

**CITY OF ORTING  
WASHINGTON**

ORIGINAL

**RESOLUTION NO. 2019-30**

**A RESOLUTION OF THE CITY OF ORTING,  
WASHINGTON, AUTHORIZING THE MAYOR TO  
EXECUTE A PROFESSIONAL SERVICES AGREEMENT  
FOR PLANNING SERVICES WITH AHBL, INC.**

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**WHEREAS**, in 2018, the City of Orting issued a request for proposals (RFP) for planning services, and an initial review narrowed down the pool of proposals to two firms, Sound Municipal Consultants and AHBL, Inc.; and

**WHEREAS**, the City selected Sound Municipal Consultants, who served as the City's contract planning company until September 2019; and

**WHEREAS**, at the time, due to the volume of planning work including proposed Comprehensive Plan amendments and proposed amendments to the Orting Municipal Code, Title 13; and

**WHEREAS**, in order to ensure the City could continue providing the necessary public services, the Mayor executed a short-term contract with AHBL, Inc. for planning services that was within his delegated signing authority; and

**WHEREAS**, under the City's Purchasing Policy, Policy No. 2017-05, contracts for professional services over the amount of \$20,000 shall be advertised using the RFP/RFQ process, but the City Council may suspend that requirement as needed; and

**WHEREAS**, the cost to the City to issue another request for proposals (RFP) is burdensome, and unnecessary in light of the 2018 RFP process for the same professional service;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ORTING AS FOLLOWS:**

**Section 1. Waiver.** The City Council of the City of Orting finds good cause exists to waive the provisions of Part IIX of the City's Purchasing Policy, Policy No. 2017-05 for the purpose of effectuating this Resolution. This waiver is exclusively for the purposes described herein.

**Section 2. Authorization.** The Mayor is hereby authorized to execute a professional services agreement or contract planning services with AHBL, Inc., in a form acceptable to the City Attorney, with a termination date of December 31, 2020.

**Section 3. Corrections.** The City Clerk and the codifiers of this resolution are authorized to make necessary clerical corrections to this resolution including, but not limited to, the

correction of scrivener's errors, references, numbering, section/subsection numbers and any references thereto.

**Section 4. Effective date.** This Resolution shall become effective immediately upon adoption and signature as provided by law.

**RESOLVED BY THE CITY COUNCIL AT A SPECIAL MEETING THEREOF  
ON THE 25<sup>TH</sup> DAY OF NOVEMBER 2019.**

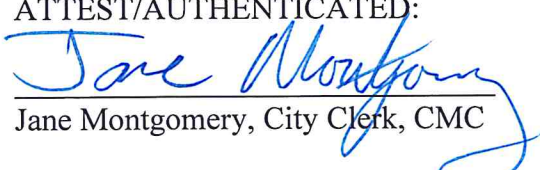
CITY OF ORTING



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Joshua Penner, Mayor

ATTEST/AUTHENTICATED:



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Jane Montgomery, City Clerk, CMC

Approved as to form:



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Charlotte A. Archer  
Inslee, Best, Doezie & Ryder, P.S.  
City Attorney

**CONSULTANT SERVICES CONTRACT  
BETWEEN THE CITY OF ORTING AND  
AHBL PLANNING**

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THIS AGREEMENT is made by and between the City of Orting, a Washington municipal corporation (the "City"), and AHBL Planners, a Limited Liability Company organized under the laws of the State of Washington (hereinafter the "Consultant").

**RECITALS**

WHEREAS, the City is presently has need of on-call planning services and desires that the Consultant perform services necessary to provide the following consultation services; and

WHEREAS, the Consultant agrees to perform the services more specifically described in the Scope of Services including any addenda thereto as of the effective date of this Agreement, all of which are attached hereto as **Exhibit A**, and are incorporated by this reference as if fully set forth herein;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

**TERMS**

1. **Retention of Consultant - Scope of Services.** The Consultant shall perform those professional services described in **Exhibit A** attached hereto and incorporated herein by this reference as if set forth in full. The Consultant shall furnish all services, labor and related equipment necessary to conduct and complete the services, except as specifically noted otherwise in this Agreement. In performing such services, the Consultant shall at all times comply with all Federal, State, and local statutes, rules and ordinances applicable to the performance of such services and the handling of any funds used in connection therewith. The Consultant shall request and obtain prior written approval from the City if the scope or schedule is to be modified in any way.

2. **Payment.** The City shall pay the Consultant for services rendered according to the rate and method set forth on **Exhibit B**.

3. **Relationship of Parties.** 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 subconsultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or subconsultant of the City. In the performance of the services, 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 subconsultants of the Consultant. The Consultant will be solely

and entirely responsible for its acts and for the acts of its agents, employees, representatives and subconsultants 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 services that the Consultant performs hereunder.

**4. Duration of Work.** This Agreement shall be in full force and effect for a period commencing September 10th, 2019, and ending December 31st, 2019, unless sooner terminated under the provisions hereinafter specified. The City and the Consultant agree that services will begin on the tasks described in **Exhibit A** in September 2019. The parties agree that the services described in Exhibit A shall be provided at the will of the Council; provided the contract may be extended by agreement of both parties.

**5. Termination.** This Agreement may be terminated by either party at any time prior to completion of the services described in **Exhibit A** upon ten (10) days written notice. Any such notice shall be given to the appropriate address specified in Section 16. In the event that 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 all services performed prior to the date of termination. Failure to provide services on schedule may result in contract termination. If the Consultant's insurance coverage is canceled for any reason, the City shall have the right to terminate this Agreement immediately.

**6. Non-Discrimination.** The Consultant agrees not to discriminate against any customer, employee or applicant for employment, subcontractor, supplier or materialman, because of race, color, creed, religion, national origin, marital status, sex, sexual orientation, age or handicap, except for a bona fide occupational qualification. The Consultant understands that if it violates this provision, this Agreement may be terminated by the City and that the Consultant may be barred from performing any services for the City now or in the future.

**7. Independent Status of Contractor.** The parties to this contract, in the performance of it, will be acting in their individual capacities and not as agents, employees, partners, joint ventures, or associates of one another. The employees or agents of one party shall not be considered or construed to be the employees or agents of the other party for any purpose whatsoever.

**8. Indemnification.**

A. The Consultant shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney 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.

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 damages arising out of bodily injury to persons or 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 the 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.

**9. Insurance.**

A. 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 Consultant's own services including the services of the Consultant's agents, representatives, employees, subconsultants or subcontractors.

B. 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.

C. 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, or a substitute form providing equivalent liability coverage and shall cover liability arising from premises, operations, independent contractors and personal injury and advertising injury. The City shall be named as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the services 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.

D. 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.

E. Other Insurance Provisions.

1. The Consultant's Automobile Liability and Commercial General Liability insurance policies 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.

2. The City will not waive its right to subrogation against the Consultant. The Consultant's insurance shall be endorsed acknowledging that the City will not waive their right to subrogation. The Consultant's insurance shall be endorse to waive the right of subrogation against the City, or any self-insurance, or insurance pool coverage maintained by the City.

3. 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.

4. If any coverage is written on a "claims made" basis, then a minimum of a three (3) year extended reporting period shall be included with the claims made policy, and proof of this extended reporting period provided to the City.

F. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

G. 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 services.

H. 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 Contractor from the City.

**10. Ownership and Use of Work Product.** Any and all documents, drawings, reports, and other work product produced by the Consultant under this Agreement shall become the property of the City upon payment of the Consultant's fees and charges therefore. The City shall have the complete right to use and re-use such work product in any manner deemed appropriate by the City, provided, that use on any project other than that for which the work product is prepared shall be at the City's risk unless such use is agreed to by the Consultant.

11. **City's Right of Inspection.** Even though the Consultant is an independent contractor with the authority to control and direct the performance and details of the services authorized under this Agreement, the services 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.

12. **Records.** 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 in the performance of this Agreement and other such records as may be deemed necessary by the City to ensure the performance of this Agreement. The Consultant shall keep all records related to this Agreement for a period of seven (7) years following completion of the services for which the Consultant is retained, unless permission to destroy them is granted by the office of the archivist in accordance with RCW Chapter 40.14 and by the City. The Consultant shall permit any authorized representative of the City, and any person authorized by the City for audit purposes, to inspect such records at all reasonable times during regular business hours of the Consultant. Upon request, the Consultant will provide the City with reproducible copies of any such records.

13. **Services 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 subconsultants in the performance of the services hereunder and shall utilize all protection necessary for that purpose. All services 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 services.

14. **Non-Waiver of Breach.** The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options, and the same shall be and remain in full force and effect.

15. **Resolution of Disputes and Governing Law.**

A. Should any dispute, misunderstanding, or conflict arise as to the terms and conditions contained in this Agreement, the matter shall first be referred to the City Administrator, and the City shall determine the term or provision's true intent or meaning at its sole discretion. The City Administrator shall also decide all questions which may arise between the parties relative to the actual services provided or to the sufficiency of the performance hereunder.

B. If any dispute arises between the City and the Consultant under any of the provisions of this Agreement which cannot be resolved by the Administrator's determination, or if the Consultant does not agree with the City's decision on the disputed

matter, jurisdiction of any resulting litigation shall be filed in Pierce County Superior Court, Pierce County, Washington. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The prevailing party in any such litigation shall be entitled to recover its costs, including reasonable attorney's fees, in addition to any other award.

**16. Written Notice.** All notices required to be given by either party to the other under this Agreement shall be in writing and shall be given in person or by mail to the addresses set forth below. Notice by mail shall be deemed given as of the date the same is deposited in the United States mail, postage prepaid, addressed as provided in this paragraph.

**CONSULTANT:**  
AHBL, Inc.  
ATTN: Wayne E. Carlson, FAICP  
2215 North 30th Street, Suite 300  
Tacoma, WA 98403  
(253) 383-2422

City of Orting  
ATTN: Mark Bethune  
City Administrator  
P.O. Box 489  
Orting, WA 98360  
(360) 893-6809

**17. Subcontracting or Assignment.** The Consultant may not assign or subcontract any portion of the services to be provided under this Agreement without the express advance written consent of the City.

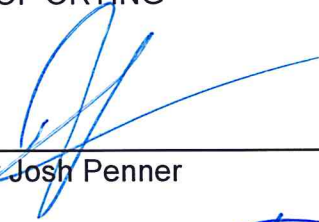
**18. Entire Agreement.** This Agreement represents the entire integrated agreement between the City and the Consultant, superseding all prior negotiations, representations or agreements, written or oral. This Agreement may be modified, amended, or added to, only by written instrument properly signed by both parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement this 10th day of September, 2019.

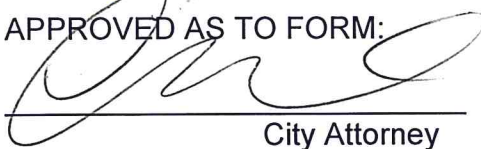
CONSULTANT

CITY OF ORTING

By:   
Its: Principal

By:   
Mayor Josh Penner

ATTEST:  
  
City Clerk

APPROVED AS TO FORM:  
  
City Attorney



## Exhibit A Scope of Services

1. AHBL will perform all current planning services for land use applications of all types (subdivision, variance, SEPA review, etc.) including:

- Providing a direct phone number for the assigned planner. All calls will be returned within one business day and on the same business day whenever feasible.
- Meet with City staff and/or the public at City Hall to answer land use questions when posed.
- Coordinate and meet with land use applicants at City Hall for both general questions and formal and informal pre-application meetings, including coordinating with on-site staff and consultants, as necessary. Provide a written record of all meetings to the City Administrator, the project team and the applicant.
- Coordinate with on-site staff and consultants for project review meetings and ensure timely permit processing in accordance with City and State law. Meetings will be via email, on the phone, or in person at City Hall, as best fits the need.
- Provide written project review documents including Notices of Complete or Incomplete Application, Project Review Documents, SEPA determinations and notices, Notices of Public Hearing and Staff Reports to the Planning Commission and Hearing Examiner, as appropriate. Notices will be prepared for dissemination to all affected parties and to the newspaper of record.
- Provide regular and efficient correspondence with the City Clerk and Administrator regarding current and upcoming land use applications, the status of those applications, potential issues and the timing of public hearings.
- Provide an electronic means of project tracking for City use and scheduling on a shared cloud site such as SharePoint or Box or another FTP site.
- Create and maintain a public communications strategy for citizen involvement and work with the City to publish that information in the most widely available and cost-effective venues.

2. AHBL will attend at least one Council meeting, one Planning Commission meeting and one managers meeting per month, with additional meetings as necessary, at the City's direction.

3. AHBL will provide the City Administrator with a list of proposed projects, after reviewing the City's records to determine where a need arises. These may include updating code sections to conform to current law or court decisions, providing customer assistance materials, or other items and process improvements that will improve the efficiency of the planning function for the City and help to reduce liability.

**Exhibit B  
Compensation and Method of Payment**

A. Proposed Fees

The following fee schedule is listed by type of work.

The Consultant shall not bill for Consultant's staff positions not identified or listed in Exhibit A or bill at rates in excess of the hourly rates shown in Exhibit A, unless the parties agree to a modification of this Contract, pursuant to the terms herein.

Description of Work	Hourly Fee
<p><b>Administrative</b></p> <p>All non-land use application (current planning) related work for City including attending at least once Council meeting, one Planning Commission meeting and one managers meeting per month, or as needed. This rate also includes all potential work related to drafting code enforcement letters and citations.</p>	\$110-\$215
<p><b>Long Range Plans and Studies and Code Writing</b></p> <p>The present RFP does not list long range planning services (drafting long range planning documents such as the Comprehensive Plan), code writing or other legislatively approved actions. However, this rate is included herein in the event during the course of the contract the City determines these services are needed.</p>	\$110-\$215
<p><b>Land Use Applications (Current Planning)</b></p> <p>Developer Reimbursed Fees (all project related work including pre-applications, project review, drafting notices, SEPA reviews, staff reports and presentations to hearing examiner). Developers will be asked to provide all postage and mailing materials necessary for public notice.</p>	\$110-215
Travel and Mileage	No Fee
Standard Office Materials and Equipment	No Fee

B. The Consultant shall submit monthly invoices to the City after such services have been performed, and a final bill upon completion of all the services described in this Agreement. The City shall pay the full amount of an invoice within forty-five (45) days of receipt. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

C. The City may also negotiate "Not To Exceed" contracts for larger scope planning projects, as the need arises.

D. AHBL anticipates that the Land Use Applications will be directly reimbursed by developers as is listed in Orting's current fee schedule for Shoreline, SEPA and Subdivision review. AHBL will also work with the City's Finance Department to update the fee schedule to allow pass through of application review fees for Conditional Use Permits, Special Use Permits, Variances and Environmental Impact Statements, as these types of permits are often the most time intensive.

# SCHEDULE OF CHARGES & COMPENSATION



Principal.....	215.00/Hour	Planner 2.....	90.00/Hour
Associate Principal.....	190.00/Hour	Planner 1.....	75.00/Hour
Senior Project Manager.....	175.00/Hour	Planning Technician.....	50.00/Hour
Project Manager.....	165.00/Hour	Landscape Designer 3.....	100.00/Hour
Senior Planning Project Manager.....	160.00/Hour	Landscape Designer 2.....	95.00/Hour
Planning Project Manager.....	150.00/Hour	Landscape Designer 1.....	80.00/Hour
Senior Landscape Project Manager.....	145.00/Hour	Senior Landscape Technician.....	120.00/Hour
Landscape Project Manager 2.....	125.00/Hour	Landscape Technician 3.....	115.00/Hour
Landscape Project Manager 1.....	115.00/Hour	Landscape Technician 2.....	105.00/Hour
Survey Project Manager.....	160.00/Hour	Landscape Technician 1.....	70.00/Hour
Senior Engineer.....	155.00/Hour	Senior Survey Technician.....	120.00/Hour
Project Engineer 4.....	140.00/Hour	Survey Technician 3.....	115.00/Hour
Project Engineer 3.....	125.00/Hour	Survey Technician 2.....	105.00/Hour
Project Engineer 2.....	110.00/Hour	Survey Technician 1.....	90.00/Hour
Project Engineer 1.....	100.00/Hour	Survey Crew.....	200.00/Hour
Senior Engineer Technician.....	120.00/Hour	1-Man Survey Crew.....	130.00/Hour
Engineer Technician 3.....	115.00/Hour	Graphic Designer.....	110.00/Hour
Engineer Technician 2.....	105.00/Hour	Technical Editor.....	100.00/Hour
Engineer Technician 1.....	90.00/Hour	Word Processor/Sr. Administrative Asst.....	85.00/Hour
Project Administrator.....	110.00/Hour	Administrative Assistant.....	75.00/Hour
Project Expeditor.....	80.00/Hour	Outside Consultants.....	Separate Fee Proposal
Planner 5.....	140.00/Hour	Geotechnical Engineers.....	Separate Fee Proposal
Planner 4.....	125.00/Hour	Environmental Consultants.....	Separate Fee Proposal
Planner 3.....	110.00/Hour		

Large Format Bond.....	0.50/sf
Large Format High Density Color Bond.....	2.00/sf
Large Format Mylar.....	2.00/sf
Small Format Color Bond 11 X 17.....	0.50/Sheet
Small Format Color Bond 8.5 X 11.....	0.40/Sheet

**The Schedule of Charges and Compensation is subject to change.**

Charges are made for technical typing, as in the preparation of reports, and for technical clerical services directly related to projects. Direct charges are not made for general secretarial services, office management, accounting, or maintenance.