

SULTAN CITY COUNCIL

AGENDA ITEM COVER SHEET

ITEM NO: Consent C-8

DATE: September 13, 2007

SUBJECT: Contract with Bureau Veritas for
Building Plan Review and Inspection Services

CONTACT PERSON: Rick Cisar, Director of Community Development

SUMMARY:

The Building Department has received 20 building permit applications for the Timber Ridge Subdivision. The contractor would like to complete the foundations for the 20 units so they can continue with construction through out the winter. The Developer is anxious to get started before the winter season begins. With the resignation of the Building Official, effective September 7, 2007, the City has no certified plans examiner or certified building inspector to review and approve the applications and inspect the construction of the units.

The City has contacted several individuals and agencies regarding partime employment for a building inspector, but has yet to find a qualified (certified) applicant. City Staff has contacted Snohomish County and they are working on an Interlocal Agency Agreement for inspection services.

City Staff contacted Bureau Veritas, a professional construction code compliance company to assist in the short term with the plan reviews and building inspection services for the current permit applications on file with the City.

The City Attorney has prepared, at the request of City Staff, the proposed agreement with Bureau Veritas for plan review and building inspection services (Attachment 1).

FISCAL IMPACT:

\$30,000 to cover the plan review and inspections services for 20 single family building permit applications. The City Staff estimates the permit revenues (building permit/plan review) for the 20 units at \$64,802. The review cost will be ½ of the building permit revenue only or approximately \$15,000. The City will collect. \$64,802 and spend \$15,000 on plan review.

ANALYSIS:

The contract is necessary to have Staff in place in order to review the building permit applications currently on file.

ALTERNATIVES:

1. Authorize the Mayor to sign the contract with Bureau Veritas for building plan review and building inspections services for the 20 building permits currently on file with the City; or
2. Do not authorize the Mayor to sign the contract with Bureau Veritas for building plan review and building inspections services for the 20 building permits currently on file with the City and defer review of the applications; or
3. Do not authorize the Mayor to sign the contract with Bureau Veritas and direct City Staff to areas of concern.

RECOMMENDED ACTION:

Motion authorizing Mayor to sign a contract in the amount of \$60,000 with Bureau Veritas for building plan review and building inspections services.

ATTACHMENTS:

1. Contract with Bureau Veritas for Building Plan Review and Inspection Services
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COUNCIL ACTION:

DATE:

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**PROFESSIONAL SERVICES AGREEMENT BETWEEN
CITY OF SULTAN
AND BUREAU VERITAS NORTH AMERICA (BVNA),
FOR PLAN AND PERMIT REVIEW AND INSPECTION SERVICES OF
RESIDENTIAL AND COMMERCIAL PROJECTS**

THIS AGREEMENT, made and entered into in Snohomish County, Washington, by and between CITY OF SULTAN, hereinafter called the "City," and BUREAU VERITAS NORTH AMERICA (BVNA OR BV), a Washington corporation, hereinafter called the "Consultant."

WHEREAS, the Consultant has represented, and by entering into this Agreement now represents, that the firm and all employees assigned to work on any City project are in full compliance with the statutes of the State of Washington governing activities to be performed and that all personnel to be assigned to the work required under this agreement are fully qualified and properly licensed and certified to perform the work to which they will be assigned.

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performances contained herein below, the parties hereto agree as follows:

ARTICLE I. PURPOSE

The purpose of this agreement is to provide the City with technical and planning review services related plan and permit review and inspection services of residential and commercial projects. The general terms and conditions of relationships between the City and the Consultant are specified in this agreement.

ARTICLE II. SCOPE OF WORK

The scope of work is set out in the attached Proposal for Services, hereinafter referred to as the "scope of services," **Exhibit A**. All services and materials necessary to accomplish the tasks outlined in **Exhibit A** shall be provided by the Consultant unless noted otherwise in the scope of services or this agreement.

ARTICLE III. OBLIGATIONS OF THE CONSULTANT

III.1 MINOR CHANGES IN SCOPE. The Consultant shall accept minor changes, amendments, or revision in the detail of the work as may be required by the City when such

changes will not have any impact on the service costs or proposed delivery schedule. Extra work, if any, involving substantial changes and/or changes in cost or schedules will be addressed as follows:

Extra Work. The City may desire to have the Consultant perform work or render services in connection with each project in addition to or other than work provided for by the expressed intent of the scope of work in the scope of services. Such work will be considered as extra work and will be specified in a written supplement to the scope of services, to be signed by both parties, which will set forth the nature and the scope thereof. All proposals for extra work or services shall be prepared by the Consultant at no cost to the City. Work under a supplemental agreement shall not proceed until executed in writing by the parties.

III.2 WORK PRODUCT AND DOCUMENTS. The work product and all documents listed in the scope of services shall be furnished by the Consultant to the City, and upon completion of the work shall become the property of the City, except that the Consultant may retain one copy of the work product and documents for its records. The Consultant will be responsible for the accuracy of the work, even though the work has been accepted by the City.

In the event that the Consultant shall default on this agreement or in the event that this contract shall be terminated prior to its completion as herein provided, all work product of the Consultant, along with a summary of work done to date of default or termination, shall become the property of the City. Upon request, the Consultant shall tender the work product and summary to the City. Tender of said work product shall be a prerequisite to final payment under this contract. The summary of work done shall be prepared at no additional cost to the City.

Consultant will not be held liable for reuse of these documents or modifications thereof for any purpose other than those authorized under this Agreement without the written authorization of Consultant.

III.3 TIME OF PERFORMANCE. The Consultant shall be authorized to begin work under the terms of this agreement upon signing this agreement and shall complete the work within the time period established by the City Codes were applicable. The final completion date shall be January 31, 2008.

III.4 NONASSIGNABLE. The services to be provided by the Consultant shall not be assigned or subcontracted without the express written consent of the City.

III.5 EMPLOYMENT. Any and all employees of the 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 any said employees while so engaged, and any and all claims made by any third party as a consequence of any negligent act or omission on the part of the Consultant or its employees while so engaged in any of the work or services provided herein shall be the sole obligation of the Consultant.

III.6 INDEMNITY.

a. The Consultant will at all times indemnify and hold harmless and defend the City, its elected officials, officers, employees, agents and representatives, from and against any and all lawsuits, damages, costs, charges, expenses, judgments and liabilities, including attorney's fees (including attorney's fees in establishing indemnification), collectively referred to herein as "losses" resulting from, arising out of, or related to one or more claims arising out of negligent acts, errors, or omissions of the Engineer in performance of Engineer's professional services under this agreement. The term "claims" as used herein shall mean all claims, lawsuits, causes of action, and other legal actions and proceedings of whatsoever nature, involving bodily or personal injury or death of any person or damage to any property including, but not limited to, persons employed by the City, the Engineer or other person and all property owned or claimed by the City, the Engineer, or affiliate of the Engineer, or any other person.

b. Should a court of competent jurisdiction determine that this agreement is subject to RCW 4.24.115, then, in the event of liability for damaging arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Engineer and the City, its members, officers, employees and agents, the Engineer's liability to the City, by way of indemnification, shall be only to the extent of the Engineer's negligence.

c. The provisions of this section shall survive the expiration or termination of this agreement.

III.7 INSURANCE.

a. **Minimum Limits of Insurance.** The Consultant shall, before commencing work under this agreement, file with the City certificates of insurance coverage to be kept in force continuously during this agreement, and during all work performed pursuant to all short form agreements, in a form acceptable to the City. Said certificates shall name the City as an additional named insured with respect to all coverages except professional liability insurance. The minimum insurance requirements shall be as follows:

(1) Comprehensive General Liability. \$1,000,000 combined single limit per occurrence for bodily injury personal injury and property damage; \$2,000,000 general aggregate;

(2) Automobile Liability. \$300,000 combined single limit per accident for bodily injury and property damage;

(3) Workers' Compensation. Workers' compensation limits as required

by the Workers' Compensation Act of Washington;

(4) Consultant's Errors and Omissions Liability. \$1,000,000 per occurrence and as an annual aggregate.

b. **Endorsement.** Each insurance policy shall be endorsed to state that coverage shall not be suspended, voiced, canceled, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

c. **Acceptability of Insurers.** Insurance to be provided by Consultant shall be with a Bests rating of no less than A:VII, or if not rated by Bests, with minimum surpluses the equivalent of Bests' VII rating.

d. **Verification of Coverage.** In signing this agreement, the Consultant is acknowledging and representing that required insurance is active and current.

III.8 DISCRIMINATION PROHIBITED AND COMPLIANCE WITH EQUAL OPPORTUNITY LEGISLATION. The Consultant agrees to comply with equal opportunity employment and not to discriminate against client, employee, or applicant for employment or for services because of race, creed, color, religion, national origin, marital status, sex, age or handicap except for a bona fide occupational qualification with regard, but not limited to, the following: employment upgrading; demotion or transfer; recruitment or any recruitment advertising; layoff or terminations; rates of pay or other forms of compensation; selection for training, rendition of services. The Consultant further agrees to maintain (as appropriate) notices, posted in conspicuous places, setting forth the provisions of this nondiscrimination clause. The Consultant understands and agrees that if it violates this nondiscrimination provision, this agreement may be terminated by the City, and further that the Consultant will be barred from performing any services for the City now or in the future, unless a showing is made satisfactory to the City that discriminatory practices have been terminated and that recurrence of such action is unlikely.

III.9 UNFAIR EMPLOYMENT PRACTICES. During the performance of this agreement, the Consultant agrees to comply with RCW 49.60.180, prohibiting unfair employment practices.

III.10 AFFIRMATIVE ACTION. Affirmative action shall be implemented by the Consultant to ensure that applicants for employment and all employees are treated without regard to race, creed, color, sex, age, marital status, national origin or the presence of any sensory, mental or physical handicap, unless based on a bona fide occupational qualification. The Consultant agrees to take affirmative action to ensure that all of its employees and agent adhere to this provision.

III.11 LEGAL RELATIONS. The Consultant shall comply with all federal, state and local laws and ordinances applicable to work to be done under this agreement. This contract

shall be interpreted and construed in accordance with the laws of Washington. Venue for any action commenced relating to the interpretation, breach or enforcement of this agreement shall be in Snohomish County Superior Court.

III.12 INDEPENDENT CONTRACTOR. The Consultant's relation to the City shall at all times be as an independent contractor.

III.13 CONFLICTS OF INTEREST. While this is a non-exclusive agreement the Consultant agrees to and will notify the City of any potential conflicts of interest in Consultant's client base and will seek and obtain written permission from the City prior to providing services to third parties where a conflict of interest is apparent. If a conflict is irreconcilable, the City reserves the right to terminate this agreement.

III.14 CITY CONFIDENCES. The Consultant agrees to and will keep in strict confidence, and will not disclose, communicate or advertise to third parties without specific prior written consent from the City in each instance, the confidences of the City or any information regarding the City or services provided to the City.

ARTICLE IV. OBLIGATIONS OF THE CITY

IV.1 PAYMENTS. The Consultant shall be paid by the City for completed work for services rendered under this agreement and as detailed in the scope of services as provided hereinafter. 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. Payment shall be on a time and expense basis; provided, however, in no event shall total payment under this agreement exceed THIRTY THOUSAND DOLLARS (\$30,000.00). As each Task is complete the Consultant will review with the City the percentage of budget spent and remaining to ensure communication between the two parties. In the event the City elects to expand the scope of services from that set forth in **Exhibit A**, the City shall pay Consultant an additional amount based on a time and expense basis, based upon Consultant's current schedule of hourly rates as set forth in **Exhibit B**.

a. Invoices shall be submitted by the Consultant to the City for payment pursuant to the terms of the scope of services. The invoice will state the time expended, the hourly rate, a detailed description of the work performed, and the expenses incurred during the preceding month. Invoices must be submitted by the 10th day of the month to be paid by the 1st day of the next calendar month.

b. The City will pay timely submitted and approved invoices received before the 10th of each month within thirty (30) days of receipt.

IV.2 CITY APPROVAL. Notwithstanding the Consultant's status as an independent contractor, results of the work performed pursuant to this contract must meet the approval of the City, which shall not be unreasonably withheld if work has been completed in compliance with the scope of work and City requirements.

ARTICLE V. GENERAL

V.1 **NOTICES.** Notices to the City shall be sent to the following address:

CITY OF SULTAN
Deborah Knight City Administrator
319 Main Street
PO Box 1199
SULTAN, WA 98258

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

BUREAU VERTIAS NORTH AMERICA (BVNA),

Receipt of any notice shall be deemed effective three (3) days after deposit of written notice in the U.S. mail with proper postage and address.

V.2 **TERMINATION.** The right is reserved by the City to terminate this agreement in whole or in part at any time upon ten (10) days' written notice to the Consultant.

If this agreement is terminated in its entirety by the City for its convenience, a final payment shall be made to the Consultant which, when added to any payments previously made, shall total the actual costs plus the same percentage of the fixed fee as the work completed at the time of termination applied to the total work required for the project.

V.3 **DISPUTES.** The parties agree that, following reasonable attempts at negotiation and compromise, any unresolved dispute arising under this contract may be resolved by a mutually agreed-upon alternative dispute resolution of arbitration or mediation.

V.4 **NONWAIVER.** 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.

DATED this _____ day of _____, 2007.

CITY OF SULTAN

By _____
Ben Tolson, MAYOR

EXHIBIT "A"
Scope of Work

GENERAL

The Services to be performed by BV are to be specified in a work order from the CITY to BV.

BVNA and the representatives of BVNA are charged with administering the provisions of the Jurisdiction's Adopted 2006 International Building Codes (building, mechanical ,and plumbing).

BVNA and the representatives of BVNA are charged with the enforcement of the provisions of the Jurisdiction's Building Code, Mechanical Code, Plumbing Code, and Energy Code.

Plan Review

Plan Review services shall be conducted as required by the Jurisdiction's Building Code, Mechanical Code, Plumbing Code , and other provided documents as approved by the Jurisdiction. Applicants will be notified of Plan Review Comments and are responsible for addressing comments to the satisfaction of the Jurisdiction. The Jurisdiction has final interpretive authority over all plans and specifications. Permits are issued by the Jurisdiction.

Inspections

Inspection services shall be conducted as required by the Jurisdiction's Building Code, Mechanical Code, Plumbing Code, and Energy Code.

BUILDING PLAN REVIEW SERVICES

Without limiting the generality of the following, the Building Plan Review Services may include any or all of the following specific tasks;

1. Upon initiation of the project, BV will receive a work order request to perform work that identifies the project and the scope of plan review.
2. Plan reviews will be performed at Bureau Veritas' Seattle office. As requested by the CITY, BV shall be asked to perform one or more of the following tasks performing plan review of building plans and supporting documents:
 - a. non-structural fire and life safety plans examination
 - b. structural plans examination
 - c. energy code plans examination
 - d. barrier free plans examination

- e. mechanical & plumbing code plans examination
3. BV will review plans submitted with building permit applications in accordance with the currently adopted International Building Codes, Washington State Building Code (WAC 51-40), and energy code (WAC 51-11), and the City of Sultan Municipal Code, except that BV 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.
 4. If corrections are required, BV will write and send a review letter to the applicant and will send a copy to the CITY's Building Official or his/her agent. The correction letter will describe each required correction or addition, and reference the applicable code section. It will also direct the applicant to submit the revised or added information to the City of Sultan Permit Counter per the submittal requirements for the permit type under review.
 5. BV will complete the initial review and will either approve the application and notify the CITY of approval via return of all materials, or will send the applicant and the CITY a review letter within the timelines listed below. Each timeline will begin from the day BV receives a complete project submittal. Unless otherwise agreed to by the CITY in advance, the following timelines apply.
 - a. Single Family Projects - Initial review of projects sent to BV at a rate of three (3) or fewer projects per week will be completed within ten (10) working days. Additional projects beyond three per week will be reviewed within a mutually acceptable schedule to be determined. Resubmittals will be reviewed within five (5) working days.
 - b. All Other Projects (including typical new commercial and multifamily buildings) - Initial review will be completed within fifteen (15) working days for typical projects. Resubmittals will be reviewed within ten (10) working days.
 - c. Larger projects will be reviewed in a negotiated timeframe that is mutually acceptable for the project.

BV shall notify the CITY within two (2) days of receipt of plans if proposed schedule can not be met and a mutually acceptable schedule will be determined. The review time may be negotiated when the quantity and/or the complexity of projects to be reviewed constrains BV's ability to meet timelines. BV will not be held responsible for delays beyond BV's control.

6. Comments or clarifications for the permit applicant shall be prepared in a professional manner and with the level of care, skill and competence ordinarily exercised.

7. BV shall respond to telephone inquiries from CITY staff, developer's engineer or architect or others.
8. At the completion of the plan review BV shall return plans "stamped as approved for permit issuance" to indicate that the plans have been reviewed and found to be in substantial compliance with applicable codes and ordinances along with associated documents and a transmittal to the CITY. The transmittal shall indicate any deferred submittals to be included as part of the information to be submitted to CITY during construction.
9. There shall be no required minimum usage of any "on-call, as-needed" building plan review services described in this agreement.

Plan Review

DUTIES OF THE CITY

1. CITY shall deliver to BV, (2) sets of plans, structural calculations, energy calculations, geotechnical reports, specifications and related documents for the completion of the plans examination.
2. CITY shall determine which plans are to be reviewed by BV.
3. CITY shall intake, track, and process the permit applications and all plan revisions per current CITY permit procedures.

ADDITIONAL BUILDING SAFETY SERVICES AVAILABLE

(Charged on an hourly basis)

1. Preliminary review meetings with CITY staff and/or development proponents to review projects. (48 hour advance notice required)
2. Fire Code plan reviews on buildings.
3. Fire sprinkler and fire alarm system plan reviews.
4. Meetings with CITY staff and/or development proponents to review plan review comments. (48 hour advance notice required)
5. Provide code interpretations.
6. Building Official services including:
 - Providing Code Interpretations
 - Attendance at development meetings at CITY offices
 - Administrative assistance as requested

EXHIBIT "B"
Building Safety Fees

Berryman & Henigar (BVNA) Building Plan Review Fees

These fees include the initial plan review plus one (1) recheck. When substantial revisions occur, additional fees shall be charged at the hourly rates shown in Labor Rate Schedule.

Residential:

- 1. Single Family Dwellings will be charged at 50% of building permit fee.**

Non-Residential:

- 1. Complete Plan Review**

IBC Non-structural Fire & Life Safety + Structural, disabled accessibility and/or State Energy Code, IMC and/or UPC
50% of the building permit fee.
(\$250 minimum)

- 2. Partial Review**

IBC Non-structural Fire & Life Safety + Structural, disabled accessibility and/or State Energy Code
40% of the building permit fee.

- 3. Partial Review**

IBC Non-structural Fire & Life Safety + Structural
35% of the building permit fee.

- 4. Partial Review**

IBC Non-structural Fire & Life Safety ONLY - OR -
IBC Structural ONLY
30% of the building permit fee calculated. (\$250 minimum)

- 5. Mechanical / Plumbing**

Reviews not included as part of a full building plan review (as defined above in item #1) will be charged at the hourly rates shown in the Labor Rate Schedule.

Additional Services

1. Civil/Site plan reviews will be charged at the hourly rates shown in Labor Rate Schedule.
2. Preliminary plan review meetings to review code requirements will be charged at the hourly rates shown in Labor Rate Schedule.

3. Additional plan reviews beyond the initial and one (1) recheck will be charged at the hourly rates shown in Labor Rate Schedule.
5. Review of deferred submittals will be charged at the hourly rates shown in Labor Rate Schedule.
6. Attendance at meetings when requested by the CITY will be charged at the hourly rates shown in Labor Rate Schedule.
7. Fire Code, Fire Sprinkler, Fire Alarm plan reviews when requested by the CITY will be charged at the hourly rates shown in Labor Rate Schedule.
8. Mechanical and Plumbing plan reviews will be charged at the hourly rates shown in Labor Rate Schedule.

Reimbursable Expenses

The CITY will be billed for costs incurred by Bureau Veritas associated with shipping building plans and documents to the CITY at actual cost plus 12%.

Mileage will be reimbursed at \$0.405/mile per current IRS rate.

**Hourly Labor Rates Schedule
Building Safety Services**

Classification	Rate
Building Inspector (combination)	\$ 80
Electrical Inspector	\$ 85
Plan Checker I	\$ 92
Plan Checker II/ Civil	\$ 102
Plan Checker III (structural Engineer)	\$ 130
Principal Consultant (Building Official)	\$130
Word Processor II	\$ 55

Notes:

- Hourly rates shown are portal to portal for on-call services
- Consultant staff normal work days are Monday through Friday (8am - 5pm). Office work on Saturdays, Sundays or CITY Holidays will be performed on at specific request of the Building Official. Billing for work performed outside normal work hours and on Saturdays, Sundays or CITY Holidays shall be at 1 ½ times the rates shown above.
- This Schedule of Hourly rates is effective as of September 2007. Rates are subject to annual review. Rate changes must be approved in writing by both parties.