




## STAFF REPORT

**Date:** May 27, 2014  
**To:** City Council  
**From:** Bryan Montgomery, City Manager   
**Subject:** **Consideration of Professional Services Agreement with TRB and Associates for Building Official Services.**

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### Summary and Background

With the departure of Brent Smith, who has served as the City's Chief Building Official, Staff has evaluated the options for filling these duties, including a review of private contractors providing these services in the area. (The Code Enforcement management duties covered by Mr. Smith are now being handled by another City employee). TRB and Associates is well-known as a quality provider of these services and currently provides these services throughout the Bay Area. Here is a link to the company's website: <http://www.trbplus.com/>

The proposed agreement calls for 8 to 20 hours per week. We plan on starting with two-days per week (16hours), but want to be able to evaluate over time to determine if more or less is needed. It is due to the uncertainty of how many hours that are truly needed, that Staff is recommending that we contract for these services, rather than hiring an employee.

### Fiscal Impact

The services will range from about \$3,800 to approximately \$9,000 per month, depending on the number of hours provided.

### Recommendation

Adopt the resolution approving the Professional Services Agreement with TRB and Associates for Building Official services and authorize the City Manager to execute the Agreement.

### Attachments

1. Resolution
2. Proposed Professional Services Agreement
3. Proposal Letter from TRB

RESOLUTION NO. \_\_\_\_\_

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY  
AUTHORIZING THE CITY MANAGER TO EXECUTE THE PROFESSIONAL  
SERVICES AGREEMENT WITH TRB & ASSOCIATES FOR  
BUILDING OFFICIAL SERVICES**

**BE IT RESOLVED** by the City Council of the City of Oakley that the attached Professional Services Agreement with TRB & Associates, is hereby approved, and the City Manager is authorized to execute it on its' behalf.

The foregoing resolution was introduced at a regular meeting of the Oakley City Council held on the 27th day of May 2014, by Councilmember \_\_\_\_\_, who moved its adoption, which motion being duly seconded by Councilmember \_\_\_\_\_, was upon voice vote carried and the resolution adopted by the following vote:

AYES:

NOES:

ABSTENTION:

ABSENT:

**APPROVED:**

\_\_\_\_\_  
Randy Pope, Mayor

**ATTEST:**

\_\_\_\_\_  
Libby Vreonis, City Clerk

\_\_\_\_\_  
Date

## PROFESSIONAL SERVICES AGREEMENT

City of Oakley/TRB and Associates

**THIS AGREEMENT** is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2014 by and between the City of Oakley ("CITY") and TRB and Associates, Inc. ("TRB").

### Recitals

- A. CITY is in need of interim onsite Building Official assistance;
- B. TRB is qualified and experienced in providing services commonly provided by a designated Building Official;

### **WHEREFORE, the parties agree as follows:**

1. TRB's May 7, 2014 letter, attached hereto as Exhibit "A", is hereby incorporated and made a part of this Agreement. The parties agree to all of the terms and conditions of that letter.
2. TRB and its assigned personnel shall perform all services according to the standards utilized by a competent practitioner in the building inspection and Building Official field.
3. The parties agree that the compensation paid by CITY to TRB according to the attached Exhibit B includes the salaries and benefits TRB pays to its assigned personnel and that the CITY is not responsible to TRB or its personnel for any retirement benefit, sick leave, vacation, or any other benefit whatsoever and that TRB's personnel are not employees of the CITY. TRB and its personnel are solely responsible for the payment of any and all income or employment taxes or taxes of any kind or nature.
4. TRB shall maintain at all times, or its assigned personnel shall maintain at all times, vehicle liability insurance with a coverage amount of at least \$500,000.00 covering use of vehicles by TRB and its personnel during the performance of duties under this contract. TRB shall defend and indemnify and hold harmless the CITY and its officials, officers, employees, agents and volunteers from and against any and all losses that arise out of, pertain to, or relate to the negligence or willful misconduct of TRB or its personnel. Such obligation to defend and hold harmless shall not apply to the extent that such liability is caused by the sole negligence, active negligence or willful misconduct of the CITY, its officers, agents, employees or volunteers.
5. TRB and its personnel are independent contractors and not employees of the CITY. CITY shall have the right to control TRB and its personnel only insofar as the results of services

rendered, but not as to the means by which the services are accomplished. TRB and its personnel shall have the authority vested by ordinance or statute in building inspectors and the Chief Building Official, and may make such orders and issue such permits as a permanent incumbent in those positions.

6. Although TRB may serve other clients, it shall not place itself or its assigned personnel into a position that would create a conflict of interest. The assigned personnel shall recuse himself/herself in any situation which would create a conflict of interest for a permanent incumbent.
7. City may cancel this Agreement at any time and without cause upon written notification to TRB. TRB may cancel this Agreement upon 30 days written notice to City and shall include in such notice the reasons for cancellation. In the event of termination, TRB shall be entitled to compensation for services performed to the effective date of termination; City, however, may condition payment of such compensation upon TRB delivering to City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to TRB or prepared by or for TRB or the City in connection with this Agreement.
8. The parties may amend this Agreement only by a writing signed by all the parties.

**CITY OF OAKLEY, a municipal corporation**

**TRB & Associates, Inc**

By: \_\_\_\_\_  
Bryan H. Montgomery, City Manager

By: \_\_\_\_\_  
Todd Bailey, Principal

ATTEST:

By: \_\_\_\_\_  
Libby Vreonis, City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
William R. Galstan, Special Counsel

# EXHIBIT A

## SCOPE OF SERVICES

### PLAN REVIEW SERVICES

**Plan Review:** TRB and Associates Inc. will perform plan reviews to check plans for compliance with the California Building Laws as generally found in Title 24 Parts 2, 2.5, 3, 4, 5, 6, 8, 11 and 12 including structural, fire/life safety, disabled access, green building, and energy conservation requirements, as amended by the City.

**Comment Lists and Plans Delivery:** Plan reviews result in typed lists of comments which refer to specific details and drawings, and reference applicable code sections. TRB and Associates will transport plans and comments to City in person, via email or FAX, and/or reliable overland carrier. Overnight delivery is available at no additional cost. Depending on the City's preferred process, TRB and Associates will provide plan check comments and perform rechecks directly with the (1) City, or (2) the applicant/designer, returning approved documents to the City after the plan review process is completed.

**Turn-Around Schedules:** Plan reviews will generally be completed / returned to City within approximately ten (10) working days of the date the plans are received by TRB and Associates. Other turnaround schedules will be accommodated at request of the City. Large, unusually complex plan reviews may require up to a fifteen (15) day turn-around.

**Technical Support:** When mutually agreed between the City and TRB and Associates as vital to project success, TRB and Associates staff will attend pre-construction or pre-design meetings, field visits upon request, and provide support for field inspection personnel on an as-needed basis.

### INSPECTION AND OTHER RELATED ONSITE SERVICES

TRB and Associates Inc. will provide Building Inspector(s), and related onsite personnel (e.g. Permit Technician(s), Building Official(s), etc.) as requested by the City. The scope of inspection and related services to be provided will be defined as listed below or as defined uniquely for each project or as determined by TRB and Associates and the City. Inspector(s) and related onsite personnel will report directly to the City Building Official or other person designated by the City for all project-related work.

In general, the inspection services to be provided may include, but are not limited to, field observation of all construction activity, preparation of daily reports, review of submittals and other duties as assigned.

## **EXHIBIT B**

### **COMPENSATION SCHEDULE**

#### **Building Plan Review Fees**

Fees for comprehensive plan reviews, performed at TRB and Associates Inc. offices, will be equal to seventy percent (70%) of the City-assessed plan check fee using valuation based on the most recent valuations published by ICC for normal, full building plan checks.

The above fee covers all services associated with the typical plan review, including:

- Delivery of design documents to the City.
- First, second, and third quick reviews, if necessary, to approve projects
- Pre-application, pre-construction, or additional meeting attendance via telecon that is necessary for unusual or complex projects.

#### **Partial Plan Reviews for Building Departments**

Structural-only plan review fees will be fifty percent (50%) of the plan review fees as calculated per the City. Special project fees (e.g., plumbing / mechanical / electrical-only, URM) can be based on a percentage of the plan review fee, hourly rate or other fee methods mutually agreeable to both parties.

#### **Other Potential Fee Types for Building Departments**

For projects where percentage fees are not applicable, or for plan review projects requiring services far exceeding the normal expectations, the attached hourly rates listed in TRB and Associates' Schedule of Hourly Rates and Reimbursables will be used.

#### **Inspection and Related Support Services Fees for Building Departments**

On-site field inspection and related support services are performed on an hourly fee basis as listed in the attached Schedule of Hourly Rates and Reimbursables. Overtime hours are assessed at an additional twenty-five percent (25%) of the hourly rate. When requested by the City, TRB and Associates will provide transportation for inspection services at the rate per mile within the City shown in the attached Schedule of Hourly Rates and Reimbursables.

## SCHEDULE OF HOURLY RATES AND REIMBURSABLES

### Plan Review and Inspection Services

<u>Position</u>	<u>Rate</u>
Principal	\$140.00
Project Manager	\$125.00
Building Official	\$120.00
Senior Plan Review Engineer/Architect	\$120.00
Senior Plans Examiner (Building & Fire)	\$115.00
Plan Review Engineer/Architect	\$110.00
Plans Examiner (Building & Fire)	\$ 90.00
Permit Technician	\$ 60.00
Clerical/Admin	\$ 45.00
Fire Protection Engineer	\$145.00
CASp Certified Inspector/Examiner	\$125.00
Supervising Inspector	\$ 95.00
Senior Inspector	\$ 85.00
Inspector	\$ 70.00

- Overtime will be billed at the rates shown above plus an additional 25 percent (Note that no overtime will be charged without client authorization)
- Reimbursement for direct expenses, incurred in connection with the work, will be at cost plus fifteen (15) percent.
- Reimbursement for employee-owned vehicles used in connection with the work will be at the rate of \$0.60 per mile.
- Other in-house charges for prints, reproductions and equipment use, etc. will be at standard company rates.

The above Schedule of Charges is valid through June 30, 2015 and may be adjusted thereafter.



May 7, 2014

Mr. Bryan Montgomery  
City Manager  
City of Oakley  
3231 Main Street  
Oakley, CA 94561

**Subject: Proposal to Provide Onsite Building Official Assistance to the City of Oakley**

Dear Mr. Montgomery:

TRB and Associates, Inc. (TRB+) is pleased to provide this Proposal to Provide Onsite Building Official assistance to the City of Oakley (City) for its consideration.

TRB+ understands that the City is seeking a seasoned individual to assist in the role of Building Official. For this assignment, TRB+ is proposing Doug Simms, CBO, CASp, a senior level staffmember with extensive building safety services leadership experience. His full resume is included for your reference.

We would like to highlight that TRB+ has a stable of professional staff available if additional building safety support is needed. These staff include licensed civil, structural, fire protection, mechanical, and electrical engineers as well as LEED AP, CASp, SAP (ATC20), and ICC certified individuals who have an average 22 years of experience in the building safety arena.

We look forward to the prospect of assisting the City on this assignment. Our proposed personnel, scope, and fee arrangement are cited below.

## **PROPOSED PERSONNEL**

As noted above, we are proposing Doug Simms for this role. Doug has over 20 years of experience in the Building Safety Services industry. He has served in the capacity of Building Official and has inspected numerous industrial, commercial, and residential projects including high-tech clean room and complex electrical system installations. The full resume for Doug is included in the attached Exhibit 'A'.

## **SCOPE OF WORK UNDERSTANDING**

In sum, it is our understanding that the City is interested in having an individual fulfill the role of Building Official on a part-time basis. It is further understood that this individual would be on the City premises for a duration of 8 to 20 hours per week, assisting with the following:



- Administering building codes to safeguard life, health, property, and public welfare
- Overseeing processing and issuance of building permits
- Overseeing plan review process to ensure uniform code conformance
- Overseeing day to day building inspection activities
- Coordinating permit fee estimates
- Ensuring coordination between city departments and outside agencies
- Implementing adoption of new codes as Universal Codes adopted by the State of California
- Providing technical insight to homeowners and contractors to help expedite construction projects
- Overseeing the maintenance of case files
- Providing oversight and help serve as a code resource for City staff.

We understand the importance of being accessible to project stakeholders, applicants and City personnel. As such, we are prepared to participate in discussions/meetings with applicants and/or City staff to ensure that compliance issues are handled in a timely manner as part of our onsite services scope.

## **SCHEDULE**

We would like to confirm that we are prepared to provide our onsite Building Official support staffmember as early as the last week of May 2014. Our proposal assumes that our staffmember would be on the City premises for a duration of 8 to 20 hours per week, and that at end of the assignment, a minimum 14-day notice is given by the City to allow time to reassign personnel.

## **COMPENSATION**

We propose to provide this onsite service on a Time and Materials basis, and will invoice the City of Oakley based on the terms included in our Consulting Services Agreement with the City. The billing rate proposed for Doug Simms is \$110.00 per hour (discounted from \$120.00).

We will coordinate with City management on any potential change order or scope amendments prior to proceeding with any such work.

## **OUR COMMITMENT**

With TRB + Associates, the City will receive an experienced team who understands the needs of public agencies and takes pride in delivering outstanding service. Consider us your partner, and as such we are always on call and always available for everything from simple brainstorming sessions to representing you during meetings with stakeholders. We look forward to the opportunity to work with the Oakley team on this assignment.

If you have questions or need any additional information, please do not hesitate to contact me by phone at (925) 866-2633 or by email at [tbailey@trbplus.com](mailto:tbailey@trbplus.com). I look forward to hearing your feedback soon.

Sincerely,

**TRB + ASSOCIATES, INC.**

A handwritten signature in black ink, appearing to read "Todd Bailey", with a long horizontal flourish extending to the right.

Todd Bailey, PE, LEED AP, CASp, MBA  
ICC Certified Plans Examiner  
Principal

Encl: Resume for Doug Simms, CBO

**Douglas Simms, CBO, CASp | Building Official / Supervising Inspector**

Doug Simms has over 20 years of experience in the building safety field. He has inspected numerous industrial, commercial, and residential projects including high-tech clean room and complex electrical system installations, and has served in the capacity of an interim Building Official. Doug has the ability to problem solve and research processes involved in highly technical systems. During his career, he has been responsible for the oversight of field inspectors and other building department staff. Doug employs a customer service focus in carrying out his building safety responsibilities.

**Education**

Certificate of Completion  
Building Inspection  
Butte Community College  
Oroville, CA

**Certifications**

Certified Building Official

Combination Building  
Inspector

Plans Examiner

Building Inspector

Electrical Inspector

Plumbing Inspector

Mechanical Inspector

Certified Accessibility  
Specialist (CASp) #211

**Professional Affiliations**

NECA East Bay Electrical  
Code Committee  
Past Chairman (3 years)

NECA East Bay Uniform  
Code Committee  
Past Member

**Select Project Experience**

- Yolo County Building Division, Woodland CA (TRB and Associates). Acted as Interim Building Official from September 2013 through March 2014. Responsible for monitoring plan review, flood plain administration, and customer service activities. A large portion of Yolo County is in a high-risk flood zone; all projects and plan documents must be reviewed for compliance to adopted code and FEMA provisions for construction located in these areas.
- Delegate Building Official Services – Inspector of Record (TRB and Associates). Provided inspection, safety monitoring and onsite project review for three Power Plant projects having a combined power output of over 1,000 MW. Projects comprised both simple cycle and combined cycle power generation plants. Completed onsite inspection records and provided oversight of all systems to verify compliance with design documents as well as all governing codes and requirements.
- PG&E Training Center, Livermore CA. This project comprised creating a leak detection training center for gas line workers. The project included an elaborate piping system used to simulate a commercial or a residential event scenario; a large rainwater containment system; and a helicopter landing pad.
- Lucky's Regional Distribution center, San Leandro, CA. Project inspector for 410,000 square foot refrigerated and frozen food warehouse. The project comprised inspection of structural, mechanical and electrical systems. This facility incorporated use of an ammonia-based refrigeration system.
- Kaiser Medical Center, Livermore CA. As project inspector for this medical clinic, inspected all phases of construction. Structure comprised a steel frame with concrete tilt-up wall construction. The building included treatment rooms, waiting areas, and clerical spaces, as well as a large generator and automatic transfer switch.
- Pioneer Packaging, Livermore CA. Inspected installation of a 460 kW photovoltaic system and new switch gear equipment.
- Form Factor, Livermore CA. Inspected the construction of a series of projects which included office space, employee areas and complex clean room facilities.

**Work History**

TRB + Associates, Inc., 2011- Present, Building Official / Supervising Building Inspector  
City of Livermore, CA, 2001 - 2009, Building Inspector II  
City of San Leandro, CA, 1990 - 2001, Senior Building Inspector