CITY COUNCIL
AGENDA ITEM COVER SHEET

ITEM NO: C-10

DATE: December 11, 2008

SUBJECT: Richard Little - Contract to assist the City in securing funding for the Waste Water Treatment Plant Upgrade

CONTACT PERSON: Deborah Knight, City Administrator

ISSUE:

The issue before the City Council is to authorize the Mayor to sign a professional services contract with Richard Little not to exceed $20,400.

STAFF RECOMMENDATION:

Staff recommends contracting with Richard Little. Mr. Little has extensive government relations experience at the federal and state level. Mr. Little represents local governments including the City of Bellingham. He has professional relationships with state and federal legislators.

SUMMARY:

The purpose of the contract is to provide assistance representing the City's need for capital budget funding for the Waste Water Treatment Plant (WWTP) upgrade during the 2009 state and federal legislative sessions. Securing capital funding from state and federal governments is part of the City's WWTP funding strategy.

The contract with Richard Little will be effective December 1, 2008 through May 31, 2009. Preliminary work with legislators for the 2009 legislative session will begin in December 2008 and continue through May 2009. Mr. Little will represent the City both at the state and federal legislatures.

Funding for the contract is budgeted in the 2009 sewer system operating budget.

The proposed contract replaces the City's previous contract with the MWW Group which expired in July 2008.

The proposed contract would contine the work started in the 2007 state legislative session into the 2008 session.

COUNCIL SUBCOMMITTEE RECOMMENDATION:

The Council subcomittee reviewed the proposed contract on November 25, 2008 and authorized staff to retain Mr. Little until the contract could be reviewed by the full Council.

Mr. Little was in Washington DC representing the City's interests the first week in December. The timing was good to discuss Sultan's WWTP Upgrade with our federal legislators as they considered the State's need for funding as a part of a proposed federal economic stimulus package.

BACKGROUND:

The City Council approved a contract with MWW Group in 2007 and 2008. The result of the City's efforts was a $500,000 legislative proviso in 2008. Unfortunately, MWW Group no longer provides government relation services to municipalities in Washington State. Ryan Pennington, the City's former consultant was reassigned to Washington, DC.

The City Administrator spoke with other City Managers and Administrators regarding the City's needs. The City contacted another consultant regarding this work. The consultant was unable to add Sultan as a client due to a heavy client list. Mr. Little was recommended as an alternative.

The City Council may want to direct staff to conduct a competitive selection process prior to making a final decision to contract with Mr. Little. However, the 2009 legislative session will begin in January and work needs to begin in December 2008 to be effective in 2009.

DISCUSSION:

Attachment B is a contract and scope of work with Mr. Little to provide assistance to the City of Sultan in working with the state and federal legislature to build support for capital budget funding in the 2009 legislative sessions.

The proposal is a six-month contract beginning December 1, 2008 and continueing through May 2009. Prior to the session, Mr. Little will work City staff and Council to meet individually with legislators and bulid support for the project.

Mr. Little will work closely with the City to prepare a formal appropriations request and supporting materials and secure legislative sponsors and support for the City's request.

During the session, Mr. Little will work with the City to engage and leverage his network of contacts and the work of other stakeholders to support the City's request. Following the legislative session, Mr. Little will work with the City to ensure that the City's request

is enacted as desired by helping to prevent a line item veto by Governor Gregoire. At the conclusion of the contract, Mr. Little will submit a comprehensive summary report of his activities and work with the City to conduct a thorough assessment of his performance.

Mr. Little will also work closely with the City's federal legislators to secure funding through the 2009 Federal Stimulus Package.

The proposed budget is a monthly retainer of $3,000 would be in effect for the duration of the legislative session.

ANALYSIS:

Funding for the WWTP

The Waste Water Treatment Plant is the limiting factor for the future economic growth of the City of Sultan. Flows and loads are approaching the capacity of the existing system. The General Sewer Plan (May 2006) estimates the treatment facility will reach the 85% capacity about 2009 and 100% capacity about 2012.

Design, permitting and construction will take at least three years to complete. The design phase is currently stopped at 50%. The City is pursuing funding to complete the NEPA/SEPA report for a Facilities Report $60,000; complete the plant design $1,000,000 and installation of the centrifuge $250,000 = 1,310,000.00

The construction phase of the WWTP upgrade is estimated to cost approximately $15 million. In order to raise the necessary funds for the upgrade, the City will need to obtain a variety of funding sources including grants, state capital funding, and service fees. The proposed strategy is to seek state funding for up to 25% of the cost (approximately $3.7 million), grant funding and low-interest PWTF loans or bonds would fund the remaining 75%. The loans/debt service would be repaid through service fees over the 20-year repayment of the loans.

State Budget Cycle and Priorities

The state legislature is on a two-year budget cycle. This year, the legislature will consider operating and capital funding appropriations for July 2009-July 2011. In order to have funding for the WWTP in place by 2010, the City must work to secure state funding during the 2009 legislative session.

In addition to coordinating the City's efforts to secure state funding during the regular budget cycle, it is beneficial to tie the City's capital request with the Puget Sound Partnership. The legislature will be evaluating the Partnership's Action Agenda during the 2009 session.

FISCAL IMPACT:

The immediate fiscal impact is $20,400 for a professional services contract with Mr. Richard Little for 2008/2009.

Several Council members may need to attend the Association of Washington Cities (AWC) Legislative Forum in Olympia in January 2009 to meet one-on-one with the City's legislative representatives. The Legislative Conference is $100/per person for the conference, and hotel accommodations are $100/night per person. The City Council has made funds available in the Council's 2009 travel and seminar budget. The benefit of expending these funds is well worth the anticipated outcome of receiving a state allocation of funding for the WWTP.

ALTERNATIVES:

1. Discuss the staff recommendation, determine the need to pursue state funding for the WWTP in 2009, and authorize the Mayor to sign a professional service contract with Richard Little not to exceed $20,400. This alternative would continue the work started during the 2007 and 2008 legislative sessions and build momentum in the state legislature for the project.
2. Discuss the staff recommendation. Determine that there is no need to pursue state funding for the WWTP in 2009,and do not authorize the Mayor to sign a professional services agreement with Mr. Little not to exceed $20,400.
3. Discuss the staff recommendation and identify any areas of concern. This may include a decision to conduct a competitive selection process prior to making a final decision to contract with Richard Little. Direct staff as necessary to meet the Council's desired outcome(s).

RECOMMENDED ACTION:

Authorize the Mayor to sign a professional service contract with Richard Little not to exceed $20,400.

RECOMMENDED MOTION:

I MOVE TO AUTHORIZE THE MAYOR TO SIGN A PROFESSIONAL SERVICE CONTRACT WITH MR. RICHARD LITTLE NOT TO EXCEED $20,400.00

ATTACHMENTS

Attachment A – Richard Little Resume
Attachment B - Proposed Contract and Scope of Work

RICHARD N. LITTLE
3018 Elm Street
Bellingham, Washington
(360) 961-2443
dlittle07@gmail.com

Employment:

2007 – Present: Richard N Little Consulting LLC
1998 - 2007: Director, Government Relations, City of Bellingham
1986 - 1998: Assistant City Attorney, City of Bellingham
1980 - 1986: Private law practice, Bellingham
1979 - 1980: U.S. Commerce Department, Deputy Assistant Secretary, Congressional liaison
1977 - 1979: U.S. House of Representatives, Counsel to Transportation and Commerce Subcommittee.
1973 - 1977: Private law practice, Monterey, California
1969 -1973: U.S. Navy, Lieutenant, Judge Advocate General's Corps.

Education:

B.S., University of California, 1965
J.D., Hastings College of the Law, 1968
George Washington University, Environmental Law Masters Program

Admitted to practice:

U.S. Supreme Court
U.S. Court of Military Appeals
California State Bar
U.S. District Court, Western District of Washington
Washington State Bar

Other activities:

Past President, Washington State Association of Municipal Attorneys
Board member, Evergreen AIDS Foundation
Boards and Council, First Congregational Church of Bellingham
Various singing groups
Youth soccer coach
Commissioner, Monterey County Park and Open Space District
Member, California Central Coastal Commission
Outstanding Service Award, Washington State Association of Municipal Attorneys

Tim Douglas
Former Mayor
Bellingham Washington
timjod@msn.com
360-676-8530

Kelli Linville
State Representative 42nd District
Washington State Legislature
linville_ke@leg.wa.gov
360-671-2619

Evan Schatz
Legislative Director
Senator Patty Murray
Evan_Schatz@murray.senate.gov
202-224-2621

Rick Agnew
VanNess Feldman
Government Relations and Public Policy
raa@vnf.com
206-829-1815

AGREEMENT FOR SERVICES
BETWEEN THE CITY OF SULTAN AND RICHARD N LITTLE CONSULTING, LLC

THIS AGREEMENT, is made this 1st day of December, 2008, by and between the City of Sultan (hereinafter referred to as the "City"), a Washington Municipal Corporation, and Richard N. Little Consulting (hereinafter referred to as the "Service Provider"), doing business at 3018 Elm Street, Bellingham, WA 98225-1620.

WHEREAS, the Service Provider is in the business of providing certain services specified herein; and

WHEREAS, the City desires to contract with the Service Provider for the provision of such services for government relations and appropriations, and the Service Provider agrees to contract with the City for same;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, it is agreed by and between the parties as follows:

T E R M S

1. Description of Work. The Service Provider shall perform work as described in Attachment A, Scope of Work, which is attached hereto and incorporated herein by this reference, according to the existing standard of care for such services. The Service Provider shall not perform any additional services without the expressed permission of the City.

2. Payment.

A. The City shall pay the Service Provider at the rate set forth in Attachment B, but not more than a total of twenty thousand four hundred dollars ($20,400.00) for the services described in this Agreement. This is the maximum amount to be paid under this Agreement, and shall not be exceeded without prior written authorization from the City in the form of a negotiated and executed supplemental agreement.

B. The Service Provider shall submit monthly payment invoices to the City after such services have been performed, and the City shall make payment within four (4) weeks after the submittal of each approved invoice. Such invoice shall detail the hours worked, a description of the tasks performed.

C. If the City objects to all or any portion of any invoice, it shall so notify the Service Provider of the same within ten (10) days from the date of receipt and shall pay that portion of the invoice not in dispute. The parties shall immediately make every effort to settle the disputed portion.

3. Relationship of Parties. The parties intend that an independent contractor - client relationship will be created by this Agreement. As the Service Provider is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or subcontractor of the Service Provider shall be or shall be deemed to be the employee, agent, representative or subcontractor of the City. None of the benefits provided by the City to its employees, including, but not limited to, compensation, insurance and unemployment

insurance, are available from the City to the Service Provider or his employees, agents, representatives or subcontractors. The Service Provider will be solely and entirely responsible for his acts and for the acts of the Service Provider's agents, employees, representatives and subcontractors during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Service Provider performs hereunder.

4. **Project Name**. Government Relations – Appropriations

5. **Duration of Work**. The Service Provider shall complete the work described in Attachment A on June 1, 2009.

6. **Termination**.

A. *Termination Upon the City's Option*. The City shall have the option to terminate this Agreement at any time. Termination shall be effective upon ten (10) days written notice to the Service Provider.

B. *Termination for Cause*. If the Service Provider refuses or fails to complete the tasks described in Attachment A, or to complete such work in a manner unsatisfactory to the City, then the City may, by written notice to the Service Provider, give notice of its intention to terminate this Agreement. After such notice, the Service Provider shall have ten (10) days to cure, to the satisfaction of the City or its representative. If the Service Provider fails to cure to the satisfaction of the City, the City shall send the Service Provider a written termination letter which shall be effective upon deposit in the United States mail to the Service Provider's address as stated above.

C. *Rights upon Termination*. In the event of termination, the City shall only be responsible to pay for all services satisfactorily performed by the Service Provider to the effective date of termination, as described in the final invoice to the City. The City Manager shall make the final determination about what services have been satisfactorily performed.

7. **Nondiscrimination**. In the hiring of employees for the performance of work under this Agreement or any subcontract hereunder, the Service Provider, its subcontractors or any person acting on behalf of the Service Provider shall not, by reason of race, religion, color, sex, marital status, national origin or the presence of any sensory, mental, or physical disability, discriminate against any person who is qualified and available to perform the work to which the employment relates.

8. **Indemnification / Hold Harmless**. The Service Provider shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

The City shall defend, indemnify and hold the Service Provider, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the Service Provider.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Service Provider and the City, its officers, officials, employees, and volunteers, the Service Provider's liability hereunder shall be only to the extent of the Service Provider's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Service Provider's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

9. Insurance. The Service Provider shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Service Provider, their agents, representatives, employees or subcontractors.

A. Minimum Scope of Insurance. The Service Provider shall obtain insurance of the types described below:

1. *Automobile Liability* insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

2. *Commercial General Liability* insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract. The City shall be named as an insured under the Service Provider's Commercial General Liability insurance policy with respect to the work performed for the City using ISO additional insured endorsement GC 20 10 10 01 and GC 20 37 10 01 or substitute endorsements providing equivalent coverage.

3. *Workers' Compensation* coverage as required by the Industrial Insurance laws of the State of Washington.

B. Minimum Amounts of Insurance. The Service Provider shall maintain the following insurance limits:

1. *Automobile Liability* insurance with a minimum combined single limit for bodily injury and property damage of $1,000,000 per accident.

2. *Commercial General Liability* insurance shall be written with limits no less than $1,000,000 each occurrence, $2,000,000 general aggregate and $2,000,000 products-completed operations aggregate limit.

C. Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability and Commercial General Liability insurance:

1. The Service Provider's insurance coverage shall be primary insurance as respect to the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Service Provider's insurance and shall not contribute with it.

2. The Service Provider's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

D. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

E. Verification of Coverage. The Service Provider shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Service Provider before commencement of the work.

F. Subcontractors. The Service Provider shall include each subcontractor as insured under its policies or shall furnish separate certifications and endorsements for each subcontractor. All coverage shall be subject to all of the same insurance requirements as stated herein for the Service Provider.

10. **Entire Agreement**. The written provisions and terms of this Agreement, together with all documents attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of, or altering in any manner whatsoever, this Agreement.

11. **City's Right of Supervision, Limitation of Work Performed by Service Provider**. Even though the Service Provider works as an independent contractor in the performance of his duties under this Agreement, the work must meet the approval of the City and be subject to the City's general right of inspection and supervision to secure the satisfactory completion thereof. In the performance of work under this Agreement, the Service Provider shall comply with all federal, state and municipal laws, ordinances, rules and regulations that are applicable to the Service Provider's business, equipment, and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

12. **Work Performed at Service Provider's Risk**. The Service Provider shall be responsible for the safety of its employees, agents and subcontractors in the performance of the work hereunder and shall take all protections reasonably necessary for that purpose. All work shall be done at the Service Provider's own risk, and the Service Provider shall be responsible for any loss of or damage to materials, tools, or other articles used or held for use in connection with the work.

13. Ownership of Products and Premises Security.

A. All reports, plans, specifications, data maps, and documents produced by the Service Provider in the performance of services under this Agreement, whether in draft or final form and whether written, computerized, or in other form, shall be the property of the City.

B. While working on the City's premises, the Service Provider agrees to observe and support the City's rules and policies relating to maintaining physical security of the City's premises.

14. Non-Solicitation. Recognizing the time and expense of the Service Provider's investment in its employees, the City agrees that is stall not directly or indirectly employ, hire or retain any person who is an employee of the Service Provider during the term of this Agreement and for a period of one (1) year following the termination of this Agreement.

15. Modification. No waiver, alteration or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Service Provider.

16. Assignment. Any assignment of this Agreement by the Service Provider without the written consent of the City shall be void.

17. Written Notice. All communications regarding this Agreement shall be sent to the parties at the addresses listed below, unless notified to the contrary. Any written notice hereunder shall become effective as of the date of mailing by registered or certified mail, and shall be deemed sufficiently given if sent to the addressee at the address stated in this Agreement or such other address as may be hereafter specified in writing.

18. Non-Waiver of Breach. The failure of the City to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein conferred in one or more instances shall not be construed to be a waiver or relinquishment of said covenants, agreements or options, and the same shall be and remain in full force and effect.

19. Resolution of Disputes, Governing Law. Should any dispute, misunderstanding or conflict arise as to the terms and conditions contained in this Agreement, the matter shall be referred to the City Manager, whose decision shall be final. In the event of any litigation arising out of this Agreement, the prevailing party shall be reimbursed for its reasonable attorney fees from the other party. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year above written.

CITY OF SULTAN

By: _____
Mayor Carolyn Eslick

SERVICE PROVIDER

By: _____
Richard Little

Taxpayer ID #:

CITY CONTACT

Deborah Knight
319 Main Street
Suite 200
Sultan, WA 98294
Phone: 360-793-3112
Fax: 360-793-3344

SERVICE PROVIDER CONTACT

Richard N. Little
3018 Elm Street
Bellingham, WA 98225-1620
e-mail: dlittle07@gmail.com
Phone: 360-961-2443
Fax: 360-671-1444

ATTEST/AUTHENTICATED

By: _____
City Clerk

APPROVED AS TO FORM

By: _____
Office of the City Attorney

Attachment A – Scope of Work

1. Work closely with the City to prepare a formal appropriations requests and supporting materials and to secure legislative sponsors and support for the City's requests.
2. Work with the City to engage and leverage the Service Provider's network of contacts, as well as the City's existing relationships, to deliver accurate and timely information supporting the City's legislative requests to key legislators and to ensure final legislative approval of the City's requests.
3. Work with the City to coordinate and facilitate the legislative work of other stakeholders supporting the City's requests.
4. Following the legislative session, work with the City to ensure that the City's requests are enacted as desired, by helping to prevent the possibility of a line item veto by the Governor, if necessary.
5. Work closely with the City to build and coordinate support from local residents and businesses, construction and environmental interests, and other stakeholders who share a desire to see the City's projects be successful and who can be helpful in ensuring those successes, utilizing a variety of tactics including grassroots lobbying and media outreach.
6. Before the conclusion of the contract, present a comprehensive summary report of all activities to the City and work with the City to conduct a thorough assessment of the Service Provider's performance.

Attachment B – Payment

FEES

Commencing on the 1st day of December, 2008, and continuing through the 31st day of May, 2009, the Service Provider shall bill the City a monthly retainer fee of $3,000 for its services hereunder.

The City of Sultan shall pay not more than $2,800 for a minimum of three legislative contacts with federal legislators in Washington, D.C.

Total fees for professional time shall not exceed $20,400 for the duration of this Agreement.

EXPENSES

Any photocopying, postage, and other out-of-pocket expenditures that the Service Provider incurs on behalf of the City will not be reimbursed.