



City of Ketchum

CITY COUNCIL MEETING AGENDA MEMO

Meeting Date: October 16, 2023 Staff Member/Dept: Morgan Landers, AICP – Director of Planning and Building

Agenda Item: Recommendation to review and approve Professional Services Agreement #24892 between the City of Ketchum and SAFEbuilt, LLC.

Recommended Motion:

I move to approve, and authorize the mayor to sign, Professional Services Agreement #24892 between the City of Ketchum and SAFEbuilt, LLC.

Reasons for Recommendation:

- On October 6, 2023, planning staff presented options for providing building department services to the City of Ketchum. One of those options included a full-service contract with a third-party contractor. After review of the options, city council provided direction to staff to proceed with a third-party contractor provided that city staff continue to work with other jurisdictions for a consolidated regional building department over the next few years.
- Prior to the discussion with council, city staff had received a preliminary proposal from SAFEbuilt, LLC to provide full-service building department services (Attachment 1). Following the council meeting, staff conducted a debrief meeting with SAFEbuilt to review the concerns raised by City Council for inclusion in the contract provisions.
- SAFEbuilt has agreed to include contract provisions related to recruitment, hiring, and performance management not usually included in professional service contracts to address some of the city’s concerns and provide a better level of certainty to the city and its customers.

Policy Analysis and Background (non-consent items only):

The proposed contract (Attachment 2) is a professional services agreement, for full building department services, that automatically renews each year unless terminated by either party. Exhibit A of the contract outlines in detail what is meant by “full building department services”. In short, the city will have the following:

- An on-site Certified Building Official/Inspector from 8:30am to 5:00pm Monday through Friday
- Inspections 5 days per week (increased from 4 days per week currently)
- Enforcement of all adopted building codes (including energy code)
- Fulfillment of all “building official” and “building inspector” roles and responsibilities outlined in the Ketchum Municipal Code
- Track and recommend policy changes, process improvements, or fee updates as necessary.
- Regular documentation and reporting of all key building permit metrics including inspections

In addition to the building official/inspection duties, the contract also includes electronic plan review through a new permitting and workflow system called CommunityConnect. This permitting system consolidates all steps of the building permit issuance, inspection, and certificate of occupancy process into one location. All steps of the process will be transparent and available to customers at all times, even outside of city business hours.

During the October 6, 2023 meeting, city council expressed concerns related to the staffing and management of the individual placed by SAFEbuilt in Ketchum. City staff worked diligently with SAFEbuilt to develop minimum qualifications, process for vetting candidates, communication expectations for absences, an outlined process for performance management to address issues, and process for navigating staff turn-over should that arise through the contract period. These details are outlined in Exhibit A of the contract.

Next Steps:

Staff has begun the development of a transition plan in coordination with the State of Idaho and SAFEbuilt to ensure the smoothest transition possible for our customers. If approved, city staff will finalize and begin implementation of that transition plan. Frequent, clear, and transparent communication to the development and construction community is the top priority for the transition. The Fall Development and Construction Meeting is scheduled for Tuesday, October 17th from noon to 1:30pm where city staff will conduct a listening session to understand what the main questions and concerns are from our customers. This feedback will be incorporated into the transition plan to ensure that we address all areas of concern as we work through the process.

Sustainability Impact:

To date, the International Energy Conservation Code (IECC) has not been enforced since its adoption. Although the city's green building standards are no longer enforceable due to the passing of HB287, SAFEbuilt will enforce all provisions of the adopted energy code through the building permit and inspection process.

Financial Impact:

None OR Adequate funds exist in account:	The cost of services is 53% of building permit and building plan check revenue. The FY24 adopted budget assumed 65% of revenue would go towards building department services for the City of Ketchum. No amendment to the budget is required for this request.
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Attachments:

- | |
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| 1. SAFEbuilt, LLC Proposal for Full Building Department Services |
| 2. Professional Services Agreement #24892 |

A city skyline with a large diagonal graphic element. The graphic is a thick, semi-transparent blue and grey diagonal line that runs from the top-left corner towards the bottom-right corner, partially obscuring the city buildings. The city buildings are in shades of blue and grey, set against a bright blue sky with white clouds.

SAFEbuilt[✓]®

TRANSFORMING COMMUNITY DEVELOPMENT

Full Service for Ketchum, Idaho

We're Here for You When You Need Us

SAFEbuilt at a Glance

A leading provider of Community Development and Building Department Services, including, but not limited to Full-Service Building Department, Inspections, Supplemental Plan Reviews, Code Compliance, Planning, and Zoning.

- Founded: 1992
- Employees: 1,500+
- Experienced / Certified Leadership
- 1,600+ Municipal and Public Agency Clients
- Lifecycle of Building Services
- Affiliations:
 - International Code Council (ICC)
 - National Home Builder's Association (NHBA)
 - U.S. Green Building Council (USGBC)
 - National Fire Protection Association (NFPA)
- Robust Infrastructure



Operational Excellence



Expansive US Footprint



Robust Business Intelligence & Analytics



1,200+ Certified Building Professionals



International Code Council (ICC) Certified



End-to-End Solutions

SAFEbuilt Family of Companies

The SAFEbuilt family includes five subsidiary partners, each of which aligns with our core values, and our desire to provide the most exceptional service to communities we support.



KUTZMANN & ASSOCIATES, INC

- Plan Review
- Inspection Services

WINSTON SERVICES

- Building and Life Safety Code Consulting
- Plan Review
- Commercial Building Inspection

CALVIN, GIORDANO & ASSOCIATES

- Building Department Services
- Planning
- Engineering

MT CAUSLEY, LLC

- Building Department Services

INTERWEST

- Building and Safety Services
- Planning
- Engineering

MTCI PRIVATE PROVIDER SERVICES, LLC.

- Plan Review
- Inspection Services
- Permitting Services

SAFEbuilt's Core Values

We embody our Core Values. Our goal is to approach each day and every relationship with:

Service

We choose to do the right thing every time.

Integrity

We choose to do the right thing every time.

Teamwork

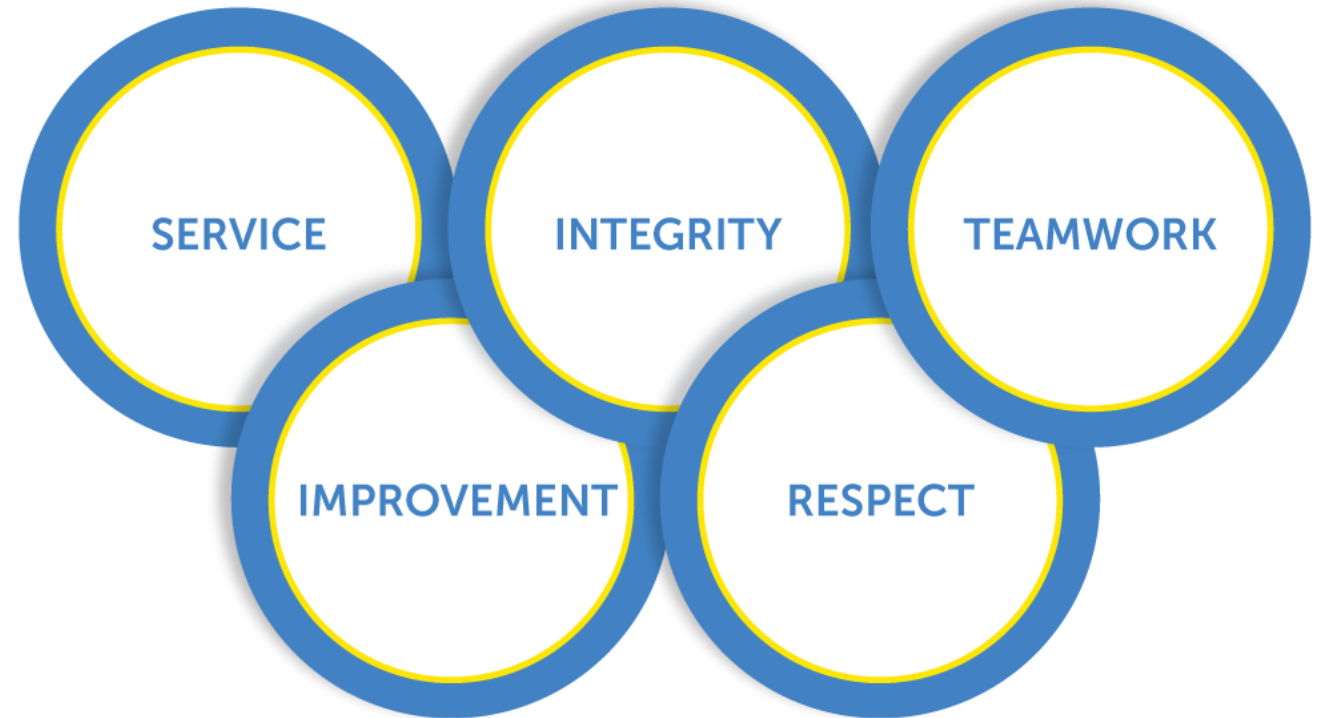
We have an environment where everyone is can contribute ideas. We encourage and reward creativity and initiative.

Improvement

We continuously strive to improve and understand how we can do better tomorrow.

Respect

We are respectful in the way we interact with everyone.



Top Issues Facing Our Clients



70% of our clients say that they were having difficulties finding qualified personnel to fill their open positions. This misalignment between the number of available jobs and the number of skilled workers is an ongoing issue faced by the industry.

Many firms are concerned that the lack of a skilled workforce will negatively affect safety. In fact, 47% of contractors say that an inexperienced labor force is a safety concern. As the shortage of workers continues to be a problem, firms need to be aware of safety concerns and to make adjustments accordingly.



Technology has transformed the industry. Necessary construction technology includes cloud-based software, integrated collaboration, and mobile project management. The use of building information modeling (BIM), laser scanning, and virtual reality will also become more widely used in the coming years.



Construction projects are becoming more demanding and complicated in their design. This trend will pose a challenge if you don't have a qualified workforce. According to Accenture, only 30% of firms currently deliver projects on budget, and only 15% deliver on time. This number of firms who can deliver projects on-time and on-budget will continue to decrease as the number of skilled workers decreases and demand increases

Why SAFEbuilt?

SAFEbuilt offers the right experience to help revamp your Building Department, which in turn, will help revitalize your community

SAFEbuilt will leverage our:

- Established Industry Experience – Our Operational Leadership team has 100+ combined years of Building Department experience, including:
 - Building Department Services
 - Inspections: Building, Fire, Assessments, etc.
 - Code Compliance
 - Plan Reviews
 - Civil, Structural, & Environmental Engineering
- Proven Track Record – Delivering exceptional results for our municipal and public agency clients since 1992
- Robust Building Management technology, compliance, & security
- Almost unlimited ability to deliver expansive performance reporting / actionable insights
- Proven Building Department processes to improve efficiency / reduce costs



WE DELIVER

High-Level Performance
Industry Best Practices
Certified Professionals

WE PROTECT

UCC/ICC Certified
Robust Quality Assurance
Pro-Active Skill Development

WE ENHANCE

Business Process Efficiency
Convert & Integrate Data
into Actionable Insights

SAFEbuilt Smaller Community Partnering

TOWN OF SAHUARITA, AZ

- Medical facility includes an emergency room, two operating rooms, as well as medical offices for primary care, cardiology, orthopedics, and general surgery
- Two-story building / 42,000 square feet

Plan Review for Medical Facility



CITY OF STREATOR, IL

- Provide building, plumbing, electrical, and mechanical inspection services
- Project types include: residential development; small and large retail/commercial development; and historic building redevelopment and restorations

Inspection Services



TOWN OF DEER TRAIL, CO

- Building official services
- Building plumbing, mechanical and electrical inspection services
- Professional plan review services

Full Building Department Services



SAFEbuilt Smaller Community Partnering

TOWN OF KUNA, ID

Inspections and Plan Review

- Plan review for large Meta Project
- Onsite inspections for large scale commercial projects and residential developments
- On Call Building Official Services



CITY OF NAMA, ID

Plan Review Services

- **Project types include:** residential development; small and large retail/commercial development



CommunityCore



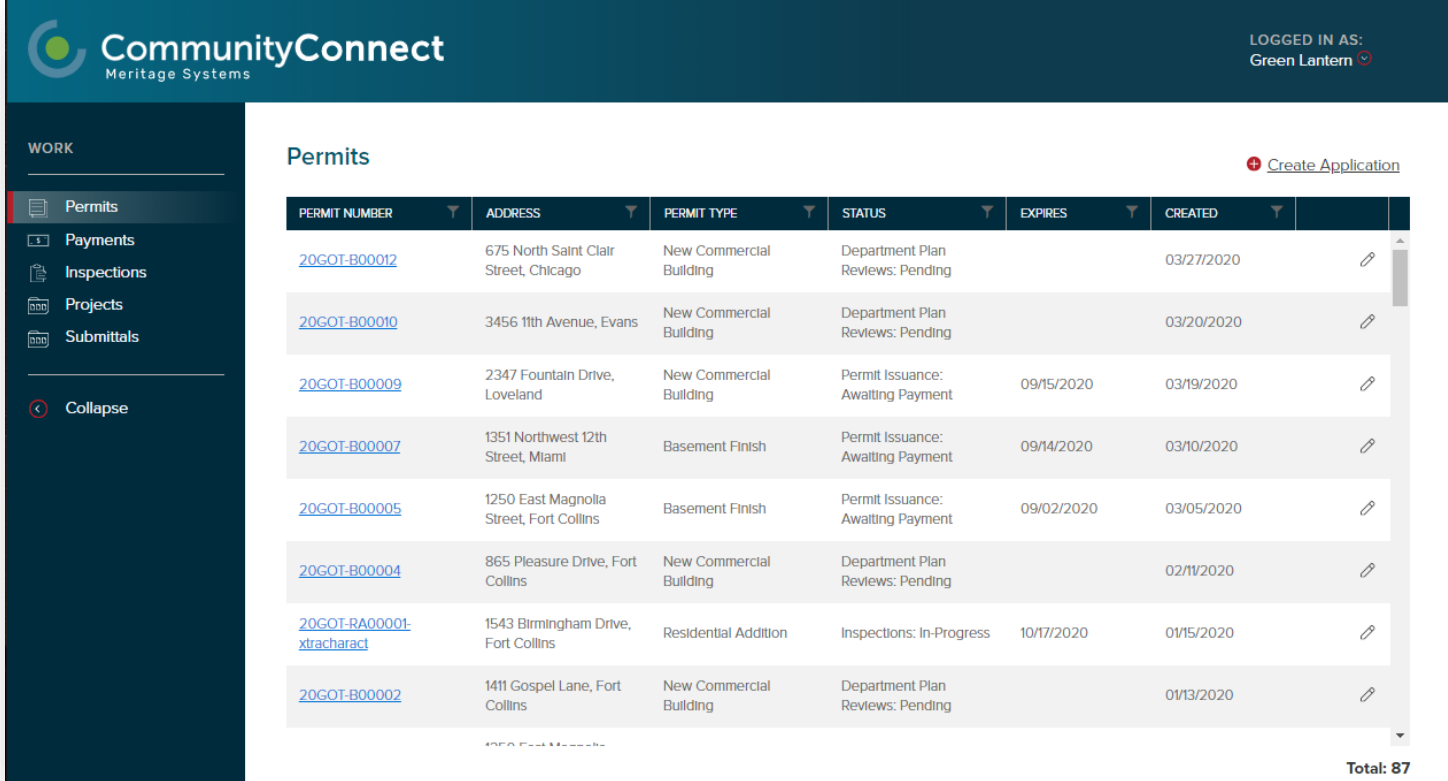
SAFEbuilt®

Stay on
schedule

Increase
engagement

Improve
communication

Save
time



CommunityConnect
Meritage Systems

LOGGED IN AS:
Green Lantern

WORK

- Permits
- Payments
- Inspections
- Projects
- Submittals

Collapse

Permits [+ Create Application](#)

PERMIT NUMBER	ADDRESS	PERMIT TYPE	STATUS	EXPIRES	CREATED	
20GOT-B00012	675 North Saint Clair Street, Chicago	New Commercial Building	Department Plan Reviews: Pending		03/27/2020	
20GOT-B00010	3456 11th Avenue, Evans	New Commercial Building	Department Plan Reviews: Pending		03/20/2020	
20GOT-B00009	2347 Fountain Drive, Loveland	New Commercial Building	Permit Issuance: Awaiting Payment	09/15/2020	03/19/2020	
20GOT-B00007	1351 Northwest 12th Street, Miami	Basement Finish	Permit Issuance: Awaiting Payment	09/14/2020	03/10/2020	
20GOT-B00005	1250 East Magnolia Street, Fort Collins	Basement Finish	Permit Issuance: Awaiting Payment	09/02/2020	03/05/2020	
20GOT-B00004	865 Pleasure Drive, Fort Collins	New Commercial Building	Department Plan Reviews: Pending		02/11/2020	
20GOT-RA00001-xtracharact	1543 Birmingham Drive, Fort Collins	Residential Addition	Inspections: In-Progress	10/17/2020	01/15/2020	
20GOT-B00002	1411 Gospel Lane, Fort Collins	New Commercial Building	Department Plan Reviews: Pending		01/13/2020	

Total: 87

In CommunityConnect, contractors & community members can:

Apply for permits

Track existing permits

Improve Communication

PERMIT NUMBER	ADDRESS	PERMIT TYPE	STATUS	EXPIRES	CREATED	
Application	2675 SHERIDAN BLVD, EDGEWATER	Basement Finish	Pending Review		04/20/2020	
Application	43234 Louisiana 445, Ponchatoula	ROW Permit	Draft Application		04/17/2020	

Total: 2



Make Online Payments

Access permit documents

Upload plans

Access completed plan reviews

Permit: 18GOT-B00033 Completed

Workflow Details Plan Reviews Fees Transactions Inspections **Documents**

1251 Buffalo Berry Ct Fort Collins 80521 Shed Gotham Construction

	DOC NAME	DATE CREATED	
System-Generated	CO_18GOT-B00033	12/19/2018	✉ ↓
Uploaded	Permit_18GOT-B00033	12/19/2018	✉ ↓
	PlanApp_18GOT-B00033	12/19/2018	✉ ↓

Pricing



SAFEbuilt®

Scope of Services - Inspections

SAFEbuilt's pricing is tailored to each contract. We work with each individual community to establish quality rates for the services we provide, whether for supplemental or full-service work. Our proposed fee is all-inclusive of overhead, materials and equipment. For our staff, we provide:

- Salary, Benefits & 401k
- Laptops, Tablets & Cell Phones
- Codes Books
- Vehicles with Insurance & Fuel
- Training
- Building Guides

Deliverables <small>(Contract/Professional Services Agreement supersedes all information herein)</small>	
INSPECTION SERVICES	Perform inspections requested by 4pm on the next business day
BUILDING INSPECTIONS MECHANICAL INSPECTIONS	<ul style="list-style-type: none"> 53% of the total fee collected. Pricing is all-inclusive of travel time and mileage.
PLAN REVIEW FEE Hourly	<ul style="list-style-type: none"> Commercial Plan Review 53% of the total fees collected Residential Plan Review 53% of the total fees collected Structural Plan Review 53% of the total fees collected

Scope of Services – Community Core Software

Community Core CommunityCore Solutions make your job easier and your staff happier by streamlining your department processes with a simple software solution. You can reduce wasted time and paper, cut costs, and give your citizens a better experience. Pricing includes:

- Initial Community Set Up
- Data Import
- Training for Staff
- Monthly Maintenance Fees
- Ongoing Technical Support

Deliverables (Contract/Professional Services Agreement supersedes all information herein)

INITIAL SETUP	<ul style="list-style-type: none">• Set up account with current town fee schedule, code adoptions, etc.• One time set up fee Not Requested at this time• Includes data migration if map-able data is provided. See note below on Data Migration
MONTHLY MAINTENANCE	<ul style="list-style-type: none">• \$Not requested monthly maintenance fees• Includes 10 logins for town staff, community portal and technical support• Includes all updates to software
DATA MIGRATION	<ul style="list-style-type: none">• Data migration will be determined based on the condition of the data provided. If data is provided in a usable and mappable format, there will be no additional setup costs.• Additional costs will be provided if additional adjustments need to be done to the data prior to import.• Client will be notified if data is completely unusable.• Historical data may not be available by the Go-Live date depending on the development timeline.

THANK YOU

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SAFEbuilt®

**PROFESSIONAL SERVICES AGREEMENT
#24892 BETWEEN CITY OF KETCHUM
AND SAFEbuilt, LLC**

This Professional Services Agreement (“Agreement”) is made and entered into by and between City of Ketchum, Idaho, (“Municipality”) and SAFEbuilt, LLC, (“Consultant”). Municipality and Consultant shall be jointly referred to as “Parties”.

RECITALS

WHEREAS, Municipality is seeking a consultant to perform the services listed in Exhibit A – List of Services, (“Services”); and

WHEREAS, Consultant is ready, willing, and able to perform Services.

NOW THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, Municipality and Consultant agree as follows:

1. SCOPE OF SERVICES

Consultant will perform Services in accordance with construction codes, amendments and ordinances adopted by the elected body of Municipality, state laws and regulations that are applicable to the Services provided under this Agreement. The qualified professionals employed by Consultant will maintain current certifications, certificates, licenses as required for Services that they provide to Municipality. Consultant is not obligated to perform services beyond what is contemplated by this Agreement.

Unless otherwise provided in Exhibit C, Consultant shall provide the Services using hardware and Consultant’s standard software package. In the event that Municipality requires that Consultant utilize hardware or software specified by or provided by Municipality, Municipality shall provide the information specified in Exhibit C. Consultant shall use reasonable commercial efforts to comply with the requirements of Exhibit C and, at its sole expense, shall provide such technical support, equipment or other facilities as Consultant may reasonably request to permit Consultant to comply with the requirements of Exhibit C.

2. CHANGES TO SCOPE OF SERVICES

Any changes to Services between Municipality and Consultant shall be made in writing that shall specifically designate changes in Service levels and compensation for Services. Both Parties shall determine a mutually agreed upon solution to alter services levels and a transitional timeframe that is mutually beneficial to both Parties. No changes shall be binding absent a written Agreement or Amendment executed by both Parties.

3. FEE STRUCTURE

In consideration of Consultant providing services, Municipality shall pay Consultant for Services performed in accordance with Exhibit B – Fee Schedule for Services.

4. INVOICE & PAYMENT STRUCTURE

Consultant will invoice Municipality, on a monthly basis and provide all necessary supporting documentation. All payments are due to Consultant within 30 days of Consultant’s invoice date. Payments owed to Consultant but not made within sixty (60) days of invoice date shall bear simple interest at the rate of one and one-half percent (1.5%) per month. If payment is not received within ninety (90) days of invoice date, Services will be discontinued until all invoices and interest are paid in full. Municipality may request, and Consultant shall provide, additional information before approving the invoice. When additional information is requested Municipality will identify specific disputed item(s) and give specific reasons for any request. Undisputed portions of any invoice shall be due within 30 days of Consultants invoice date, if additional information is requested, Municipality will submit payment within thirty (30) days of resolution of the dispute.

5. TERM

This Agreement shall be effective on the latest date on which this Agreement is fully executed by both Parties. The initial term of this Agreement shall be twelve (12) months. Agreement shall automatically renew for subsequent twelve (12) month terms until such time as either Party notifies the other of their desire to terminate this Agreement.

6. TERMINATION

Either Party may terminate this Agreement, or any part of this Agreement upon ninety (90) days written notice, with or without cause and with no penalty or additional cost beyond the rates stated in this Agreement. In case of such termination, Consultant shall be entitled to receive payment for work completed up to and including the date of termination within thirty (30) days of the termination.

7. FISCAL NON-APPROPRIATION CLAUSE

Financial obligations of Municipality payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available in accordance with the rules, regulations, and resolutions of Municipality, and other applicable law. Upon the failure to appropriate such funds, this Agreement shall be terminated.

8. MUNICIPALITY OBLIGATIONS

Municipality shall timely provide all data information, plans, specifications and other documentation reasonably required by Consultant to perform Services (Materials). Municipality has the right to grant and hereby grants Consultant a fully paid up, non-exclusive, non-transferable license to use the Materials in accordance with the terms of this Agreement.

9. PERFORMANCE STANDARDS

Consultant shall perform the Services using that degree of care, skill, and professionalism ordinarily exercised under similar circumstances by members of the same profession practicing or performing the substantially same or similar services. Consultant represents to Municipality that Consultant retains employees that possess the skills, knowledge, and abilities to competently, timely, and professionally perform Services in accordance with this Agreement.

10. INDEPENDENT CONTRACTOR

Consultant is an independent contractor, and, except as provided otherwise in this section or in Exhibit A – List of Services, neither Consultant, nor any employee or agent thereof, shall be deemed for any reason to be an employee or agent of Municipality. Municipality shall have no liability or responsibility for any direct payment of any salaries, wages, payroll taxes, or any and all other forms or types of compensation or benefits to any personnel performing services for Municipality under this Agreement. Consultant shall be solely responsible for all compensation, benefits, insurance and employment-related rights of any person providing Services hereunder during the course of or arising or accruing as a result of any employment, whether past or present, with Consultant.

Consultant and Municipality agree that Consultant will provide similar service to other clients while under contract with Municipality and Municipality acknowledges that Consultant employees may provide similar services to multiple clients. Consultant shall at its sole discretion assign and reassign qualified employees, as determined by Consultant and as outlined in Exhibit A – List of Services, to perform services for Municipality. Municipality may request that a specific employee be assigned to or reassigned from work under this Agreement and Consultant shall consider that request when determining staffing. Consultant shall determine all conditions of employment for its employees, including hours, wages, working conditions, promotion, discipline, hiring and discharge in accordance with Exhibit A – List of Services. Consultant exclusively controls the manner, means and methods by which services are provided to Municipality, including attendance at meetings, and Consultant's employees are not subject to the direction and control of Municipality. Except where required by Municipality to use Municipality information technology equipment or when requested

to perform the services from office space provided by the Municipality, Consultant employees shall perform the services using Consultant information technology equipment and from such locations as Consultant shall specify. Any business cards or other IDs shall state that the person is an employee of Consultant or providing Services pursuant to a contractual agreement between Municipality and Consultant.

It is the intention of the Parties that, to the greatest extent permitted by applicable law, Consultant shall be entitled to protection under the doctrines of governmental immunity and governmental contractor immunity, including limitations of liability, to the same extent as Municipality would be in the event that the services provided by Consultant were being provided by Municipality. Nothing in this Agreement shall be deemed a waiver of such protections.

11. ASSIGNMENT AND SUBCONTRACT

Neither party shall assign all or part of its rights or obligations under this Agreement to another entity without the written approval of both Parties; consent shall not be unreasonably withheld. Notwithstanding the preceding, Consultant may assign this Agreement in connection with the sale of all or substantially all of its assets or ownership interest, effective upon reasonable notice to Municipality, and may assign this Agreement to its parent, subsidiaries or sister companies (Affiliates) effective upon reasonable notice to Municipality. Consultant may subcontract any or all of the services to its Affiliates without reasonable notice to Municipality. Consultant may subcontract any or all of the services to other third parties provided that Consultant gives Municipality 45-day prior written notice of the persons or entities with which Consultant has subcontracted. Consultant remains responsible for any Affiliate's or subcontractor's performance or failure to perform. Affiliates and subcontractors will be subject to the same performance criteria expected of Consultant. Performance clauses will be included in agreements with all subcontractors to assure quality levels and agreed upon schedules are met.

12. INDEMNIFICATION

To the fullest extent permitted by law, Consultant shall defend, indemnify, and hold harmless Municipality , its elected and appointed officials, employees and volunteers and others working on behalf of Municipality, from and against any and all third-party claims, demands, suits, costs (including reasonable legal costs), expenses, and liabilities ("Claims") alleging personal injury, including bodily injury or death, and/or property damage, but only to the extent that any such Claims are caused by the negligence of Consultant or any officer, employee, representative, or agent of Consultant. Consultant shall have no obligations under this Section to the extent that any Claim arises as a result of Consultants compliance with Municipal law, ordinances, rules, regulations, resolution, executive orders or other instructions received from Municipality .

13. LIMITS OF LIABILITY

EXCEPT ONLY AS MAY BE EXPRESSLY SET FORTH HEREIN, CONSULTANT EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ERROR-FREE OPERATION, PERFORMANCE, ACCURACY, OR NON-INFRINGEMENT. EXCEPT TO THE EXTENT ARISING FROM

MUNICIPALITY'S PAYMENT OBLIGATIONS FOR SERVICES, IN NO EVENT SHALL CONSULTANT OR MUNICIPALITY BE LIABLE TO ONE ANOTHER FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, RELIANCE, EXEMPLARY, OR SPECIAL DAMAGES INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, LOST REVENUES, LOST DATA OR OTHER INFORMATION, OR LOST BUSINESS OPPORTUNITY, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, INDEMNITY, NEGLIGENCE, WARRANTY, STRICT LIABILITY, OR TORT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMAINING REMEDY. EXCEPT WITH RESPECT TO PAYMENT OBLIGATIONS FOR SERVICES, IN NO EVENT SHALL THE LIABILITY OF MUNICIPALITY OR CONSULTANT UNDER THIS AGREEMENT FROM ANY CAUSE OF ACTION WHATSOEVER (REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER LEGAL THEORY, AND WHETHER ARISING BY NEGLIGENCE, INTENTIONAL CONDUCT, OR OTHERWISE) EXCEED THE GREATER OF THE AMOUNT OF FEES PAID TO CONSULTANT PURSUANT TO THIS AGREEMENT OR THE AVAILABLE LIMITS OF CONSULTANTS INSURANCE (SUCH LIMITS DEFINE MUNICIPAL MAXIMUM LIABILITY TO THE SAME EXTENT AS IF MUNICIPALITY HAD BEEN OBLIGATED TO PURCHASE THE POLICIES).

14. INSURANCE

- A. Consultant shall procure and maintain and shall cause any subcontractor of Consultant to procure and maintain, the minimum insurance coverages listed below throughout the term of this Agreement. Such coverages shall be procured and maintained with forms and insurers acceptable to Municipality. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.
- B. Worker's compensation insurance to cover obligations imposed by applicable law for any employee engaged in the performance of work under this Agreement, and Employer's Liability insurance with minimum limits of one million dollars (\$1,000,000) bodily injury each accident, one million dollars (\$1,000,000) bodily injury by disease – policy limit, and one million dollars (\$1,000,000) bodily injury by disease – each employee. Worker's compensation coverage in "monopolistic" states is administered by the individual state and coverage is not provided by private insurers. Individual states operate a state administered fund of workers compensation insurance which set coverage limits and rates. Monopolistic states: Ohio, North Dakota, Washington, Wyoming.
- C. Commercial general liability insurance with minimum combined single limits of one million dollars (\$1,000,000) each occurrence and two million dollars (\$2,000,000) general aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts), blanket contractual, independent Consultant's, and products. The policy shall contain a severability of interest provision and shall be endorsed to include Municipality and Municipality's officers, employees, and consultants as additional insureds.
- D. Professional liability insurance with minimum limits of one million dollars (\$1,000,000) each claim and two million dollars (\$2,000,000) general aggregate.
- E. Automobile Liability: If performance of this Agreement requires use of motor vehicles licensed for highway use, Automobile Liability Coverage is required that shall cover all owned, non-owned, and hired automobiles with a limit of not less than \$1,000,000 combined single limit each accident.
- F. Municipality shall be named as an additional insured on Consultant's insurance coverage.
- G. Prior to commencement of Services, Consultant shall submit certificates of insurance acceptable to Municipality.

15. THIRD PARTY RELIANCE

This Agreement is intended for the mutual benefit of Parties hereto and no third-party rights are intended or implied.

16. OWNERSHIP OF DOCUMENTS

Except as expressly provided in this Agreement, Municipality shall retain ownership of all Materials and of all work product and deliverables created by Consultant pursuant to this Agreement. The Materials, work product and deliverables shall be used by Consultant solely as provided in this Agreement and for no other purposes

without the express prior written consent of Municipality. As between Municipality and Consultant, all work product and deliverables shall become the exclusive property of Municipality when Consultant has been compensated for the same as set forth herein, and Municipality shall thereafter retain sole and exclusive rights to receive and use such materials in such manner and for such purposes as determined by it. Notwithstanding the preceding, Consultant may use the Materials, work product, deliverables, applications, records, documents and other materials provided to perform the Services or resulting from the Services, for purposes of (i) benchmarking of Municipality's and other client's performance relative to that of other groups of customers served by Consultant; (ii) improvement, development marketing and sales of existing and future Consultant services, tools and products; (iii) monitoring Service performance and making improvements to the Services. For the avoidance of doubt, Municipality Data will be provided to third parties, other than hosting providers, development consultants and other third parties providing services for Consultant, only on an anonymized basis and only as part of a larger body of anonymized data. If this Agreement expires or is terminated for any reason, all records, documents, notes, data and other materials maintained or stored in Consultant's secure proprietary software pertaining to Municipality will be exported into a CSV file and become property of Municipality. Notwithstanding the preceding, Consultant shall own all rights and title to any Consultant provided software and any improvements or derivative works thereof.

Upon reasonable prior written notice, Municipality and its duly authorized representatives shall have access to any books, documents, papers and records of Consultant that are related to this Agreement for the purposes of audit or examination, other than Consultant's financial records, and may make excerpts and transcriptions of the same at the cost and expense of Municipality.

17. CONSULTANT ACCESS TO RECORDS

Parties acknowledge that Consultant requires access to Records in order for Consultant to perform its obligations under this Agreement. Accordingly, Municipality will either provide to Consultant on a daily basis such data from the Records as Consultant may reasonably request (in an agreed electronic format) or grant Consultant access to its Records and Record management systems so that Consultant may download such data. Data provided to or downloaded by Consultant pursuant to this Section shall be used by Consultant solely in accordance with the terms of this Agreement.

18. CONFIDENTIALITY

Consultant shall not disclose, directly or indirectly, any confidential information or trade secrets of Municipality without the prior written consent of Municipality or pursuant to a lawful court order directing such disclosure.

19. CONSULTANT PERSONNEL

Consultant shall employ a sufficient number of experienced and knowledgeable employees to perform Services in a timely, polite, courteous and prompt manner. Consultant shall determine appropriate staffing levels and shall promptly inform Municipality of any reasonably anticipated or known employment-related actions which may affect the performance of Services. Additional staffing resources shall be made available to Municipality when assigned employee(s) is unavailable.

20. DISCRIMINATION & ADA COMPLIANCE

Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, disability, national origin or any other category protected by applicable federal or state law. Such action shall include but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notice to be provided by an agency of the federal government, setting forth the provisions of Equal Opportunity laws. Consultant shall comply with the appropriate provisions of the Americans with Disabilities Act (the "ADA"), as enacted and as from time to time amended,

and any other applicable federal regulations. A signed certificate confirming compliance with the ADA may be requested by Municipality at any time during the term of this Agreement.

21. E-VERIFY/VERIFICATION OF EMPLOYMENT STATUS

Pursuant to FS 448.095, Consultant certifies that it is registered with and uses the U.S. Department of Homeland Security’s E-Verify system to verify the employment eligibility of all new employees hired by Consultant during the term of the Agreement. Consultant shall not knowingly employ or contract with an illegal alien to perform work under this Agreement and will verify immigration status to confirm employment eligibility. If Consultant enters into a contract with a subcontractor to perform work or provide services pursuant to the Agreement, Consultant shall likewise require the subcontractor to comply with the requirements of FS 448.095, and the subcontractor shall provide to Consultant an affidavit stating that the subcontractor does not employ, contract with or subcontract with an unauthorized alien. Consultant will maintain a copy of such affidavit for the duration of its contract with owner. Consultant is prohibited from using the E-Verify program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

22. SOLICITATION/HIRING OF CONSULTANT’S EMPLOYEES

During the term of this Agreement and for six months thereafter, Municipality shall not solicit, recruit or hire, or attempt to solicit, recruit or hire, any employee or former employee of Consultant who provided services to Municipality pursuant to this Agreement (“Service Providers”), or who interacted with Municipality in connection with the provision of such services (including but not limited to supervisors or managers of Service Providers, customer relations personnel, accounting personnel, and other support personnel of Consultant). Parties agree that this provision is reasonable and necessary in order to preserve and protect Consultant’s trade secrets and other confidential information, its investment in the training of its employees, the stability of its workforce, and its ability to provide competitive building department programs in this market. If any provision of this section is found by a court or arbitrator to be overly broad, unreasonable in scope or otherwise unenforceable, Parties agree that such court or arbitrator shall modify such provision to the minimum extent necessary to render this section enforceable. In the event that Municipality hires any such employee during the specified period, Municipality shall pay to Consultant a placement fee equal to 25% of the employee’s annual salary exclusive of one-time or annual bonuses.

23. NOTICES

Any notice under this Agreement shall be in writing and shall be deemed sufficient when presented in person, or sent, pre-paid, first class United States Mail, or delivered by electronic mail to the following addresses:

If to Municipality :	If to Consultant:
City of Ketchum Attn: Morgan Landers, Director of Planning and Building PO Box 2315 Ketchum, ID 83340 Email: mlanders@ketchumidaho.org	Joe DeRosa, CRO SAFEbuilt, LLC 444 N. Cleveland, Suite 444 Loveland, CO 80537 Email: jderosa@safebuilt.com

24. FORCE MAJEURE

Any delay or nonperformance of any provision of this Agreement by either Party (with the exception of payment obligations) which is caused by beyond the reasonable control of such party, shall not constitute a breach of this Agreement, and the time for performance of such provision, if any, shall be deemed to be extended for a period equal to the duration of the conditions preventing such performance.

25. DISPUTE RESOLUTION

In the event a dispute arises out of or relates to this Agreement, or the breach thereof, and if said dispute cannot be settled through negotiation, Parties agree first to try in good faith to settle the dispute by mediation, before resorting to arbitration, litigation, or some other dispute resolution procedure. The cost thereof shall be borne equally by each Party.

26. ATTORNEY'S FEES

In the event that any of the Parties is required to incur attorneys' fees and/or costs to enforce or interpret any provision of this Agreement or is required to defend any action brought by any of the Parties, based on, arising from or related to this Agreement, the unsuccessful Parties agree to pay to the prevailing Parties their reasonable actual costs and attorney's fees, whether or not litigation is actually commenced and including reasonable attorney fees and costs on appeal.

27. AUTHORITY TO EXECUTE

The person or persons executing this Agreement represent and warrant that they are fully authorized to sign and so execute this Agreement and to bind their respective entities to the performance of its obligations hereunder.

28. CONFLICT OF INTEREST

Consultant shall refrain from providing services to other persons, firms, or entities that would create a conflict of interest for Consultant with regard to providing the Services pursuant to this Agreement. Consultant shall not offer or provide anything of benefit to any Municipal official or employee that would place the official or employee in a position of violating the public trust as provided under Municipality's charter and code of ordinances, state or federal statute, case law or ethical principles.

29. GOVERNING LAW AND VENUE

The negotiation and interpretation of this Agreement shall be construed under and governed by the laws of the State of Idaho, without regards to its choice of laws provisions. Exclusive venue for any action under this Agreement, other than an action solely for equitable relief, shall be in the state and federal courts serving Municipality and each party waives any and all jurisdictional and other objections to such exclusive venue.

30. COUNTERPARTS

This Agreement and any amendments or task orders may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. For purposes of executing this Agreement, scanned signatures shall be as valid as the original.

31. ELECTRONIC REPRESENTATIONS AND RECORDS

Parties hereby agree to regard electronic representations of original signatures as legally sufficient for executing this Agreement and scanned signatures emailed by PDF or otherwise shall be as valid as the original. Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

32. WAIVER

Failure to enforce any provision of this Agreement shall not be deemed a waiver of that provision. Waiver of any right or power arising out of this Agreement shall not be deemed waiver of any other right or power.

33. ENTIRE AGREEMENT

This Agreement, along with attached exhibits, constitutes the complete, entire and final agreement of the Parties hereto with respect to the subject matter hereof, and shall supersede any and all previous agreements,

communications, representations, whether oral or written, with respect to the subject matter hereof. Invalidation of any of the provisions of this Agreement or any paragraph sentence, clause, phrase, or word herein or the application thereof in any given circumstance shall not affect the validity of any other provision of this Agreement.

IN WITNESS HEREOF, the undersigned have caused this Agreement to be executed in their respective names on the dates hereinafter enumerated.

Gary Amato, CAO
SAFEbuilt, LLC

Date

Signature
Neil Bradshaw, Mayor
City of Ketchum

Date

Attest:

Trent Donat, City Clerk

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EXHIBIT A – LIST OF SERVICES

1. LIST OF SERVICES

Building Official Services

- ✓ Be a resource for Consultant team members, Municipal staff, and applicants
- ✓ Help guide citizens, applicants, and municipal staff through the complexities of the adopted building codes and other applicable local amendments and ordinances in order to obtain compliance
- ✓ Monitor changes to the codes including state or local requirements and determine how they may impact projects in the area and make recommendations regarding local amendments. If amendments to codes are necessary, CBO will lead amendment and adoption process with support from Municipal staff.
- ✓ Review of current building department procedures related to the acceptance and processing of building permit applications and provide feedback to the department on recommended improvements.
- ✓ Annual review of building permit fees and recommendation of changes if advised. If fee changes are necessary, CBO will lead the update process with support from Municipal staff.
- ✓ Provide Building Code interpretations for final approval
- ✓ Oversee Consultant's quality assurance program and make sure that we are meeting our agreed upon performance measurements and Municipal performance expectations as noted herein
- ✓ Oversee certificate of occupancy issuance to prevent issuance without compliance with all municipal department requirements
- ✓ Attend staff and council meetings as requested
- ✓ Responsible for regularly reporting of building department metrics for Municipality – frequency and content to be mutually agreed upon
- ✓ Conduct enforcement of all adopted building codes, local amendments, and all applicable local codes where the Building Official is the designated authority
- ✓ Issue stop-work notices for non-conforming activities related to provided services – as needed

Building, Mechanical, Energy Code Inspection Services

- ✓ Consultant utilizes an educational, informative approach to improve the customer's experience
- ✓ Perform code compliance inspections for all adopted codes to determine that construction complies with code requirements and approved plans
- ✓ Meet or exceed agreed upon performance metrics regarding inspections
- ✓ Provide onsite inspection consultations to citizens and contractors while performing inspections
- ✓ Return calls and emails from permit holders in reference to code and inspection concerns
- ✓ Identify and document any areas of non-compliance
- ✓ Leave a copy or provide an electronic version of the inspection results and discuss inspection results with site personnel

Plan Review Services

- ✓ Provide plan review services electronically or in the traditional paper format
- ✓ Review plans for compliance with all adopted building codes, local building amendments or other applicable building ordinances
- ✓ Be available for pre-submittal meetings by appointment
- ✓ Coordinate plan review tracking, reporting, and interaction with applicable departments
- ✓ Provide feedback to keep plan review process on schedule
- ✓ Communicate plan review findings and recommendations in writing
- ✓ Return a set of finalized plans and all supporting documentation
- ✓ Provide review of plan revisions and remain available to applicant after the review is complete

2. TIME OF PERFORMANCE

- ✓ Consultant will perform Services during normal business hours (8:30am – 5:00pm Monday through Friday) excluding Municipal holidays
- ✓ Services will be performed on
- ✓ Consultant representative(s) will be available by phone and email
- ✓ Consultant representative(s) will meet with the public by appointment

Deliverables			
INSPECTION SERVICES	Perform inspections received from the Municipality prior to 4:00 pm next business day		
PRE-SUBMITTAL MEETINGS	Provide pre-submittal meetings to applicants by appointment		
PLAN REVIEW TURNAROUND TIMES	Provide comments within the following timeframes: Day 1 = first full business day after receipt of plans and all supporting documents		
	<u>Project Type:</u>	<u>First Comments</u>	<u>Second and Subsequent Comments</u>
	Single-family within	7 business days	7 business days or less
	Multi-family within	10 business days	10 business days or less
	Tenant Improvements within	10 business days	10 business days or less
Small commercial within (under \$2M in valuation)	15 business days	10 business days or less	
Commercial within (\$2M+ to \$5M in valuation)	15 business days	15 business days	
Commercial within (\$5M+ in valuation)	20 business days	20 business days	

3. Consultant and Municipality acknowledgment of understanding with Building Official position

- ✓ Consultant will place a Building Official with municipality with the following minimum qualifications:
 - ICC Certified Building Official (minimum of 3 years’ experience)
 - ICC Certified Building Inspector (residential and commercial)
 - ICC Certified Plans Examiner (minimum residential, commercial preferred)
 - Demonstrated experience with similar size municipality and comparable project types preferred
- ✓ Building Official will be scheduled to be in-person within Municipal offices of Ketchum during working hours & days (8:30am-5:00pm Monday through Friday) with exception of required or necessary scheduled City inspections in field, recognized holidays, or scheduled vacations. Municipality shall

provide an office space within the municipal building comparable to and conducive of the work being performed.

- ✓ Building Official shall comply with all general workplace environment policies outlined by the municipality provided they do not conflict with workplace policies in place by Consultant.
- ✓ Municipality shall be notified of all scheduled vacations and anticipated coverage plans at least two weeks in advance of planned absence, except in emergency situations. Assignment to cover other Consultant municipalities shall not be considered an emergency. Time of performance expectations shall be maintained during scheduled vacations unless otherwise agreed upon between the parties.
- ✓ If Municipality has performance concerns or suggested improvements for individual or position, municipality shall provide that feedback to the Consultant ID or WA Operations Manager or Director of Operations within a reasonable period of time. Consultant will work directly with Director of Planning & Building on areas of concern, necessary adjustments, and timeframes for improvements. During the first contract year, Consultant ID or WA Operations Manager or Director of Operations and municipal Director of Planning and Building will have scheduled quarterly check-ins to review operations and discuss improvements within either party to ensure full service delivery to the community.
- ✓ If a change of the individual or position is anticipated for any reason, Consultant will notify the Director of Planning and Building as soon as reasonably possible based on the reason for the change. Consultant shall provide an opportunity for Director of Planning and Building to review the qualifications of the proposed replacement and conduct an informational meeting with Consultant ID or WA Operations Manager or Director of Operations and the proposed replacement to vet cultural fit with the organization. Director of Planning and Building may provide feedback to Consultant on any potential concerns for consideration. This provision does not provide any decision-making authority to the municipality on hiring and placement of service providers.

EXHIBIT B – FEE SCHEDULE FOR SERVICES

1. FEE SCHEDULE

✓ Consultant fees for Services provided pursuant to this Agreement will be as follows:

Service Fee Schedule:	
Building Official Services	53% of the combined Municipal Building Permit Fees & Plan Review Fees collected & as established by the Municipal fee schedule established by resolution
Plan Review Services – Residential & Commercial: <ul style="list-style-type: none"> • Building, Structural, Mechanical, Energy Code (excludes Plumbing & Electrical) 	
Inspection Services <ul style="list-style-type: none"> • Building, Structural, Mechanical, Energy Code (excludes Plumbing & Electrical) 	
“Project Support” Fee Schedule (Outside of Service fee Schedule):	
Inspection Services <ul style="list-style-type: none"> • Building, Structural, Mechanical, Energy Code (excludes Plumbing & Electrical) 	<ul style="list-style-type: none"> • Full days coverage with notice by Municipality by 4pm day prior to requested coverage. • \$1,500.00 per day for days coverage

EXHIBIT C – MUNICIPALITY SPECIFIED OR CONSULTANT PROVIDED SOFTWARE

1. Consultant shall provide Services pursuant to this Agreement using hardware and Consultant's standard software package, unless otherwise provided below. Use of Consultant's software shall be subject to the applicable terms of service, privacy and other policies published by Consultant with respect to that software, as those policies may be amended from time to time. In the event that Municipality requires that Consultant utilize hardware and/or software specified by and provided by Municipality, Consultant shall use reasonable commercial efforts to comply with Municipality requirements.

2. Municipality, at its sole expense, shall provide such technical support, equipment or other facilities as Consultant may reasonably request to permit Consultant to comply with Municipal requirements. Municipality will provide the following information to Consultant.
 - ✓ Municipal technology point of contact information including name, title, email and phone number
 - ✓ List of technology services, devices and software that the Municipality will provide may include:
 - Client network access
 - Internet access
 - Proprietary or commercial software and access
 - Computer workstations/laptops
 - Mobile devices
 - Printers/printing services
 - Data access
 - List of reports and outputs

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