planning related permit reviews; and

WHEREAS, the City Council desires to have an emergency plan in place in case the one remaining staff member becomes ill or incapacitated and unable to perform this vital function; and

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Bonney Lake, Washington, does hereby authorize the Mayor to sign the attached agreement with LDC, Incorporated to provide on-call consulting services.

PASSED by the City Council this 12th day of October 2020.

DocuSigned by:
Neil Johnson, Jr.
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Neil Johnson Jr., Mayor

AUTHENTICATED
DocuSigned by:
Sadie A. Schaneman
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Sadie A. Schaneman, CMC, Interim City Clerk

City of Bonney Lake, Washington
City Council Agenda Bill (AB)

Department/Staff Contact: Public Services Department Jason Sullivan – Planning & Building Supervisor	Meeting/Workshop Date: October 12, 2021	Agenda Bill Number: AB21-140
Agenda Item Type: Resolution	Ordinance/Resolution Number: 2985	Councilmember Sponsor:

Agenda Subject: Contract with LDC to provide on-call consulting services related to planning permit review

Full Title/Motion: A Resolution of the City Council of the City of Bonney Lake, Pierce County, Washington, authorizing the Mayor to sign a contract with LDC, Incorporated to provide on-call consulting services.

Administrative Recommendation:

Background Summary: Starting October 16, 2021, both the Assistant Planner/Code Enforcement and Associate Planner positions will be vacant. These vacancies leave only the Planning and Building Supervisor to complete planning related reviews for permits submitted to the City while the City works to fill these vacancies. If the Planning and Building Supervisor is unable complete these reviews due to illness or incapacitation, there would be no staff members available to perform these duties. The contract would allow the City to bring in LDC to complete the planning reviews in an emergency, if the Planning and Building Supervisor is unable due to illness or incapacitation. LDC has offices in Kent and is currently or has provided similar on-call services to the cities of Everett, Normandy Park, Sultan, Woodinville, Lake Stevens, Prosser, Monroe, Snohomish, and Walla Walla County. LDC has a staff of planners qualified to provide these services.

Attachments: Resolution 2985 and LDC Contract

BUDGET INFORMATION			
Budget Amount	Current Balance	Required Expenditure	Budget Balance
Budget Explanation:			

COMMITTEE, BOARD & COMMISSION REVIEW											
Council Committee Review:	CDC Date: October 5, 2021	Approvals: Chair/Councilmember Dan Swatman Councilmember Tom Wats on Councilmember Kelly McClimans	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 50%;">Yes</th> <th style="width: 50%;">No</th> </tr> <tr> <td style="text-align: center;">X</td> <td></td> </tr> <tr> <td style="text-align: center;">X</td> <td></td> </tr> <tr> <td style="text-align: center;">X</td> <td></td> </tr> </table>	Yes	No	X		X		X	
Yes	No										
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	Forward to:	Consent Agenda:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No								
Commission/Board Review:											
Hearing Examiner Review:											

COUNCIL ACTION	
Workshop Date(s):	Public Hearing Date(s):
Meeting Date(s):	Tabled to Date:

APPROVALS		
Director: <i>Ryan Johnstone, P.E.</i>	Mayor: <i>Neil Johnson Jr.</i>	Date Reviewed by City Attorney: (if applicable):

PROFESSIONAL SERVICES AGREEMENT
for
ON CALL CONSULTING SERVICES

THIS PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is made and entered into this 12th day of October, 2021, by and between the City of Bonney Lake (“City”) and LDC, Inc (“Consultant”).

The parties hereby agree as follows:

1. **Scope of Work.** The Consultant shall provide on-call planning permit review services to ensure that development proposal comply with the City’s adopted development regulations codified in Titles 14 through 19 of the Bonney Lake Municipal Code upon receipt of a work request from the City. Such work shall be performed using facilities, equipment and staff provided by the Consultant, and shall be performed in accordance with all applicable federal, state and local laws, ordinances and regulations. The Consultant shall exercise reasonable care and judgment in the performance of work pursuant to this Agreement. The Consultant shall make minor changes, amendments, or revisions in the detail of the work as may be required by the City, such work will not to constitute Extra Work under this Agreement.
2. **Ownership of Work Product.** Documents, presentations and any other work product produced by the Consultant in performance of work under this Agreement shall be tendered to the City upon completion of the work, and all such product shall become and remain the property of the City and may be used by the City without restriction; *provided*, that any such use by the City not directly related to the particular purposes for which the work product was produced shall be without any liability whatsoever to the Consultant.
3. **Payment.** The Consultant shall be paid by the City for completed work and services rendered under this Agreement pursuant to the rates and charges set out in Exhibit A, attached hereto and incorporated herein by this reference. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work. All billings for compensation for work performed under this Agreement shall list actual time and dates during which the work was performed and the compensation shall be figured using the rates set out in Exhibit A.

Acceptance of final payment by the Consultant shall constitute a release of all claims, related to payment under this Agreement, which the Consultant may have against the City unless such claims are specifically reserved in writing and transmitted to the City by the Consultant prior to acceptance of final payment. Final payment shall not, however, be a bar to any claims that the City may have against the Consultant or to any remedies the City may pursue with respect to such claims.

The Consultant and its sub consultants shall keep available for inspection, by the City, for a period of three years after final payment, the cost records and accounts pertaining to this Agreement and

all items related to, or bearing upon, such records. If any litigation, claim or audit is started before the expiration of the three-year retention period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved. The three-year retention period shall commence when the Consultant receives final payment.

4. **Changes in Work.** The Consultant shall make all revisions and changes in the work completed under the specified scope of work as are necessary to correct errors, when required to do so by the City, without additional compensation.

5. **Extra Work.** The City may desire to have the Consultant perform work or render services in addition to or other than work provided for by the expressed intent of the Scope of Work. Such work will be considered Extra Work and will be specified in a written supplement which will set forth the nature and scope thereof. Work under a supplement shall not proceed until authorized in writing by the City. Any dispute as to whether work is Extra Work or work already covered by this Agreement shall be resolved before the work is undertaken. Performance of the work by the Consultant prior to resolution of any such dispute shall waive any claim by the Consultant for compensation as Extra Work.

6. **Employment.** Any and all employees of Consultant, while engaged in the performance of any work or services required by the Consultant under this Agreement, shall be considered employees of the Consultant only and not of the City, and any and all claims that may or might arise under the Workman's Compensation Act on behalf of said employees, while so engaged; any and all taxes arising out of Consultant's or Consultant's employees' work under this Agreement; and any and all claims made by a third party as a consequence of any acts, errors, or omissions on the part of the Consultant's employees, while so engaged, shall be the sole obligation and responsibility of the Consultant, except as provided in Section 12 of this agreement. The Consultant's relation to the City shall at all times be as an independent contractor.

7. **Nondiscrimination and Legal Compliance.** Consultant agrees not to discriminate against any client, employee or applicant for employment or for services because of race, creed, color, national origin, marital status, gender, age or handicap except for a bona fide occupational qualification with regard to, but not limited to, the following: employment upgrading; demotion or transfer; recruitment or any recruitment advertising; layoff or termination; rates of pay or other forms of compensation; selection for training; and rendition of services. The consultant represents and warrants that it is in compliance with and agrees that it will remain in compliance with the provisions of the Immigration Reform and Control Act of 1986, including but not limited to the provisions of the Act prohibiting the hiring and continued employment of unauthorized aliens and requiring verification and record keeping with respect to the status of each of its employees' eligibility for employment. The consultant shall include a provision substantially the same as this section in any and all contracts with sub consultants performing work required of the contractor under this contract. The consultant agrees to indemnify and hold the City harmless from any and all liability, including liability for interest and penalties, the City may incur as a result of the consultant failing to comply with any provisions of the Immigration Reform and Control Act of 1986. Consultant understands and agrees that if it violates this section, this Agreement may be

terminated by the City, and that Consultant shall be barred from performing any services for the City in the future unless and until a showing is made satisfactory to the City that discriminatory practices have terminated and that recurrence of such action is unlikely.

8. **Term.** This Agreement shall become effective upon the day of its execution by both parties, and shall terminate after three (3) years of the effective date of this Agreement.

9. **Termination by City.** The City may terminate this Agreement at any time upon not less than ten (10) days written notice to Consultant, subject to the City's obligation to pay Consultant in accordance with subsections A and B below.

A. In the event this Agreement is terminated by the City other than for fault on the part of the Consultant, a final payment shall be made to the Consultant for actual cost of work complete at the time of termination of the Agreement. In addition, the Consultant shall be paid on the same basis as above for any authorized Extra Work completed. No payment shall be made for any work completed after ten (10) days following receipt by the Consultant of the termination notice. If the accumulated payment(s) made to the Consultant prior to the termination notice exceeds the total amount that would be due as set forth in this subsection, then no final payment shall be due and the Consultant shall immediately reimburse the City for any excess paid.

B. In the event the services of the Consultant are terminated by the City for fault on the part of the Consultant, subsection A of this section shall not apply. In such event the amount to be paid shall be determined by the City with consideration given to the actual costs incurred by the Consultant in performing the work to the date of termination, the amount of work originally required which was satisfactorily completed to date of termination, whether that work is in a form or of a type which is usable by the City at the time of termination, the cost to the City of employing another person or firm to complete the work required and the time which may be required to do so, and other factors which affect the value to the City of the work performed at the time of termination. Under no circumstances shall payment made under this subsection exceed the amount which would have been made if subsection A of this section applied.

C. In the event this Agreement is terminated prior to completion of the work, the original copies of all work products prepared by the Consultant prior to termination shall become the property of the City for its use without restriction; *provided*, that any such use by the City not directly related to the particular purposes for which the work product was produced shall be without any liability whatsoever to the Consultant.

10. **Termination by Consultant.** Consultant may terminate this Agreement only in response to material breach of this Agreement by the City, or upon completion of the work set out in the Scope of Work and any Extra Work agreed upon by the parties.

11. **Applicable Law; Venue.** The law of the State of Washington shall apply in interpreting this Agreement. Venue for any lawsuit arising out of this Agreement shall be in the Superior Court of the State of Washington, in and for Pierce County.

12. **Indemnification / Hold Harmless**

Consultant shall indemnify and hold the City, its officers, officials, and employees harmless from any and all claims, injuries, damages, losses or suits including reasonable attorney fees arising out of or resulting from 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. 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, and employees, the Consultant's liability, including the duty and cost to defend, 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.

13. **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.

A. Minimum Scope of Insurance

Consultant shall obtain insurance of the types described below:

1. Automobile Liability insurance covering 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 shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors and personal injury and advertising injury. The City shall be named as an insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

4. Professional Liability insurance appropriate to the Consultant's profession.

B. Minimum Amounts of Insurance

Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

C. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Professional Liability and Commercial General Liability insurance:

1. The Consultant's insurance coverage shall be primary insurance as respect 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 contribute with it.
2. The Consultant's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

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 Consultant before commencement of the work.

14. **Subletting or Assigning.** The Consultant shall not sublet or assign any of the work covered by this Agreement without the express written consent of the City.

15. **Entire Agreement.** This Agreement represents the entire Agreement between the parties. No change, termination or attempted waiver of any of the provisions of the Agreement shall be binding on any party unless executed in writing by authorized representatives of each

party. The agreement shall not be modified, supplemented or otherwise affected by the course of dealing between the parties.

16. **Waiver.** Failure by any party to this Agreement to enforce any provision of this Agreement or to declare a breach shall not constitute a waiver thereof, nor shall it impair any party's right to demand strict performance of that or any other provision of this Agreement any time thereafter.

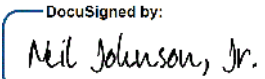
17. **Severability.** If any provision of this Agreement or its application is held invalid, the remainder of the Agreement or the application of the remainder of the Agreement shall not be affected.

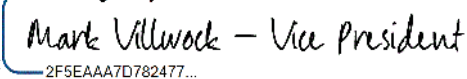
18. **Execution and Acceptance.** This Agreement may be executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The Consultant hereby ratifies and adopts all statements, representations, warranties, covenants, and agreements contained in the supporting materials submitted by the Consultant, and does hereby accept the Agreement and agrees to all of the terms and conditions thereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

CITY OF BONNEY LAKE

CONSULTANT

By:  _____
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NEIL JOHNSON JR., MAYOR

By:  _____
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Mark Villwock, Vice President

Attachments:
Exhibit A: Rates

4. PRICING - 2021 STANDARD FEE SCHEDULE

The below list contains a schedule of fees for services performed by Land Development Consultants, Inc.

STAFF TYPE	RATE
Principal/Director	\$210
Senior Project Manager/Planning Manager	\$190
Project Manager/Senior Planner	\$170
Project Engineer	\$155
Design Engineer	\$140
E.I.T.	\$120
Senior Designer	\$155
Planning Manager	\$190
Senior Planner	\$170
Planner	\$145
Associate Planner	\$125
Planning Technician	\$100
Senior Land Surveyor	\$175
Professional Land Surveyor	\$160
Project Surveyor	\$145
Senior Survey Technician	\$135
Chief of Parties	\$145
Survey Technician	\$120
Survey Crew Chief II	\$140
Survey Crew Chief I	\$120
Survey Assistant	\$80
Clerical	\$75
GIS Specialist	\$110
Senior CAD Technician	\$135
Cad Technician III	\$125
CAD Technician II	\$115
CAD Technician I	\$105
Project Coordinator	\$105
Project Administrator	\$105
REIMBURSABLE	RATE
Outside Services	Cost + 15%
Plotting Color (24" x 36")	\$15.00 each
Plotting Black and White (24" x 36")	\$2.00 each
Color (11" x 17")	\$2.00 each
PDF File Conversion	\$105.00 / hr

This standard fee schedule is subject to annual adjustment on January 1st of each year to reflect increased costs due to inflation.