

Resolution No. 22-41

RESOLUTION OF SOUTH OGDEN CITY APPROVING AN AGREEMENT WITH BEACON CODE CONSULTANTS FOR PLAN REVIEW, INSPECTION, AND BUILDING OFFICIAL SERVICES, AND PROVIDING THAT THIS RESOLUTION SHALL BECOME EFFECTIVE IMMEDIATELY UPON POSTING AND FINAL PASSAGE.

WHEREAS, the City Council finds that the City of South Ogden ("City") is a municipal corporation duly organized and existing under the laws of Utah; and,

WHEREAS, the City Council finds that in conformance with Utah Code ("UC")§ 10-3-717 the governing body of the city may exercise all administrative powers by resolution including, but not limited to regulating the use and operation of municipal property and programs; and,

WHEREAS, the City Council finds it necessary to address certain plan review, inspection, and building official services needs within the city; and,

WHEREAS, the City Council finds that the city staff recommends that the city adopt an Agreement with Beacon Code Consultants for plan review, inspection, and building official services; and,

WHEREAS, the City Council finds that Beacon Code Consultants has the professional ability to provide for these services to meet the city's needs; and,

WHEREAS, the City Council now desires to further those ends by contracting with, Beacon Code Consultants to provide such services; and,

WHEREAS, the City Council finds that the public convenience and necessity requires the actions contemplated,

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF SOUTH OGDEN AS FOLLOWS:

SECTION 2 - CONTRACT AUTHORIZED

That The "Agreement for Professional Plan Review, Inspection, And Building Official Services", Attached Hereto As **Attachment "A"** And By This Reference Fully Incorporated Herein, Is Hereby Approved And Adopted; And That The City Manager Is Authorized To More Fully Negotiate Any Remaining Details Under The Agreement On Behalf Of The City And Then To Sign, And The City Record

er Authorized To Attest, Any And All Documents, Reasonably Necessary To Effect This Authorization And Approval.

The foregoing Recitals are incorporated herein.

SECTION 3 - PRIOR ORDINANCES AND RESOLUTIONS

The body and substance of all prior Resolutions, with their provisions, where not otherwise in conflict with this Resolution, are reaffirmed and readopted.

SECTION 4 - REPEALER OF CONFLICTING ENACTMENTS

All orders, and Resolutions regarding the changes enacted and adopted which have been adopted by the City, or parts, which conflict with this Resolution, are, for such conflict, repealed, except this repeal shall not be construed to revive any act, order or resolution, or part repealed.

SECTION 5 - SAVINGS CLAUSE

If any provision of this Resolution shall be held or deemed or shall be invalid, inoperative or unenforceable such shall not render any other provision or provisions invalid, inoperative or unenforceable to any extent whatever, this Resolution being deemed the separate independent and severable act of the City Council of South Ogden City.

SECTION 6 - DATE OF EFFECT

This Resolution shall be effective on the 1st day of November, 2022, and after publication or posting as required by law.

PASSED AND ADOPTED BY THE CITY COUNCIL OF SOUTH OGDEN CITY, STATE OF UTAH, on this 1st day of November, 2022.

SOUTH OGDEN CITY

Russell Porter
Mayor

ATTEST:

Leesa Kapetanov, CMC
City Recorder

ATTACHMENT "A"

Resolution No. 22-41

Resolution Of South Ogden City Approving An Agreement With Beacon Code Consultants For Plan Review, Inspection, And Building Official Services, And Providing That This Resolution Shall Become Effective Immediately Upon Posting And Final Passage.

01 Nov 22



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Layton, Utah 84041
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AGREEMENT FOR PROFESSIONAL PLAN REVIEW, INSPECTION AND BUILDING OFFICIAL SERVICES

This Agreement is made and entered into as of the day of , 2022 by and between
South Ogden City, Utah (“Jurisdiction”) and Beacon Code Consultants, LLC. (“Consultant”).

WHEREAS, Consultant is specially trained, experienced and competent to perform the special services which will be required by this Agreement; and

WHEREAS, Consultant is willing to render the professional services described herein on the following terms and conditions.

NOW, THEREFORE, the parties agree as follows:

1. **SCOPE OF SERVICES:** Consultant shall perform the services described in Exhibit “A” which is attached hereto and incorporated herein by reference. Consultant shall provide said services at the time, place, and in the manner specified in Exhibit “A”, Scope of Services, attached hereto and incorporated by this reference, subject to the direction of the Jurisdiction.
2. **TIME OF PERFORMANCE:** The services of Consultant are to commence upon execution of this Agreement and shall continue until all authorized work is approved by the Jurisdiction. Consultant shall not be responsible for delays caused by circumstances beyond its reasonable control.
3. **COMPENSATION:** Compensation to be paid to Consultant shall be in accordance with the Schedule of Fees set forth in Exhibit “B”, Schedule of Fees, which is attached hereto and incorporated by this reference.
4. **METHOD OF PAYMENT:** Consultant shall submit monthly billings to Jurisdiction describing the work performed during the preceding month. Consultant’s bills shall include a brief description of the services performed, the date the services were performed, the number of hours spent. Jurisdiction shall pay Consultant no later than 30 days after approval of the monthly invoice by Jurisdiction staff. When



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payments made by Jurisdiction equal 90% of the maximum fee provided for in this Agreement, no further payments shall be made until the final work under this Agreement has been accepted by Jurisdiction.

5. OWNERSHIP OF DOCUMENTS: All plans, studies, documents and other writings prepared by and for Consultant, its officers, employees, agents and subcontractors in the course of implementing this Agreement, except working notes and internal documents, shall become the property of the Jurisdiction upon payment to Consultant for such work.

6. INDEPENDENT CONTRACTOR: It is understood that Consultant, in the performance of the work and services agreed to be performed, shall act as and be an independent contractor and shall not act as an agent or employee of the Jurisdiction. Consultant shall obtain no rights to retirement benefits or other benefits which accrue to Jurisdiction's employees, and Consultant hereby expressly waives any claim it may have to any such rights.

7. INTEREST OF CONSULTANT: Consultant (including principals, associates and professional employees) covenants and represents that it does not now have any investment or interest in real property and shall not acquire any interest, direct or indirect, in the area covered by this Agreement or any other source of income, interest in real property or investment which would be affected in any manner or degree by the performance of Consultant's services hereunder. Consultant further covenants and represents that in the performance of its duties hereunder no person having any such interest shall perform any services under this Agreement.

8. PROFESSIONAL ABILITY OF CONSULTANT: Jurisdiction has relied upon the professional training and ability of Consultant to perform the services hereunder as a material inducement to enter into this Agreement. Consultant shall, therefore, provide properly skilled professional and technical personnel to perform all services under this Agreement. All work performed by Consultant under this Agreement shall be in accordance with applicable legal requirements and shall meet the standard of quality ordinarily to be expected of competent professionals in Consultant's field of expertise.

9. INDEMNITY: Consultant agrees to defend, indemnify and hold harmless the Jurisdiction, its officers, agents, employees and volunteers from and against any and all claims, demands, actions, losses, damages, injuries, and liability, including attorney's fees, direct or indirect (including any and all costs and expenses in connection therein), arising out of the performance of this Agreement to the extent caused by the negligent acts, errors, or omissions of Consultant. Jurisdiction also agrees to defend, indemnify and hold harmless the Consultant, its officers, agents, employees and volunteers from and against any and all claims, demands, actions, losses, damages, injuries, and liability, including attorney's



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fees, direct or indirect (including any and all costs and expenses in connection therein), arising out of the performance of this Agreement to the extent caused by the negligent acts, errors, or omissions of the Jurisdiction.

10. **INSURANCE:** Consultant, at Consultant's own cost and expense, shall procure and maintain, for the duration of the contract, the following insurance policies: a. General Liability Coverage: Consultant shall maintain commercial general liability insurance in an amount not less than two million dollars (\$2,000,000) per occurrence and a four million (\$4,000,000) annual aggregate limit. The policy shall protect Jurisdiction, Consultant and any subcontractor from claims for damages for personal injury and from claims for property damage that may arise from Consultant's operations under this agreement.

B. Automobile Liability Coverage: Consultant shall maintain automobile liability insurance covering bodily injury and property damage for all activities of the consultant arising out of or in connection with the work to be performed under this Agreement, including coverage for owned, hired and non-owned vehicles, in an amount of not less than one million dollars (\$1,000,000) combined single limit for each occurrence.

c. Professional Liability Coverage: Consultant shall maintain professional errors and omissions liability for protection against claims alleging negligent acts, errors or omissions which may arise from Consultant's operations under this Agreement, whether such operations are by the Consultant or by its employees, subcontractors, or sub-consultants. The amount of this insurance shall not be less than one million dollars (\$1,000,000) per occurrence or two million dollars (\$2,000,000) on a claims-made annual aggregate basis.

11. **COMPLIANCE WITH LAWS:** Consultant shall use the standard of care in its profession to comply with all applicable federal, state and local laws, codes, ordinances and regulations.

12. **LICENSES:** Consultant represents and warrants to Jurisdiction that it has all licenses, permits, qualifications, insurance and approvals of whatsoever nature which are legally required of Consultant to practice its profession. Consultant represents and warrants to Jurisdiction that consultant shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement, any licenses, permits, insurance and approvals which are legally required of Consultant to practice its profession. Consultant shall maintain a Jurisdiction business license if required.

13. **CONTROLLING LAW VENUE:** This Agreement and all matters relating to it shall be governed by the laws of the State of Utah and any action brought relating to this Agreement shall be held exclusively in a state court in the appropriate Jurisdiction.



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14. CONSULTANT'S BOOKS AND RECORDS:

a. Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services charged to Jurisdiction for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to consultant to this Agreement.

b. Consultant shall maintain all documents and records which demonstrate performance under this Agreement for a minimum period of three (3) years, or for any longer period required by law, from the date of termination or completion of this Agreement.

c. Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit, at any time during regular business hours, upon written request by the Jurisdiction Manager, Jurisdiction Attorney, Jurisdiction Auditor or a designated representative of these officers. Copies of such documents shall be provided to the Jurisdiction for inspection at Jurisdiction's City Hall when it is practical to do so. Otherwise unless an alternative is mutually agreed upon, the records shall be available at Consultant's address indicated for receipt of notices in this Agreement.

15. ENTIRE AGREEMENT: This Agreement constitutes the complete and exclusive statement of Agreement between the Jurisdiction and Consultant. All prior written and oral communications, including correspondence, drafts, memoranda, and representations, are superseded in total by this Agreement.

16. AMENDMENTS: This Agreement may be modified or amended only by a written document executed by both Consultant and Jurisdiction and approved as to form by the Jurisdiction Attorney.

17. WAIVER: No failure on the part of either party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder.

18. LITIGATION EXPENSES AND ATTORNEY'S FEES: If either party to this Agreement commences any legal action against the other party arising out of this Agreement, the prevailing party shall be entitled to recover its reasonable litigation expenses, including court costs, expert witness fees, discovery expenses, and attorney's fees.

19. EXECUTION: This Agreement may be executed in several counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one copy hereof



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shall have been signed by both parties hereto. In approving this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

20. **ASSIGNMENT and SUBCONTRACTING:** The parties recognize that a substantial inducement to Jurisdiction for entering into this Agreement is the professional reputation, experience and competence of Consultant. Assignments of any or all rights, duties or obligations of the Consultant under this Agreement will be permitted only with the express consent of the Jurisdiction. Consultant shall not subcontract any portion of the work to be performed under this Agreement without the written authorization of the Jurisdiction. If Jurisdiction consents to such subcontract, Consultant shall be fully responsible to Jurisdiction for all acts or omissions of the subcontractor. Nothing in this Agreement shall create any contractual relationship between Jurisdiction and subcontractor nor shall it create any obligation on the part of the Jurisdiction to pay or to see to the payment of any monies due to any such subcontractor other than as otherwise is required by law.

21. **TERMINATION:** This Agreement may be terminated immediately for cause or by either party without cause upon thirty days' written notice of termination. Upon termination, Consultant shall be entitled to compensation for services performed up to the effective date of termination.



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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first written above.

JURISDICTION: _____

CONSULTANT: _____

Date: _____

Date: _____

Matt Dixon

Tyler D. Seaman

City Manager, South Ogden

Owner, Beacon Code Consultants, LLC

ATTEST: _____

Leesa Kapetanov

City Recorder, South Ogden

Attachments:

Exhibit A - Scope of Services

Exhibit B - Schedule of Fees



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EXHIBIT "A"

SCOPE OF SERVICES

PLAN REVIEW SERVICES:

1. Plan Review: Consultant shall provide complete plan review services to ensure that construction documents are in general compliance with the prescriptions of the adopted building code(s), including any applicable state and local amendments.
2. Comment Lists and Plans Delivery: When plan reviews result in items that need to be addressed, a written comment letter will be provided which refers to specific building code sections or specific details and drawings. Comment lists are sent out to recipients designated by the Jurisdiction via email using Iworq software, Consultant will transmit plan review comments and coordinate re-checks directly with the permit applicant, design team, or through the Jurisdiction. Once all comments have been addressed the completed construction documents will be returned to the Jurisdiction for final approval.
3. Turn-Around Schedules: For most project types initial plan reviews are completed within seven (7) working days from the date the plans are received by Consultant. Large, or unusually complex plan reviews may take up to fourteen (14) working days to complete. When not otherwise specified, Consultant may contact the Jurisdiction to determine if there are particular scheduling needs on specific projects to eliminate possible misunderstandings regarding turn-around expectations.
4. Special Projects: Consultant may accommodate special project plan review needs, such as fast-track, multi-phased or expedited plan reviews. Specific turn-around goals and procedures will be coordinated between the Consultant and Jurisdiction staff for these types of projects.
5. Technical Support: When mutually agreed between the Jurisdiction and Consultant as vital to project success, Consultant will attend pre-construction or pre-design meetings, field visits or other such meetings upon request, and provide support for field inspection personnel as-needed.



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INSPECTION SERVICES:

1. Qualifications: Consultant will provide fully licensed and certified building inspector(s) in residential and/or commercial as requested by the Jurisdiction. All inspectors shall be certified for residential and/or commercial construction.

2. Scope: In general, the inspection services provided may include, but are not limited to, field observation of all construction activity, preparation of daily reports, review of submittals, and other duties as assigned. The intent of the inspections is to ensure compliance with the approved construction documents and conformance to the state-adopted building codes.

3. Availability: Inspector availability is not guaranteed but shall be determined on a first-come, first-served basis. Regularly scheduled inspections will always take priority. As such, we recommend that the Jurisdiction schedule specific times when they desire the Consultant to provide an inspector (i.e. Monday, Wednesday, and Friday all day).

BUILDING OFFICIAL SERVICES:

1. The building official is hereby authorized and directed to enforce the provisions of this code. The building official shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in conformance with the intent and purpose of this code

2. The building official shall examine or cause to be examined construction documents for code compliance.

3. Where the building official issues a permit, the construction documents shall be approved in writing or by a stamp that states "REVIEWED FOR CODE COMPLIANCE." One set of construction documents so reviewed shall be retained by the building official. The other set shall be returned to the applicant, shall be kept at the site of work and shall be open to inspection by the building official or a duly authorized representative.



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EXHIBIT "B"

SCHEDULE OF FEES

GENERAL:

1. Contract Duration: The fees noted in this Agreement are valid for the first two years of the Agreement. Should changes to the fees be required after that date the Consultant must provide the revised rates to the Jurisdiction for approval prior to conducting any services at the revised rates.

2. Payment: Invoices for work performed during the previous month will be sent out at the beginning of each month, unless requested otherwise by the Jurisdiction. Payment shall be received within thirty (30) days of receipt of the invoice.

3. Method of Payment: A check can be mailed to the Consultant's address or direct deposit is accepted.

Beacon Code Consultants, LLC

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PLAN REVIEW SERVICES:

1. Basic Fees:

a. Plan Review Services will be billed hourly with rate listed in the "Table of Hourly Billing Rates".

INSPECTION SERVICES:

1. Building Inspection Services: Inspection services will be billed at the per inspection rate listed in the "Table of Hourly Billing Rates".

TABLE OF HOURLY BILLING RATES

CLASSIFICATION HOURLY BILLING RATE

Plan Review	\$40.00/Hour
Residential Inspection	\$30.00 per inspection
Commercial Inspection	\$30.00 per inspection
Virtual Inspection	\$30.00 per inspection
Trip fee	No trip fee
Building Official (code and zoning questions for permitting)	N/A