

CLARK COUNTY STAFF REPORT

DEPARTMENT: Community Development

DATE: June 3, 2014

REQUEST: Approve a professional services contract with Building Futures Foundation (BFF), the non-profit educational foundation of the Building Industry Association of Clark County (BIA).

CHECK ONE: X Consent CAO

BACKGROUND

The Building Industry Association of Clark County (BIA) and several individual builders filed a class action lawsuit against Clark County in July, 2002 related to the fees paid by building permit applicants. A settlement was reached in 2008, which specified that following a disbursement to the Legal Foundation of Washington, all remaining funds should be used for purposes that benefit home buyers in Clark County or that improve the building permit process in Clark County.

Since that time, the BIA and the county have worked collaboratively to determine how to best utilize the funds to meet the terms of the settlement. So far, the following disbursements have been made:

1. \$150,000 to the Community Housing Resource Center, which provides education and counseling to families to help them obtain housing stability, homeownership, and financial security.
2. \$20,000 for the launch of a consumer education, awareness and marketing campaign focused upon increased public awareness of the importance of securing project permits and hiring licensed, bonded and insured contractors.
3. \$25,000 to establish an incentive program that covers outreach activities and certification fees for houses within Clark County's jurisdiction to obtain ICC 700 National Green Building Standard Certification.

The attached contract is a proposal to disburse over five years an additional \$100,000, plus the proportionate accrued interest, to be used to continue and expand the consumer education, awareness and marketing campaign described in number two above.

COMMUNITY OUTREACH

No outreach was performed for this action, as the settlement specifies that the BIA and Clark County are the parties that need to agree upon the use of the funds. Substantial outreach to the community will be possible with the approval of this contract.

BUDGET AND POLICY IMPLICATIONS

No budget implications. The contract will allow the use of funds already held by Clark County, resulting from the settlement reached in 2008.

Policy implications include the support of a consumer education, awareness and marketing campaign focused upon increased public awareness of the importance of securing project permits and hiring licensed, bonded and insured contractors.

FISCAL IMPACTS

Yes (see attached form)

No

ACTION REQUESTED

Approve the staff report and contract and authorize the County Administrator to sign related documents.

DISTRIBUTION

Marty Snell, Community Development



Marty Snell
Community Development Director

Approved: 1

CLARK COUNTY
BOARD OF COMMISSIONERS

June 10, 2014
SR 114-14

Professional Services Contract

THIS AGREEMENT, entered this 10th day of June 2014, by and between CLARK COUNTY, a political subdivision of the State of Washington, hereinafter called "County" and the Building Futures Foundation, a Washington not for profit corporation, hereinafter this called the "BFF."

WITNESSETH

WHEREAS, the County and the BFF have agreed to work collaboratively to provide the consumer education, awareness and marketing campaign called for in the order authorizing the use of unclaimed funds entered in the matter of BIA of SW Washington v. Clark County Cowlitz Superior Court Cause No. 02-2-01116-1; and

WHEREAS, Clark County does not have available staff to provide such services for the benefit of the services of Clark County, NOW, THEREFORE,

THE COUNTY AND THE BFF MUTUALLY AGREE AS FOLLOWS:

1. Services. The BFF shall perform services as follows:

The BFF shall provide professional services to continue the outreach and marketing campaign established through the professional services contract signed on August 6, 2012. The contractor shall provide services related to the development, production and printing of outreach and marketing materials. The contractor shall consult with the county and ensure the county's input is considered in the development of the program and the production of any deliverables. Activities may include participation at industry related seminars and trade shows such as the home and garden idea fair; production of signs, handouts, brochures and other promotional

materials; payment for speakers/instructors for community events and seminars; and other related activities. The message of all materials shall relate to promotion of good building practices, the importance of obtaining building and related permits, building safety measures and related topics.

2. Time. The contract shall be deemed effective upon the date noted above and continuing through December 31, 2020.

3. Compensation. County shall disburse \$100,000, plus the proportionate accrued interest, in five (5) installments of approximately \$20,000 each in June of 2014 and January of the years 2015 to 2018 to the BFF. The Community Development Director shall approve the disbursement in January of each year. If an anticipated project is implemented in a given year and the cost is greater than \$20,000, the BFF shall inform the county of that amount, which shall be disbursed to the BFF that year. The difference shall be deducted from the total and the next year's disbursement shall be reduced. In December of each year, the vendor shall outline the expenses made within that calendar year to the Community Development Director.

4. Termination. The County may terminate this contract immediately upon any breach by BFF in the duties of BFF as set forth in contract. The waiver by the County of one or more breach shall not be held or construed as a waiver of any subsequent breach or breaches. Further, County may terminate this contract upon immediate notice to BFF in the event that the funding for the project ceases or is reduced in amount. The BFF will be reimbursed for services expended up to the date of termination.

5. Independent Contractor. The BFF shall always be an independent contractor and not an employee of the County, and shall not be entitled to compensation or benefits of any kind except as specifically provided herein.

6. Indemnification Clause. The BFF does release, indemnify and promise to defend and save harmless the County, its elected officials, officers, employees and agents from and against any and all liability, loss, damages, expense, action, and claims, including costs and reasonable attorney's fees incurred by the County, its elected officials, officers, employees and agents in defense thereof, asserting or arising directly or indirectly on account of or out of the performance of service pursuant to this Agreement. In making such assurances, the BFF specifically agrees to indemnify and hold harmless the County from any and all bodily injury claims brought by employees of the BFF and expressly waives its immunity under the Industrial Insurance Act as to those claims which are brought against the County. Provided, however, this paragraph does not purport to indemnify the County against the liability for damages arising out of bodily injuries to person or damages caused by or resulting from the sole negligence of the County, its elected officials, officers, employees and agents.

7. Contract Documents: Contract documents consist of this agreement.

8. Changes: County may, from time to time, require changes in the scope of the services to be performed hereunder. Such changes, including any increase or decrease in the amount of the BFF's compensation, which are mutually agreed upon by and between County and the BFF, shall be incorporated in the written amendments to the agreement.

9. Public Records Act: Notwithstanding the provisions of this Agreement, to

the extent any record, including any electronic, audio, paper or other media, is required to be kept or indexed as a public record in accordance with the Washington Public Records Act, RCW Chapter 42.56, as may hereafter be amended, BFF agrees to maintain all records constituting public records and to produce or assist Clark County in producing such records, within the time frames and parameters set forth in state law. BFF further agrees that upon receipt of any written public record request, BFF shall, within two business days, notify Clark County by providing a copy of the request to the Clark County Public Records Officer/Department of Public Works.

10. Governing Law. This agreement shall be governed by the laws of the State of Washington. Venue for any litigation shall be Clark County, Washington.

11. Confidentiality. With respect to all information relating to County that is confidential and clearly so designated, BFF agrees to keep such information confidential.

12. Conflict of Interest. The BFF covenants that it has had no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services hereunder. This Contract further covenants that in the performance of this agreement, no person having such interest shall be employed.


13. Consent and Understanding. This agreement contains a complete and integrated understanding of the agreement between the parties and supersedes any understandings, agreement, or negotiations, whether oral or written, not set forth herein or in written amendments hereto duly executed by both parties.

14. Severability. If any provision of this agreement is held invalid, the remainder would then continue to conform to the terms and requirements of applicable law.

IN WITNESS THEREOF, County and the BFF have executed this agreement on
the date first above written.

APPROVED AS TO FORM ONLY
ANTHONY F. GOLIK

Prosecuting Attorney


Civil Deputy Prosecutor


Mark McCauley, County Administrator

Avaly Scarpelli
Building Futures Foundation