

SULTAN CITY COUNCIL
AGENDA ITEM COVER SHEET

ITEM NUMBER: Consent C-9

DATE: July 12, 2007

SUBJECT: Open Space Resources – Professional Services Contract for Property and Right-of-Way Acquisition Services

CONTACT PERSON: Rick Cisar, Community Development Director

SUMMARY:

City Staff is requesting the City Council authorize the Mayor to sign a Professional Services Contract with Open Space Resources to negotiate the acquisition of properties for Park and Recreation purposes as well as easements for potential revisions to the LID 97-1 Mitigation Planting Plan.

Unfortunately, a previous acquisition agreement authorized by the City Council in March of this year with Bob Thompson, could not be completed, do to insurance issues.

FISCAL IMPACT:

The cost for the Open Space Resources Service will not exceed \$9,000.00. Funds for the acquisition of Park and Recreation properties are available from the Park Impact Fee account. The additional easements costs for LID 97-1 are available in the LID 97-1 Mitigation account.

ANALYSIS:

The contract will allow the City to acquire Park and Recreation properties necessary to develop a Community Park Site as identified in the Comprehensive Plan. The LID 97-1 easements will allow the City to complete a revised Mitigation Planting Plan for the LID 97-1 project that the Army Corps of Engineers will support as a result of a recent meeting and an on-site inspection.

The scope-of-work of the Open Space Resources Contract will involve the acquisition of the properties for parkland and mitigation purposes within the budgets for the subject properties and easements. The contract will run for 4-months and is similar in form and content to the Financial Analysis Services contract recently approved by the City Council.

ALTERNATIVES:

1. Authorize the Mayor to sign the contract with Open Space Resources to negotiate the acquisition of properties for Park and Recreation purposes and the completion of the LID 97-1 Mitigation Plan. This alternative will result in the completion of the Council's goal to acquire land and develop a new Community Park and complete the Mitigation Planting Plan for LID 97-1.
2. Do not authorize the Mayor to sign the contract amendment with Open Space Resources to negotiate the acquisition of properties for Park and Recreation purposes and complete the Mitigation Planting Plan for LID 97-1.

This alternative would delay the property acquisition and development for a Community Park and the completion of the required Mitigation Planting Plan for LID 97-1. A delay in the acquisition of properties could certainly reduce the availability of suitable properties for the park as result of other potential development opportunities. A delay could also jeopardize the City's ability to acquire grant funds to develop the park utilizing the land acquisition costs as part of the required matching funds.

Failure to complete the LID 97-1 Mitigation Planting Plan could jeopardize our positive working relationship with the Army Corps of Engineers and could lead to the imposition of fines as a result of the failure to complete the mitigation plan.

RECOMMENDED MOTION:

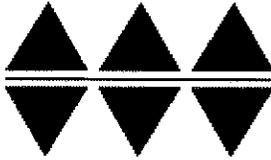
City Staff moves to authorize the Mayor to sign a Professional Services Contract with Open Space Resources for property and right of way acquisition not to exceed \$9,000.00

COUNCIL ACTION:

DATE:

ATTACHMENTS:

Open Space Resources, Scope-of-Work



OPEN SPACE RESOURCES
a land conservation company

5302 South Lola Lane
Langley, WA 98260
360.321.5803 voice
360.321.5804 fax
osrinc@earthlink.net
<http://www.osrinc.org>

June 28 2007

Mr. Richard Cisar
Director of Community Development
P.O. Box 1199
Sultan, WA 98249

Dear Rick:

This letter follows up on our June 26, 2007 discussion and request for a proposal regarding real property services related to various tax parcels being considered for park and/or environmental mitigation purposes.

OSR Background and Experience:

Attached is OSR's statement of qualifications which includes information on OSR's services, principal, completed projects, clients, testimonials and references.

Scope of Services:

- Initial discussion with landowners to determine their interest and willingness;
- Commissioning and oversight of appraisal(s) and appraisal review;
- Negotiation of terms and conditions related to sales;
- Regular interaction with City officials including presentations to City Council as necessary;
- Commissioning and oversight of all appropriate due diligence;
- Preparation of a draft purchase and sale agreement and other relevant documentation for review by City legal department/counsel;
- Oversight of any pre-sale steps involved in the transfer (BLA, short-plat, etc.);
- Oversight of closing details.

Estimated Time and Cost:

It is difficult to know precisely how many hours any transaction may take from initiation through completion. Land issues are complex, landowners move at their own pace and can be fickle, legal issues arise, etc.

OSR's services are billed on the basis of actual time expended. The estimate below is provided simply as an illustration of time that may be involved in the various assignment components described above.

- Research and preparation: *5 hours*
- Initial meetings with landowners: *5 hours*
- Negotiations with landowners, including written follow-up: *15 hours*
- Status reports and meetings with City officials, including preparation of reports: *10 hours*
- Commissioning and oversight of due diligence: *10 hours*
- Preparation of draft agreements: *10 hours*
- Oversight of pre-sale transfer details (if necessary): *25 hours*
- Oversight of closing details: *10 hours*

Total: 90 hours

Compensation for OSR Services:

OSR's standard rate is \$100 per hour (inclusive of all travel, telephone and overhead costs), not to exceed a total of \$800 in any one 24-hour period. Travel time over one hour daily is billed at \$50 per hour. Records of actual hours are recorded daily and submitted in a detailed monthly or quarterly progress report format. Reimbursable expenses for appraisals, surveys, environmental assessments, etc. are billed separately.

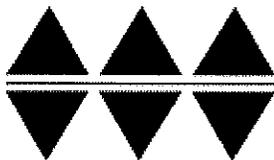
Timeline:

OSR is prepared to start this assignment immediately. Generally speaking, transactions (including appraisal and due diligence) take three to nine months to complete.

I hope and trust this proposal addresses any questions you may have about engaging OSR services. If you have any further questions, please do not hesitate to contact me at 360.321.5803.

Sincerely,

Phil Pearl



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Open Space Resources (OSR) provides planning, land acquisition and project management services to public agencies and not-for-profit organizations.

- **OSR assists clients identify and plan for open space and park needs;**
- **OSR negotiates and manages complex land conservation and park acquisition projects.**

I. Summary of OSR and its services:

OSR was founded in 1998 to directly represent the interests of governmental agencies and non-profit organizations in the acquisition of conservation lands and parks. Over the past eight years, OSR has represented approximately twenty local, county and state agencies and non-profit organizations. Most of these clients are based in the Puget Sound region.

Phil Pearl, OSR's principal and sole employee, gained extensive experience working for a series of land trusts, foundations and non-profit land conservation organizations in the East, Intermountain West and Pacific Northwest. To date, Phil has been involved in over 250 transactions resulting in the protection of over 80,000 acres. Much of this land is now in public ownership as local and county parks.

Phil's past experience includes serving as the Program Director for the Lila Acheson and DeWitt Wallace Fund for the Hudson Highlands, the largest private endowment for land conservation in the United States. Regional Director to the National Parks and Conservation Association, a national parks advocacy group; Project Manager for the Trust for Public Land, a national land conservation organization; and Land Preservation Director for Scenic Hudson, a regional land trust.

II. **Benefits of OSR services:**

- OSR specializes in the representing public agencies and has the necessary expertise to comply with regulatory requirements related to public land acquisition;
- OSR is highly experienced and creative in negotiating land transactions. Experience and creativity can mean the difference between a swift, mutually satisfying transaction and a protracted and costly impasse on priority projects;
- One of OSR's specialties is dealing with multiple ownerships that involve complex and simultaneous negotiations. Such situations often arise with the assemblage of adjacent lands and/or the linkage of properties to create trail corridors;
- OSR serves as a "buffer" in situations where a seller is reluctant or unwilling to deal directly with regulatory agencies or public agency officials;
- Professional services are provided at a fraction of the cost of hiring and training employees to complete similar tasks;
- OSR streamlines the land acquisition process by being the agency contractor and subcontracting services under OSR's name (thereby saving public agencies from the process of soliciting multiple bids and/or being saddled with prevailing wage requirements);
- OSR's experience with tax law may also result in the agency acquiring land at below fair market value; and
- In situations where grant funding is involved (for example, IAC funding), securing early legal control will often make the project more competitive. Moreover, reasonable project expenses, including acquisition service fees, may be reimbursable as a project expense.

III. Project examples:

- Island County:* Over the past decade OSR's principal (working on behalf of the Trust for Public Land and OSR) negotiated the acquisition of Double Bluff (+/- 5 acres of waterfront), Ala Spit (+/- 6 acres of waterfront), Maxwellton Salmon Adventure (+/- 5 acres), Saratoga Woods (+/- 118 acres, including 5 acres of waterfront) and Clinton Landing (.6 acres of waterfront).
- City of Bellingham:* OSR completed the acquisition of four new city parks including Woodstock Farm (+/- 15 acres of waterfront); Squalicum Fields (+/- 44 acres for use as a future athletic facility); Salmon Park (+/- 3 acre Salmon restoration area); and Samish Hill Greenway (+/- 100 acre greenway). OSR also acquired land for the expansion of Fairhaven Park. OSR is currently working on the acquisition of two new parks and the extension of the Squalicum Trail greenway system.
- City of Bainbridge Island:* OSR completed the acquisition of one waterfront park area on Eagle Harbor (+/- 5 acres) and two cross island trail systems linking existing parks. OSR is currently working on the acquisition of a new 33 acre park.
- City of Woodinville:* OSR completed the acquisition of several new park properties including a downtown anchor for the future Little Bear Creek trail system (+/- 8 acres); property that will eventually be developed into an interpretive trail system (+/- 20 acres); a site for skatepark and bmx use (+/- 5 acres); an open space and trail linkage to downtown (+/- 30 acres); and several properties pursuant to the expansion of the Sorenson Center Civic Campus. OSR is currently working on several new acquisitions including new parks and trail systems to link downtown areas to outlying neighborhoods.
- Kitsap County:* OSR completed the acquisition of eight new parks including Anderson Point (+/- 30 acres of waterfront); Point No Point (+/- 30 acres of waterfront); Guillemot Cove (+/- 150 acres of waterfront) Coulter Creek Heritage Park (+/- 1,200 acres); Carpenter Lake (10 acre lake and wetland); Buck Lake (+/- 20 acres); Kingston Salt Marsh (+/- 15 acres) and Watagua Beach (+/- 30 acres).

Additional Clients Include:

City of Olympia
Island County
Port District of South Whidbey
Island County Fire District #3
Pacific Forest Trust
Seattle Public Utilities
Firehole Ranch
Department of Ecology
National Park Service
Lila Acheson and DeWitt Wallace Fund

IV. Comments of OSR clients and references:

"For the past five years Open Space Resources assisted the City of Bellingham with some of the most complex projects it has completed to date. As a result of OSR's efforts, the City has acquired approximately 180 acres of new parkland within the City limits. OSR is a skilled organization with a tremendous amount of expertise to offer public agencies."

*Tim Wahl
Greenways Coordinator
City of Bellingham
Parks and Recreation Department*

"Open Space Resources assisted the City of Woodinville with a series of highly visible and complex land acquisitions on the Civic Campus, Little Bear Creek Linear Park, and Skate/BMX park. By taking advantage of OSR's array of property services, we have been able to complete some of the Council's most visionary projects and purchase properties that form the backbone of our Parks and Recreation system".

*Lane Youngblood
Director
City of Woodinville
Parks and Recreation Department*

"Working with Phil Pearl and OSR over the years has been a pleasure. His professionalism and ability to work with landowners has brought success to complicated and sometimes difficult projects that were completed because of his outstanding skills. I highly recommend OSR to anyone who needs help with negotiating with landowners or planning a project."

*Connie Waddington
Open Space Commissioner
Bainbridge Island*

"Open Space Resources did a wonderful job for the Port in its efforts to acquire the Clinton Landing Park property. Through OSR's negotiations with the seller, an impasse turned into a win-win situation. The Port couldn't be more pleased with the services provided"

*Lynae Slinden
Port Commission Chairperson
Port District of South Whidbey Island*

"Open Space Resources assisted the Bainbridge Island Open Space Commission assemble two complex trail corridors, involving many property owners. OSR took the time to build trust with landowners, which was the key to our success. OSR did an excellent job."

*Andy Maron
Chairperson
Bainbridge Island Open Space Commission*

"Phil Pearl worked closely with various members of our family and engineered a wonderfully successful sale and transfer of our Hood Canal property to Kitsap County for a park. Phil is an exceptionally good listener and problem solver, which were the key ingredients to working through some rather complex family dynamics. I highly recommend his services."

*Gordon Reynolds
Attorney at Law
Landowner*

V. References

Paul Leuthold, Director, City of Bellingham Parks and Recreation 360.676.6985
Tim Wahl, Greenways Director, City of Bellingham 360.676.6985
Lane Youngblood, Director, City of Woodinville Park and Recreation 425.489.2700
Connie Waddington, City of Bainbridge Island Open Space Council 206.842.9483
Lynae Slinden, Port District of South Whidbey Island 360.341.3218
Anthony Gibbons, MAI, Appraiser, Resolve, Inc. 206.842.4887
Steve Price, MAI, Appraiser, Terra Property Analytics, 206.213.0810

Additional references are available upon request.