# SULTAN CITY COUNCIL

## AGENDA ITEM COVER SHEET

**ITEM NO:** C-3

**DATE:** May 24, 2007

**SUBJECT:** Contract with Graham-Bunting Associates
Mitigation Plan Options for LID-97-1

**CONTACT PERSON:** Rick Cisar, Director of Community Development

**ISSUE:**

The City Council is requested to authorize the Mayor to sign a contract for $33,920.00 with Graham-Bunting for the completion of the Revised Mitigation Plan for LID-97-1.

**BACKGROUND:**

City Council on May 10, 2007, authorized the Mayor to sign a contract with Jones and Stokes in the amount of $45,870.00 for the completion of the Mitigation Plan for LID-97-1. Afterwards, City Staff requested the consulting firm of Graham-Bunting Associates to provide a quote to develop the Mitigation Plan as required by the Corps of Engineers to ensure the $45,870.00 was a reasonable figure. The firm of Graham-Bunting is currently under contract with the City to review all environmental plans and issues associated with new developments within the City. The quote from Graham Bunting of $33,920.00 represents a savings of $11,950.00. Therefore, City Staff is recommending Graham-Bunting Associates be retained to complete the plan.

**SUMMARY:**

The City received a letter (Attachment 1) dated December 7, 2006 from Kristina G. Tong, Regulatory Branch, Department of Army Corps of Engineers, inquiring about the status of the Wetlands Mitigation Plan that was to be completed on March 17, 2003.

In the response letter (Attachment 2), the City noted that work on the Mitigation Plan was halted do to the difficulties encountered in obtaining the necessary easements from the adjoining property owners. The City requested a meeting with Ms. Tong to discuss potential options to our orginial Mitigation Plan obligations.

On February 28, City Staff met with Ms. Tong and then toured the areas disturbed by the construction of the sewer line and the original properties identified for enhancement in the approved Mitigation Plan. City Staff also identified optional sites for mitigation which the City could acquire in light of past difficulties with the original properties.

City Council and City Staff discussed this issue at a previous Council Meeting with the City Council directing City Staff to contact the Army Corps of Engineers to investigate optional mitigation sites that may be acceptable to the Corps.

On April 2, 2007 the City received a response from Ms. Tong, indicating that the optional sites suggested by City Staff may be appropriate and recommended the City proceed with the preparation of a Compensatory Mitigation Plan for the Army Corps of Engineers review. Ms. Tong requested the City consultant contact her office no later than May 31, 2007 to discuss the plan requirements and schedule for completing the plan.

City Staff contacted Ms. Pat Bunting of the consulting firm of Graham-Bunting Associates, to discuss the response the City received from Ms. Tong. Graham-Bunting Associates is under contract with the City to complete environmental review of all development projects within the City. The City Staff asked Ms. Bunting to prepare a contract and cost estimate (Attachment 3) for their services to assist the City in the development of an optional Mitigation Plan that the Army Corps of Engineers may find acceptable.

The City Engineer and City Staff have reviewed the proposed cost estimate and find the contract amount of $33,920.00 to be acceptable for the detailed Mitigation Plan and Environmental Anaylsis required for this project.

**FISCAL IMPACT:**

The contract amount of $33,920.00 is funded from the LID-97-1 current Mitigation Plan Budget, which has sufficient funds to cover the cost of this contract.

**ANALYSIS:**

The contract is necessary to complete the revised Mitigation Plan obligations for LID 97-1 and satisfy the Department of Army Corps of Engineers to avoid enforcement actions against the City.

**ALTERNATIVES:**

1. Authorize the Mayor to sign the contract with Graham-Bunting Associates in amount of $33,920.00 to develop an alternative Mitigation Plan for LID-97-1. This alternative will assist the City in meeting the City's obligations associated with the Sewer LID-97-1 Project and avoid enforcement actions by the Department of Army Corps of Engineers.

2. Do not authorize the Mayor to sign the contract with Graham-Bunting Associates for the development of the Mitigation Plan Options for LID-97-1. This alternative would further delay the completion of the Mitigation Plan for LID-97-1 and cause enforcement actions by Department of Army Corps of Engineers.

3. Do not authorize the Mayor to sign the contract and direct City Staff to areas of concern.

**RECOMMENDED ACTION:**
Authorize Mayor to sign a contract with Graham Bunting Associates in the amount of $33,920.00 for the completion of Mitigation Plan Options for LID-97-1.

**RECOMMENDED MOTION**
Motion to authorize Mayor to sign a contract with Graham-Bunting Associates in the amount of $33,920.00 for the completion of alternative Mitigation Plan for LID-97-1.

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**COUNCIL ACTION:**

**DATE:**

**ATTACHMENTS:**
1. December 7, 2006 – Letter from the Department of Army Corps of Engineers
2. January 4, 2007 – Response Letter from the City of Sultan
3. May 15, 2007 – Graham-Bunting Associates - Scope of Work/Cost Estimate

***Graham-Bunting Associates***
*Environmental & Land Use Services*
*3643 Legg Road, Bow, WA 98232*
*Ph.360.766.4441 Fx. 360.766.4443*

May 15, 2007

Rick Cisar, Director of Community Development
City of Sultan
319 Main Street, Suite 200
P.O. Box 1199
Sultan, WA 98294-1199

**Re: Proposal to provide compensatory wetland mitigation plan (LID 97-1)**

Dear Rick:

This letter covers a proposal by Graham-Bunting Associates to provide compensatory mitigation planning services in conjunction with wetland impacts resulting from construction of a sewer line associated with LID 97-1.

I am rejoining my partner Patricia Bunting in private sector consulting after serving 3 years as Deputy Director of Skagit County Planning and Development Services. Patricia and I have a longstanding interest in compensatory mitigation and would be pleased to assist the City with this challenging project. Pat and I completed an intensive training session earlier this spring sponsored by the Corps of Engineers and Ecology which provided updated guidance relating to the preparation of mitigation plans. The Corps has stipulated that the specific guidance provided in the training and contained in the document, Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans, be utilized in conjunction with this project. Additionally Pat and I have conducted a number of third party reviews in Sultan and have firsthand knowledge of the municipal code and site specific experience with one of the potential mitigation sites.

Graham-Bunting Associates have both the technical background and local knowledge required to prepare a successful mitigation plan. Thank you for considering our proposal and please don't hesitate to contact us with any questions.

Sincerely,

Oscar Graham
Senior Wetland Ecologist

**_Graham-Bunting Associates_**
*Environmental & Land Use Services*
*3643 Legg Road, Bow, WA 98232*
*Ph.360.766.4441 Fx. 360.766.4443*

**Introduction**
Graham-Bunting Associates (GBA) have prepared this proposal based on review of the following documents and guidance:

1. Final Supplemental Environmental Impact Statement prepared by Berryman and Henigar, March 2002.
2. City of Sultan Industrial Park Corridor Stream and Wetland Reconnaissance Report prepared by Steward and Associates, January 2002.
3. Correspondence from the Corps of Engineers providing regulatory guidance in the preparation of a compensatory mitigation plan.
4. Wetland Mitigation in Washington State Part 2: Developing Mitigation Plans, Prepared by DOE, The Corps and EPA, March 2006.
5. Wetland Mitigation in Washington State Part 1: Agency Policies and Guidance, Prepared by DOE, The Corps and EPA, March 2006.

These documents were reviewed in order to establish a baseline of information needed to understand the project at a sufficient level of detail to prepare a proposal and budget for successfully completing the project. The environmental documents referenced under 1. and 2. were utilized to gain information relating to project impacts and to characterize the presence and extent of wetlands and streams within the project area. Letter and e-mail correspondence from the Corps referenced under 3. were reviewed in order to ascertain the regulatory direction required to obtain compliance through the preparation of a compensatory mitigation plan. 4. represents current guidance in the preparation of compensatory mitigation plans and 5. provides an understanding of how regulating agencies will determine compliance.

**Task 1 - Review of Existing Information**
GBA will initiate the project by establishing contact with the Corps of Engineers (Kristina Tong) to confirm our assumptions regarding compensatory mitigation and establish an acceptable and reasonable compliance timeline. It is particularly important to establish a cooperative relationship with regulating agencies in light of the fact that the project impacts are viewed as a violation of the Clean Water Act.

We will review existing information sources associated with the impacted site including those listed in 1. - 5. above as well as other resource information including the National Wetland Inventory, Soil Survey, USGS Quads and aerial photos. Other site-specific information sources including survey and topographic data will be identified and utilized as available. Previously prepared functional assessments and wetland ratings will be considered and compared to our own field observations which will be prepared under task 2.

Task 1 Deliverable: Meeting with City of Sultan Officials to determine if all applicable existing information sources have been identified and considered.

**Task 2 - Review of Impact Site**
Senior wetland ecologists (Pat Bunting and I) will obtain right of entry and conduct a detailed inspection of the wetlands impacted as a result of construction associated with LID 97-1 to determine the loss of functions and values and determine the type and extent of mitigation necessary at mitigation sites.

A functional assessment will be conducted and prepared in accordance with the most current technical guidance provided in Wetland Mitigation In Washington State. We will also rate the wetland consistent with the Washington State Wetland Rating System for Western Washington, Ecology, 2004.

Task 2 Deliverable: Draft functional assessment and wetland rating for impact site.

**Task 3 – Review of Potential Mitigation Sites**
Senior wetland ecologists will review existing information sources associated with potential mitigation sites 1 and 2. Existing information sources including functional assessments, wetland ratings and previously prepared, delineations, mitigation proposals and surveys will be reviewed.

Senior wetland ecologists will obtain right of entry and conduct a detailed inspection of the potential mitigation sites to compare and assess the functions and values with those of the impact site. It is our assumption that right of entry will be secured by the City.

Functional assessments will be conducted and prepared in accordance with the most current technical guidance provided in Wetland Mitigation In Washington State. We will also rate the wetlands consistent with the Washington State Wetland Rating System for Western Washington, Ecology, 2004.

Task 3 Deliverable: Draft functional assessments and wetland ratings for mitigation sites.

**Task 4 – Confirm Wetland Boundaries at Potential Mitigation Sites**
The potential mitigation sites; Lowe and Hammer have been addressed through previous delineation and mitigation plans. It appears that the wetland boundaries have also been surveyed. GBA will conduct a detailed site review to confirm wetland boundaries and generally refresh flagging as needed. It is our working assumption that new or updated delineations will not be required however we will address the possibility of limited delineations as contingencies to be reflected in deliverables and cost estimate. Similarly it is our assumption that responsibility for surveying wetland boundaries will fall to the City. GBA may re-scope this task at the request of the City and provide GPS support.

Task 4 Deliverable(s): Refreshed flagging of wetland boundaries. Written memoranda confirming wetland boundaries as refreshed. Contingency: Wetland delineation as

required (including data collection, documentation on Corps Field Data Forms and flagging) not to exceed 16 hours field time.

**Task 5 – Determining Adequacy of Potential Mitigation Sites 1 and 2**
Information gathered in Tasks 1 through 4 will be considered in determining the adequacy of the proposed mitigation sites. In the event that GBA determines that the sites are adequate to meet agency guidance standards up to three (3) meetings will be provided to coordinate review with the Corps and DOE. If the sites do not prove adequate then other sites will need to be identified and assessed.

Task 5 Deliverables: Memorandum assessing the adequacy of the proposed compensatory mitigation sites. Up to three meetings with City Officials and regulating agencies. Consideration of other potential mitigation sites is not addressed in this proposal. At the request of the City, tasks associated with the consideration of additional mitigation sites may be scoped.

**Task 6 – Preparation of Conceptual Mitigation Plan**
GBA will prepare a conceptual mitigation plan consistent with the guidance provided in Wetland Mitigation in Washington State to include:

- Identification of unavoidable impacts
- Summary of proposed approach for mitigation
- Overall goals for the proposed mitigation
- Compensatory mitigation site including location and rationale for selection
- Proposed construction activities and timing of activities
- Maintenance and monitoring
- Proposed mechanisms to protect the mitigation site over the long term

The draft plan will be presented to the City for review. Following review, comment and edits the draft plan will be submitted to the regulating agencies for review and comment. Upon agreement from the project team and agencies the plan will be submitted for official review by the Corps and DOE.

Task 6 Deliverable: Draft hard copies of the conceptual mitigation plan in a number specified by the City of Sultan to be followed by 6 copies of the final document along with an electronic copy.

**Project Management (Ongoing)**
GBA will provide project management tasks on an ongoing, as needed basis throughout the project. These tasks will include preparation of memoranda, telephone communications, incidental meetings, e-mail communications monthly invoicing along with monthly progress reports.

**Schedule**
GBA are prepared to initiate work on this project upon execution of a contract.

**Additional Services**
Unless otherwise specified in this proposal legal surveys, evaluation of sites other than those noted as 1 and 2, final plans and long term monitoring and maintenance would be considered by GBA as additional services and are not addressed under this proposal.

**Cost Estimate**
GBA bill at a rate of $80.00 per hour for each member of the project team. This project will be conducted entirely by the principals of the firm, Senior Wetland Ecologists Patricia Bunting and Oscar Graham. If specific fish and wildlife expertise is required to address details associated with a particular species our associate or if GPS support is needed Rone Brewer will provide such services at a rate of $80.00 per hour. Following is a task by task estimate of project costs:

Task 1 - Review of Existing Information: 2 Senior Wetland Ecologists, 14 hours each @ $80.00 per hour ---------- $2240.00

Task 2 - Review of Impact Site: 2 Senior Wetland Ecologists, 46 hours each @ $80.00 per hour ---------- $7360.00

Task 3 – Review of Potential Mitigation Sites: 2 Senior Wetland Ecologists, 60 hours each @ 80.00 per hour ---------- $9600.00

Task 4 – Confirm Wetland Boundaries at Potential Mitigation Sites: 2 Senior Wetland Ecologists, 24 hours each @ $80.00 per hour ---------- $3840.00

Contingency: Wetland Delineation As required: 2 Senior Wetland Ecologists, Up to 16 hour each @ $80.00 per hour ---------- $2560.00

Task 5 – Determine Adequacy of Potential Mitigation Sites: 2 Senior Wetland Ecologists, 22 hours each @ $80.00 per hour ---------- $3520.00

Task 6 – Preparation of Conceptual Mitigation Plan: 2 Senior Wetland Ecologists, 30 hours each @ $80.00 per hour ---------- $4800.00

**Total---------- $33,920.00**

Mileage @ $.45 per mile