

RESOLUTION NO. 3247

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, AUTHORIZING THE MAYOR TO SIGN A CONTRACT WITH OLBRECHT’S & ASSOCIATES, PLLC TO PROVIDE HEARING EXAMINER SERVICES AND REAPPOINTING THE APPELLATE HEARING EXAMINER AND HEARING EXAMINER PRO-TEM.

WHEREAS, the City created the role of Appellate Hearing Examiner with the adoption of Ordinance 1709 on June 13, 2023; and

WHEREAS, the Consultant has fulfilled the required one-year term in accordance with Section 2.18.020 of the Bonney Lake Municipal Code (“BLMC”); and

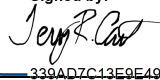
WHEREAS, the City desires to re-appoint the Consultant for the subsequent four-year term in accordance with Section 2.18.020 of the “BLMC”;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, WASHINGTON DOES HEREBY RESOLVE AS FOLLOWS:


Section 1. The Mayor is authorized to sign the attached contract with Olbrechts & Associates, PLLC to provide hearing examiner services.

Section 2. The City Council confirms the reappointment of Phil Olbrechts as the Bonney Lake Appellate Hearing Examiner and Bonney Lake Hearing Examiner Pro-Tem to a four-year term.

PASSED by the City Council this 22nd day of October 2024.

Signed by:

339AD7C13E9E492...
Terry Carter, Mayor

AUTHENTICATED:

DocuSigned by:

975A05C52B794C6...
Sadie A. Schaneman, CMC, City Clerk

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

Agenda Item Type: Resolution	Agenda Bill Number & Ordinance/Resolution/Motion Number: AB24-110 & R24-110	
Department/Division Submitting: Public Services	Presenter: Jason Sullivan	City Strategic Goal Category: DON'T FILL OUT YET

Agenda Subject: Hearing Examiner Services.

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 Olbrecht's & Associates, PLLC To Provide Hearing Examiner Services And Reappointing The Appellate Hearing Examiner And Hearing Examiner Pro-Tem.

Administrative Recommendation: Approve.

Short Background Summary: The City created the role of Appellate Hearing Examiner with the adoption of Ordinance 1709 on June 13, 2023; and on July 25th, 2023, with Resolution 3174, the City Council confirmed the appointment of Phil Olbrechts as the Bonney Lake Appellate Hearing Examiner and Bonney Lake Hearing Examiner Pro-Tem. Additionally, on November 14th, 2023, with Resolution 3184, the City Council authorized the Mayor to sign an amendment with Phil Olbrechts to also provide hearing examiner services related to code enforcement appeals. Phil Olbrechts has fulfilled the required one-year term and the City desires to re-appoint for the subsequent four-year term.

Attachments: Resolution 24-110 & Consultant Services Agreement

BUDGET INFORMATION			
Budgeted Amount	Current Balance	Expenditure Amount Needed	Budgeted Balance Difference
Budget Explanation: There are no required expenditures as the Appellate Hearing Examiner is only used on an as needed basis. As expenses arise, they will be charged to BARS # 001.000.058.588.60.41.10			

COMMITTEE, BOARD & COMMISSION REVIEW					
Public Hearing Date:	Name Of Committee/Commission Public Hearing Was Done At: CDC				
Date & Name Of Committee/ Commission Meeting	Return To Committee/ Commission/Board	Council Workshop Discussion	Consent Agenda	Council Full Issues	Chair's Signature For Approval Of Next Steps
Date: 10/15/2024 Name: CDC	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Yes	GAF
Date: Name:	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	
Date: Name:	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	
Date: Name:	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	

Hearing Examiner Review:

COUNCIL ACTION	
Workshop Date(s): Meeting Date(s):	Public Hearing Date(s): Tabled To:
10/22/2024	

APPROVALS		
Department Director: Jason Sullivan	Mayor: Terry Carter	Date Reviewed By City Attorney (if applicable):

**CONSULTANT SERVICES AGREEMENT BETWEEN THE CITY OF BONNEY LAKE
AND OLBRECHTS & ASSOCIATES, PLLC**

THIS AGREEMENT is entered into by and between the City of Bonney Lake, Washington, a municipal corporation (“**City**”) and Olbrechts & Associates, PLLC, organized under the laws of the State of Washington, located and doing business at 720 North 10th Street, A #297, Renton Washington 98057 (hereinafter the “**Consultant**”).

RECITALS:

WHEREAS, the City created the role of Appellate Hearing Examiner with the adoption of Ordinance 1709 on June 13, 2023; and

WHEREAS, the Consultant has fulfilled the required one-year term in accordance with Section 2.18.020 of the Bonney Lake Municipal Code (“**BLMC**”); and

WHEREAS, the City desires to re-appoint the Consultant for the subsequent four-year term in accordance with Section 2.18.020 of the “**BLMC**”.

NOW, THEREFORE, in consideration of the mutual benefits and conditions set forth below, the Parties agree as follows:

AGREEMENT:

1. Scope of Services to be Performed by Consultant.

The Consultant shall perform the work as assigned by the City, which may include the services described in Exhibit “A” of this Agreement which is attached hereto and incorporated herein by this reference as if set forth in full. Additional work may be assigned by the City; however, this Agreement does not obligate the City to assign any specific work or any work to the Consultant. In performing the services, the Consultant shall comply with all federal, state, and local laws and regulations applicable to the services. The Consultant shall perform the services diligently and completely and in accordance with professional standards of conduct and performance.

2. Compensation and Method of Payment.

The City shall pay the Consultant for services rendered according to the rates set forth in Exhibit “B”. The City shall pay the Consultant for services rendered within a reasonable amount of time once an invoice is received. However, if the City objects to all or any portion of an invoice, it shall notify Consultant and reserves the option to only pay that portion of the invoice not in dispute. In that event, the Parties will immediately make every effort to settle the disputed portion.

3. **Duration of Agreement.** This Agreement shall be in full force and effect for a period commencing on the date the last Party executes this Agreement and ending (4) years of the effective date of this Agreement unless sooner terminated under the provisions of this Agreement or extended by mutual agreement of the Parties. Time is of the essence of this Agreement in each and all of its provisions in which performance is required.

4. **Ownership and Use of Documents.**

A. *Ownership.* Any records, files, documents, drawings, specifications, data, or information, regardless of form or format, and all other materials produced by the Consultant in connection with the services provided to the City, shall be the property of the City whether the project for which they were created is executed or not.

B. *Records preservation.* Consultant understands that this Agreement is with a government agency and thus all records created or used in the course of Consultant's work for the City are considered "public records" and may be subject to disclosure by the City under the Public Records Act, Chapter 42.56 RCW ("the Act"). Consultant agrees to safeguard and preserve records in accordance with the Act. The City may be required, upon request, to disclose the Agreement, and the documents and records submitted to the City by Consultant, unless an exemption under the Public Records Act applies. If the City receives a public records request and asks Consultant to search its files for responsive records, Consultant agrees to make a prompt and thorough search through its files for responsive records and to promptly turn over any responsive records to the City's public records officer at no cost to the City.

5. **Independent Consultant.** 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 City shall not be responsible for withholding or otherwise deducting federal income tax or social security or contributing to the State Industrial Insurance Program, or otherwise assuming the duties of an employer with respect to the Consultant, or any employee 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.

6. **Indemnification.** 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 attorneys' fees, arising out of or resulting from the 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, 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.

7. 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:

- i. 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.
- ii. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent Consultants 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.
- iii. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
- iv. Professional Liability insurance appropriate to the Consultant's profession.

B. *Minimum Amounts of Insurance.* Consultant shall maintain the following insurance limits:

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

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.* The 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.

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.

H. *No Limitation.* 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.

8. Record Keeping and Reporting.

A. The Consultant shall maintain accounts and records, including personnel, property, financial, and programmatic records, which sufficiently and properly reflect all direct and indirect costs of any nature expended and services

performed pursuant to this Agreement. The Consultant shall also maintain such other records as may be deemed necessary by the City to ensure proper accounting of all funds contributed by the City to the performance of this Agreement.

B. The foregoing records shall be maintained for a period of seven (7) years after termination of this Agreement unless permission to destroy them is granted by the Office of the Archivist in accordance with Chapter 40.14 RCW and by the City.

9. City's Right of Inspection and Audit.

A. 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.

B. The records and documents with respect to all matters covered by this Agreement shall be subject at all times to inspection, review or audit by the City during the performance of this Agreement. All work products, data, studies, worksheets, models, reports, and other materials in support of the performance of the service, work products, or outcomes fulfilling the contractual obligations are the products of the City.

10. 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.

11. 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.

12. Termination.

A. The City reserves the right to terminate or suspend this Agreement at any time, with or without cause, upon seven (7) days' prior written notice. In the event of termination or suspension, all finished or unfinished documents, data, studies, worksheets, models, reports, or other materials prepared by the Consultant pursuant to this Agreement shall promptly be submitted to the City.

B. In the event this Agreement is terminated or suspended, the Consultant shall be entitled to payment for all services performed and reimbursable expenses incurred to the date of termination.

C. This Agreement may be canceled immediately if the Consultant's insurance coverage is canceled for any reason, or if the Consultant is unable to perform the services called for by this Agreement.

D. The Consultant reserves the right to terminate this Agreement with not less than fourteen (14) days written notice, or in the event that outstanding invoices are not paid within sixty (60) days.

E. This provision shall not prevent the City from seeking any legal remedies it may otherwise have for the violation or nonperformance of any provisions of this Agreement.

13. Force Majeure. Notwithstanding anything to the contrary in this Agreement, any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, acts of war, terrorist acts, inability to obtain services, labor, or materials or reasonable substitutes therefor, governmental actions, governmental laws, regulations or restrictions, civil commotions, Casualty, actual or threatened public health emergency (including, without limitation, epidemic, pandemic, famine, disease, plague, quarantine, and other significant public health risk), governmental edicts, actions, declarations or quarantines by a governmental entity or health organization, breaches in cybersecurity, and other causes beyond the reasonable control of the Party obligated to perform, regardless of whether such other causes are (i) foreseeable or unforeseeable or (ii) related to the specifically enumerated events in this paragraph (collectively, a "**Force Majeure**"), shall excuse the performance of such Party for a period equal to any such prevention, delay or stoppage. To the extent this Agreement specifies a time period for performance of an obligation of either Party, that time period shall be extended by the period of any delay in such Party's performance caused by a Force Majeure. Provided however, that the current COVID-19 pandemic shall not be considered a Force Majeure unless constraints on a Party's performance that result from the pandemic become substantially more onerous after the effective date of this Agreement. In order to claim Force Majeure, the Party claiming must provide notice to the other Party within fourteen (14) days of the event which constitutes Force Majeure, or such claim shall be waived.

14. Discrimination Prohibited. The Consultant shall not discriminate against any employee, applicant for employment, or any person seeking the services of the Consultant under this Agreement, on the basis of race, color, religion, creed, sex, sexual orientation, age, national origin, marital status, presence of any sensory, mental or physical disability, or other circumstance

prohibited by federal, State or local law or ordinance, except for a bona fide occupational qualification.

15. Assignment and Subcontract. The Consultant shall not assign or subcontract any portion of the services contemplated by this Agreement without the prior written consent of the City. Any assignment made without the prior approval of the City is void.

16. Conflict of Interest. The Consultant represents to the City that it has no conflict of interest in performing any of the services set forth in Exhibit "A." In the event that the Consultant is asked to perform services for a project with which it may have a conflict, Consultant will immediately disclose such conflict to the City.

17. Confidentiality. All information regarding the City obtained by the Consultant in performance of this Agreement shall be considered confidential. Breach of confidentiality by the Consultant shall be grounds for immediate termination.

18. Non-Appropriation of Funds. If sufficient funds are not appropriated or allocated for payment under this Agreement for any future fiscal period, the City will so notify the Consultant and shall not be obligated to make payments for services or amounts incurred after the end of the current fiscal period. This Agreement will terminate upon the completion of all remaining services for which funds are allocated. No penalty or expense shall accrue to the City in the event that the terms of the provision are effectuated.

19. Employment of State Retirees. The City is a "DRS-covered employer" which is an organization that employs one or more members of any retirement system administered by the Washington State Department of Retirement Systems (DRS). Pursuant to RCW 41.50.139(1) and WAC 415-02-325(1), the City is required to elicit on a written form if any of the Consultant's employees providing services to the City retired using the 2008 Early Retirement Factors (ERFs), or if the Consultant is owned by an individual who retired using the 2008 ERFs, and whether the nature of the service and compensation would result in a retirement benefit being suspended. Failure to make this determination exposes the City to significant liability for pension overpayments. As a result, before commencing work under this Agreement, Consultant shall determine whether any of its employees' providing services to the City or any of the Consultant's owners retired using the 2008 ERFs, and shall immediately notify the City and shall promptly complete the form provided by the City after this notification is made. This notification to DRS could impact the payment of retirement benefits to employees and owners of Consultant. Consultant shall indemnify, defend, and hold harmless the City from any and all claims, damages, or other liability, including attorneys' fees and costs, relating to a claim by DRS of a pension overpayment caused by or resulting from Consultant's failure to comply with the terms of this provision. This provision shall survive termination of this Agreement.

20. Entire Agreement. This Agreement contains the entire agreement between the Parties, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or bind either of the Parties. If there is a conflict between the terms and conditions of this Agreement and the attached exhibit, then the terms and conditions of this Agreement shall prevail over the exhibit. Either Party may request changes to the

Agreement. Changes which are mutually agreed upon shall be incorporated by written amendments to this Agreement.

21. Notices. All notices or other communications required or permitted under this Agreement shall be in writing and shall be (a) personally delivered, in which case the notice or communication shall be deemed given on the date of receipt at the office of the addressee; (b) sent by registered or certified mail, postage prepaid, return receipt requested, in which case the notice or communication shall be deemed given three (3) business days after the date of deposit in the United States mail; or (c) sent by overnight delivery using a nationally recognized overnight courier service, in which case the notice or communication shall be deemed given one business day after the date of deposit with such courier. In addition, all notices shall also be emailed, however, email does not substitute for an official notice. Notices shall be sent to the following addresses:

Notices to the City of Bonney Lake shall be sent to the following address:

City Clerk
City of Bonney Lake
9002 Main Street E., Ste 300
Bonney Lake WA 98391

Notices to the Consultant shall be sent to the following address:

Olbrechts and Associates, PLLC
720 N 10th St, A #297
Renton WA 98057
olbrechtslaw@gmail.com

22. Applicable Law; Venue; Attorneys' Fees. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. 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 exclusively in Pierce County, Washington. The prevailing party in any such action shall be entitled to its attorneys' fees and costs of suit, which shall be fixed by the judge hearing the case and such fee shall be included in the judgment.

23. Compliance with Laws. The Consultant agrees to comply with all federal, state, and municipal laws, rules, and regulations that are now effective or in the future become applicable to Consultant's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of those operations.

24. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute an original, and all of which will together constitute this one Agreement.

25. Severability. Any provision or part of this Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken and all remaining provisions

shall continue to be valid and binding upon the City and the Consultant, who agree that the Agreement shall be reformed to replace such stricken provision or part with a valid and enforceable provision that comes as close as reasonably possible to expressing the intent of the stricken provision.

IN WITNESS WHEREOF, the City and the Consultant have executed this Agreement as of the dates listed below.

CONSULTANT

DocuSigned by:
Phil Olbretchs
AF3FA7464D3C4D6...

Name: Phil Olbretchs

Title: Managing Attorney

Date: 10/24/2024 | 7:05 PM PDT

CITY OF BONNEY LAKE

Signed by:
Terry R. Carter
339AD7C13E9E492...

Name: Terry Carter

Title: Mayor

Date: 10/22/2024

ATTEST

DocuSigned by:
Sadie A. Schaneman
975A05C52D794C6

Sadie A. Schaneman, CMC
City Clerk

APPROVED AS TO FORM

DocuSigned by:
Jennifer S. Robertson
3CCD924BC20444F...

Jennifer S. Robertson, City Attorney

EXHIBIT A
SCOPE OF WORK

1. General

Appointed Hearing Appellate Examiner

The Consultant is the appointed Appellate Hearing Examiner for the City of Bonney Lake. As such, the Consultant's work and duties shall be guided by Chapter 2.18 of the Bonney Lake Municipal Code.

In addition, the Appellate Hearing Examiner is appointed a Hearing Examiner Pro Tem on matters other than unfit dwelling matters as set forth in BLMC 2.18.010.B.

Rules

The Consultant will utilize the adopted rules for hearing examiner hearings, which provides for the cross-examination of witnesses, and procedural matters related to the duties of the Consultant consistent with Chapter 2.18 BLMC and Chapter 14.60 BLMC. The Consultant may, but is not required to, make suggested revisions to the adopted hearing examiner rules which the City will consider with the input of the Hearing Examiner.

Hearings

Hearings may be held in-person or virtually as mutually agreed to by the City and the Consultant. The Consultant shall provide adequate technology and equipment required for successful audio and video connection capabilities. The Consultant shall set hearings promptly as required. The Consultant shall hold the afternoon (1:00 PM to 4:30 PM) of the 3rd Wednesday of each month available for hearings for the City. The City will confirm at least ten days in advance whether there will be matters to be heard during the reserved time. If there are no matters to be heard for the City, then Consultant may use that time as he deems appropriate without regard to the City.

Electronic Documents

The consultant shall have adequate technology and equipment to receive large volumes of records in digital format. No paper copies of permit files, hearing records, staff reports, or submitted exhibits will be provided to the Consultant by the City.

Annual Report

The Consultant shall prepare an Annual Report, in writing, detailing the matters heard by the Consultant and recommendations on improvements to the Appellate Hearing Examiner process and/or municipal code. Such report shall include a summary of the Examiner's decisions and costs since the last report. The report shall be provided by January 31st of each year.

2. Quasi-Judicial Land Use Action Decisions

The Consultant shall conduct closed record appellate public hearings and render a decision in writing, supported by findings of fact on appeals from the Hearing Examiner of application of the unfit dwelling code (BLMC 14.130.160). Appellate Hearing Examiner's role is set forth in BLMC 2.18.370.

3. Appellate Hearing Examiner Pro Tem

In the event of a conflict or disqualification, scheduling difficulties, or in any situation in which the use of an Appellate Hearing Examiner Pro Tem is required, the Appellate Hearing Examiner must inform the Public Services Director of such need. The Appellate Hearing Examiner shall inform the Public Services Director at least one month in advance of any hearing in which the Appellate Hearing Examiner Pro Tem is required. The Public Services Director shall have the authority not to use a particular Pro Tem suggested by the Consultant and/or may decide not to approve the use of an Appellate Hearing Examiner Pro Tem suggested in this manner. In such case, the Public Services Director may request a different Appellate Hearing Examiner Pro Tem and/or request that the hearing be rescheduled to a time that would allow the Appellate Hearing Examiner's attendance. Alternatively, the Public Services Director may decide to authorize the use of another Appellate Hearing Examiner by separate contract.

4. Code Enforcement

The Consultant shall hear and render decisions on code enforcement related items discussed further in this section:

Notice of Violation Appeals

The Consultant shall conduct open record appeal hearings of notice of violations issued by the City and issue a written decision, supported by findings of fact, as to whether the violation occurred and/or is still occurring and determination to support or modify the corrective action ordered by the City consistent with the provisions of BLMC 14.130.120.

Civil Penalty Appeals

The Consultant shall conduct open record appeal hearings related to the imposition of civil penalties issued by the City and issue a written decision, supported by findings of fact, affirming, vacating, or modifying the assessment and/or amount of the civil penalties consistent with the provisions of BLMC 14.130.120.

Stop Work Order Appeals

The Consultant shall conduct expedited open record appeal hearings of stop work orders issued by the City and issue a written decision, supported by findings of fact, as to whether the violation occurred and/or is still occurring and determination to support or modify the corrective action ordered by the City consistent with the provisions of BLMC 14.130.120.

EXHIBIT B
Rates of Service

The hourly rate for the Appellate Hearing Examiner is \$215 per hour. Travel time for in-person hearings or other trips to the City will be one hour. Professional planners used by Mr. Olbrechts shall be billed at 75% of his rate and attorneys at 90% of his rate. Alternate examiners used by Mr. Olbrechts shall only conduct hearings with the prior approval of the City. The City will reimburse for hearing transcription costs and City adopted business license and fee requirements. The Appellate Examiner currently uses [Rev.com](#), which charges \$0.25/minute of hearing.