

March 12, 2013

We appreciate the information provided recently in response to our public record request. There are a few questions that have arisen from an initial review of the material. The July 1, 2008 building plan check and inspection services contract written by Arnold Kemp of Kemp Inspection Service appears to have been signed by then City Manager Nancy Fleming on Feb. 18, 2009; it is very similar to the June 2007 contract without the code enforcement responsibilities however there are some glaring omissions. Specifically, paragraph 11 of the 2007 contract which clearly states that “no employment relationship is created or implied by this agreement...” and “...Rio Dell shall provide no benefits of any kind to Kemp” is no longer in the 2009 agreement. In fact, the 2009 contract provided by Kemp clearly states “In performing such work, Arnold Kemp thereto shall have the powers and duties of Rio Dell Building Inspector and Building Official.” The elimination of the “independent contractor” clause in the 2009 contract would appear to create an employee/employer relationship between Kemp and the city which may include benefits. Other than the reimbursement of cost specified in the 2009 agreement, is any other fee, wage, reimbursement or benefit provided to Kemp (including but not limited to free or reduced cost water, health benefits, insurance of any type, paid time off, travel expense, etc.)?

A couple of other interesting omissions from the 2009 contract include paragraph 10 in the earlier contract which states that upon termination “Kemp shall immediately return all materials and records relating to Rio Dell to city hall.”. Also, paragraph 12 of the 2007 contract regarding mediation for any dispute with each side paying their own attorney fees no matter the outcome is also missing from the 2009 contract.

Is the Feb. 18, 2009 agreement provided to us the most current contract for services by Arnold Kemp? If not, we request the current contract for services with Kemp Inspection Services in its entirety. The memo written on Feb. 4, 2010 refers to the possibility of a revised contract being needed; was a new contract written or any amendments added? Was the 2009 agreement for services reviewed and approved as to form and content by the city attorney at that time, David Martinek? The letter written by Kemp which accompanied the revised agreement fails to mention the many changes to the terms of the contract that he wrote and provided to the city other than no longer providing code enforcement for the city. Was the revised contract reviewed and/or approved by the city council (as a whole or individually) prior to its being signed by the city manager?

Lastly on this subject, the email correspondence written on Sept. 21, 2012 that was provided talks about incomplete inspection records for projects that Kemp had already been paid for. Were the issues brought up in that exchange resolved in their entirety to the city's satisfaction? Have changes been implemented in the process to prevent the obvious backlog of incomplete records that gave rise to the concern expressed in the email; if so please specify?

Regards,

Sharon & Steve Wolff

3 Painter St.

Rio Dell, CA 95562

steve@riodelltimes.com

Agreement for Building Official and
Code Enforcement Services

This Agreement for Building Official and Code Enforcement Services ("Agreement") is made and entered into as of the ___ day of June 2007, by and between the City of Rio Dell, a California general law city (hereinafter "Rio Dell") and Arnold C. Kemp, individually and dba Kemp Inspection Services (hereinafter "Kemp").

WHEREAS, Kemp has for years been providing Building Official services to Rio Dell, and

WHEREAS, the parties hereto wish to expand the scope of services provided to Rio Dell by Kemp,

NOW, THEREFORE, the parties hereto agree as follows:

1. Kemp shall perform all duties required to be performed by Rio Dell in all building and construction ordinances of Rio Dell, as they may from time to time be enacted or revised. Such duties shall include, but not be limited to: administration of all uniform and national construction, building, electrical and plumbing codes, inspections, plan checks and enforcement of code violations pursuant to the attached job description "City of Rio Dell Code Enforcement Official" attached hereto and incorporated herein by this reference.
2. Rio Dell shall give at least twenty-four (24) hours' advance notice for requested inspections.
3. Rio Dell shall furnish and prepare all maps, forms and ordinances required by Kemp to perform this contract without charge to Kemp.
4. Kemp shall be paid 90% of all collected building permit fees pursuant to Ordinance No. 202 (or any successor ordinance) for services pursuant to this contract. This payment includes all costs and overhead of Kemp.
5. Rio Dell shall determine building valuation based on the unit cost figures contained in the current edition of "Building Standards" published from time to time by the International Conference of Building Officials, commencing July 1 of each year.
6. Payment to Kemp shall be by the 10th of each month.
7. Rio Dell shall keep and furnish all records necessary for an audit of the services provided by Kemp herein.
8. This Agreement may be terminated by either party, for any reason, upon thirty (30) days' written notice to the other party.

9. No employment relationship is created or implied by this Agreement. Kemp acknowledges he is an independent contractor. Rio Dell will have no control over the time spent or means by which Kemp fulfills his duties specified in this Agreement. Rio Dell shall have no responsibility for withholding and Kemp shall be responsible for all applicable taxes. Rio Dell shall provide no benefits of any kind to Kemp.

10. Upon termination of this Agreement by either party, Kemp shall immediately return all materials and records relating to Rio Dell to city hall.

11. Rio Dell agrees to indemnify, defend or hold harmless Kemp from and against any legal fees and claims for damages, arising from any wrongful acts, errors or omissions or negligence of Rio Dell, its agents and employees in the performance of this Agreement, to the extent Rio Dell is found liable. Rio Dell shall not be responsible for any loss, claim, action or liability which arises from the negligence or wrongful act of Kemp.

12. Any dispute arising out of or relating in any way to this Agreement, or the relationship between Rio Dell and Kemp, shall be determined at binding arbitration according to the rules of the American Arbitration Association (AAA). Each party shall bear its own attorneys' fees and costs, regardless of the outcome, and regardless of any rule of the AAA relating to prevailing parties. Each party expressly waives its right to a jury trial. In construing this Agreement, both parties waive application of the rule that interprets ambiguities against the drafter of the Agreement.

13. The prior contract of September, 2003, between the parties hereto is hereby terminated.

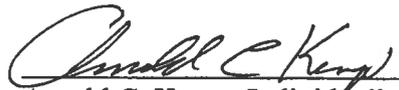
14. This Agreement contains the entire agreement of the parties relating to the subject matter herein. No amendment or modification of anything relating to or arising out of this Agreement shall be binding unless in writing and signed by both parties.

Date: 6/27/07

The City of Rio Dell


By: Its _____

Date: 6-27-07


Arnold C. Kemp, Individually
and dba Kemp Inspection
Services



Nancy Flemming,
City Manager
675 Wildwood Ave
Rio Dell, CA 95562

May 30, 2008

Dear Nancy,

This letter is to inform you as of July 1, 2008 I will no longer serve as Code Enforcement Officer for the City of Rio Dell.

I will be providing you with a copy of my 2008 - 2009 revised contract for your review and signature. It is my intention to go back to the original 80% fee for the building department only.

After careful review of serving in this position I have determined that at this time it is in my best interest to no longer provide code enforcement services for the City of Rio Dell.

Sincerely,

Arnie Kemp
Kemp Inspection Service

Cc:
Mayor, Bud Leonard
Vice Mayor, Julie Woodall
Councilwoman, Melissa Marks
Councilman, Mark Barsanti
Councilman, Mike Dunker



AGREEMENT TO PROVIDE BUILDING PLAN CHECK AND INSPECTION SERVICES TO THE CITY OF Rio Dell

THIS CONTRACT made and entered into the 1st day of July 2008 by and between the CITY OF Rio Dell, a municipal corporation within the State of California, hereinafter referred to as "Rio Dell", and Arnold C. Kemp hereinafter referred to as Kemp Inspection Service, a private inspection firm owned by Arnold C. Kemp.

WHEREAS, it is in the general public interest that said services be performed by Kemp Inspection Service, (Arnold Kemp) subject to the terms and conditions provided herein.

NOW, THEREFORE, the parties hereto agree as follows:

Kemp Inspection Service shall perform all functions including plan checks and building inspection as required by the Rio Dell Ordinance No. _____ that in connection therewith the Arnold Kemp of Kemp Inspection Service agrees to administer within Rio Dell, all provisions of the Uniform Building Code, Uniform Plumbing Code, National Electrical Code and Uniform Mechanical Code of Rio Dell. In performing such work, Arnold Kemp thereto shall have the powers and duties of Rio Dell Building Inspector and Building Official.

1. Rio Dell shall give at least twenty-four (24) hour advanced notice for requested inspections.
2. Enforcement of all violations of non-permitted work of Rio Dell's building inspection ordinance shall be the responsibility of Rio Dell.
3. Rio Dell shall furnish and prepare all maps and ordinances required by Kemp Inspection Service to perform this contract without charge to Kemp Inspection Service.

4. Rio Dell shall furnish all forms necessary for administration of the ordinance.

5. Rio Dell shall reimburse Kemp Inspection Service for cost incurred in connection with the administration of the ordinance in accordance with the following schedule:

<u>Activity</u>	<u>Reimbursement</u>
a. Building permit inspection and plan check	80 percent of the building & plan check permit fee
b. Electrical, Plumbing, and Mechanical	80 percent of the fee
c. Change of Occupancy	\$50.00 per hour (1 hour Minimum)
d. Re-inspection	No charge for first Re-inspection, second or more: \$50.00 per hour (1 hour minimum)
e. Inspections Not Listed Above (By special arrangement)	\$50.00 per hour (1 hour minimum)
d. Public works inspections	\$45.00 per hour

6. Rio Dell shall determine building valuation based upon the unit cost figures contained in the updated edition of Building Standards, published by International Conference of Building Officials, commencing July 1 of each year. Rio Dell shall adjust the reimbursement schedule to reflect amendments to Ferndale Ordinance No. _____ and subsequent editions of the Uniform Administrative Code.

7. Rio Dell shall reimburse Kemp Inspection Service on a monthly basis, by the 10th day of the following month for the cost of inspection(s) and plan checks as agreed to in Section 5.

8. Rio Dell shall keep and furnish all records necessary for audit of the inspection services by Kemp Inspection Service.

9. This contract shall become effective on the date it is executed by Arnold C. Kemp

and shall remain in effect until terminated pursuant to the provisions of paragraph (1) one.

10. This contract may be terminated by either party, for any reason, upon thirty (30) days prior written notice to the other party.

11. Rio Dell agrees to indemnify, defend or hold harmless Kemp Inspection Service from and against any legal fees, and claims for damages, arising from any wrongful acts, errors or omissions, or negligence of Rio Dell, its agents and employees in the performance of this agreement, to the extent that Rio Dell is found liable. Rio Dell shall not be responsible for any loss, claim, action or liability that arises from the negligence or wrongful acts of Kemp Inspection Service.

IN WITNESS whereof, the parties hereto have duly executed this contract, in duplicate, on the day and year first above written.

ATTEST: Arnold C. Kemp

ATTEST: City of Rio Dell



Date _____

Date _____



TO: Arnie Kemp, Contract Building Inspector

FROM: Jim Stretch, Interim City Manager

DATE: February 4, 2010

SUBJECT: Tightening up the process and new thoughts

As a follow-up to our conversation today on a small claims action for permit fees owed the City, we got to talking about the process. I talked to Karen, City Clerk, and she agreed with you that final inspections on the smaller projects/remodels are not as easy to keep track of.

As I understand it, when you know that a project has commenced without a building permit, you tell her and she sends them a letter. That usually brings folks in. If not, a personal contact by you is almost always effective. If that does not work, you tell Karen and the City will take it to the next level.

Building permits generally have a 180 day time-frame. If a reasonable amount of progress on the projects does not occurred during that period, you let Karen know and she sends them a letter. That works in most cases. But, for those few who do not respond, the City notifies a person that the permit has lapsed and a new building permit must be issued. New building permit fees are charged under the current fee schedule.

Karen mentioned that she went through the files and pulled each project that did not have a final inspection. You were supposed to check your "black book" and sign-off as appropriate. She does not believe that you made it through all of the files, so please find the time soon, within the next 30 days, to complete that work.

It appears that we need to find a better way to record final inspections at City Hall. It occurs now that you complete a final inspection and sign-off the card at the site, and then make a note in the black book. That note does not always make it from your book to city records. I know it is an inconvenience, but you need to routinely (weekly) come to city hall to sign off on the permits.

A couple of other items on fees. Our 2-18-09 agreement provides in section 2 that the enforcement of all violations of non-permitted work is the responsibility of the City. Okay, so when the building permit fees are doubled because of the work commencing without the required permits, that penalty amount should come to the City. We seemed to agree on that principle. But, since a special investigation (that's you) is required to determine whether the work commenced without the required permit, why don't we reverse the % and give you 20% of the investigative fee and the City 80%. I plan to ask the City Council to direct that the City Clerk charge the double fee (investigation) on any work for which a permit is required that is commenced without the required permit-no exceptions. That would take the heat off of you.

Last, I am playing with the idea that when the permit is issued, rather than pay the full 80% up front, that 60% be paid and the final 20% is paid when the final inspection is signed-off. I know you know where I am trying to get, but it seems fair. And, when building fees are paid and passed through up front and the permit lapses, all of that money should come back to the City, unless you have made inspections. We can agree on what those splits of the building fee should be, i.e. building inspection, electrical, plumbing and mechanical, for which you would be compensated for work performed and I am open to your suggestions. Then, the new permit fees would be charged (usually ½ of the full permit fee) under perhaps a new schedule and distributed according to the agreement.

We might need a new agreement. I am interested in any corrections or comments to this memo that you may wish to offer.

Thank you for your courtesy and assistance.

Jim Stretch

From: Jim Stretch <cm@riodellcity.com>
Sent: Friday, September 21, 2012 10:58 AM
To: 'Karen Dunham'
Subject: RE: Building Inspection Contract

Yes Karen, please copy me on the written correspondence you have had with Arnie since my letter of 2010. Thank you,

Jim

From: Karen Dunham [mailto:admin1@riodellcity.com]
Sent: Friday, September 21, 2012 9:29 AM
To: 'Jim Stretch'
Subject: RE: Building Inspection Contract

Jim,

The General Ledger which is what triggers payment to Arnie identifies the permits he is paid for each month. As far the scope of inspections, you can see from the permit log, that the information is lacking. I think once he updates the log, we will be able to break the permits up into categories: 1) those that have been inspected and can be closed out; 2) those that have been inspected and signed off on the applicant's inspection card but not the City's copy; 3) those projects that have been completed but not inspected for one reason or another and 4) those that are still under construction(in many cases the permits are expired and new permits need to be issued). In addition to your memo from 2010, I have correspondence that I sent to Arnie regarding the inspection process although doesn't specifically demand that he complete the inspections that he has been paid for. I will provide copies of those if you would like.

Karen Dunham, CMC

*City Clerk
City of Rio Dell
675 Wildwood Ave.
Rio Dell, CA 95562
707 764-3532 (phone)
707 764-5480 (fax)*



With regard to the amount due of \$2419.00 for commission received on a refunded building permit fee, I agree to the City of Rio Dell withholding 30% of my future commissions until paid in full.

Arnie Kemp

Arnie Kemp, Kemp Inspections

3-4-13

Date

Jim Stretch

Jim Stretch, City Manager

3-5-2013

Date



AGREEMENT TO PROVIDE BUILDING PLAN CHECK AND INSPECTION SERVICES TO THE CITY OF Rio Dell

THIS CONTRACT made and entered into the 18 day of Feb 09 by and between the CITY OF Rio Dell, a municipal corporation within the State of California, hereinafter referred to as "Rio Dell", and Arnold C. Kemp hereinafter referred to as Kemp Inspection Service, a private inspection firm owned by Arnold C. Kemp.

WHEREAS, it is in the general public interest that said services be performed by Kemp Inspection Service, (Arnold Kemp) subject to the terms and conditions provided herein.

NOW, THEREFORE, the parties hereto agree as follows:

Kemp Inspection Service shall perform all functions including plan checks and building inspection as required by the Rio Dell Ordinance No. _____ that in connection therewith the Arnold Kemp of Kemp Inspection Service agrees to administer within Rio Dell, all provisions of the Uniform Building Code, Uniform Plumbing Code, National Electrical Code and Uniform Mechanical Code of Rio Dell. In performing such work, Arnold Kemp thereto shall have the powers and duties of Rio Dell Building Inspector and Building Official.

1. Rio Dell shall give at least twenty-four (24) hour advanced notice for requested inspections.
2. Enforcement of all violations of non-permitted work of Rio Dell's building inspection ordinance shall be the responsibility of Rio Dell.
3. Rio Dell shall furnish and prepare all maps and ordinances required by Kemp Inspection Service to perform this contract without charge to Kemp Inspection Service.

4. Rio Dell shall furnish all forms necessary for administration of the ordinance.

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9. This contract shall become effective on the date it is executed by Arnold C. Kemp

and shall remain in effect until terminated pursuant to the provisions of paragraph (1) one.

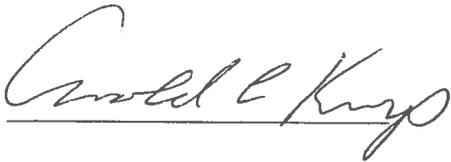
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11. Rio Dell agrees to indemnify, defend or hold harmless Kemp Inspection Service from and against any legal fees, and claims for damages, arising from any wrongful acts, errors or omissions, or negligence of Rio Dell, its agents and employees in the performance of this agreement, to the extent that Rio Dell is found liable. Rio Dell shall not be responsible for any loss, claim, action or liability that arises from the negligence or wrongful acts of Kemp Inspection Service.

IN WITNESS whereof, the parties hereto have duly executed this contract, in duplicate, on the day and year first above written.

ATTEST: Arnold C. Kemp

ATTEST: City of Rio Dell





Date 2-18-09

Date 2/18/09