

**SULTAN CITY COUNCIL  
AGENDA ITEM COVER SHEET**

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**ITEM NO:** C-9  
**DATE:** May 14, 2009  
**SUBJECT:** Contract for Services with Wetland Resources  
**CONTACT PERSON:** Deborah Knight, City Administrator

**ISSUE:**

The issue before the City Council is to authorize the Mayor to sign a contract not to exceed \$350.00 with Wetland Resources to perform a site visit and prepare a brief existing conditions letter for the property located at intersection of Bryant Road and Sultan Basin Road.

**STAFF RECOMMENDATION:**

Authorize the Mayor to sign a contract with Wetland Resources (Attachment A) not to exceed \$350.

**SUMMARY:**

The city is requesting a certified wetland specialist to review the wetlands located at the intersection of Bryant Road and Sultan Basin Road. The purpose is to evaluate the existing wetland conditions and compare current conditions to the conditions which existed on the property prior to October 2000. The analysis is part of code enforcement notice and order and settlement agreement between the City of Sultan and Grandview for impermissible actions in a wetland on the Anderson Farm property. Another proposal will be drafted if a restoration plan is needed.

**FISCAL IMPACT:**

The expense for a site visit and existing conditions letter is not included in the 2009 budget. Since the contract is less than \$500, the funds will be expensed from the professional services budget in the Community Development Fund. There are sufficient funds to cover the cost. The budget will need to be monitored later in the year to ensure expenses don't exceed the budget.

## **ALTERNATIVES:**

1. Authorize the Mayor to sign a professional services contract not to exceed \$350 with Wetland Resources.

This alternative allows the city to collect necessary data regarding the condition of the wetlands. If a restoration plan is needed, the city will continue to negotiate with the property owner or proceed to take the necessary steps to mitigate any found wetland impacts that resulted from the owner's actions.

2. Do not authorize the Mayor to sign a professional services with Wetland Resources f direct staff to areas of concern.

A decision not to authorize the Mayor to sign a professional services contract for a site visit and existing conditions letter will leave the city in the difficult position of requiring mitigation without the necessary facts regarding the wetlands. The Council should direct staff to areas of concern regarding the firm, its consulting staff and/or the scope of work.

## **RECOMMENDED ACTION:**

Authorize the Mayor to sign a contract with Wetland Resources (Attachment A) not to exceed \$350.

## **ATTACHMENT**

A – Contract for Professional Services with Wetland Resources.

**AGREEMENT FOR SERVICES  
BETWEEN THE CITY OF SULTAN AND  
WETLAND RESOURCES, INC**

THIS AGREEMENT, is made this 15th day of May 2009 by and between the City of Sultan (hereinafter referred to as "City"), a Washington Municipal Corporation, and Wetland Resources, Inc (hereinafter referred to as "Service Provider"), doing business at 9505 19<sup>th</sup> Avenue SE, Suite 106, Everett, WA 98208.

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

WHEREAS, the City desires to contract with Service Provider for the provision of wetland analysis services, and 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:

**Section One – Description of Work**

Perform one (1) site visit and prepare a brief existing conditions letter describing existing conditions compared to previously evaluated conditions of the on-site wetlands on the Anderson Farm property (parcels number 28083200101100 and 28083200100600).

Service Provider shall complete the work described by June 15, 2009.

**Section Two – Payment**

The City will pay the Service Provider the total sum of three-hundred and fifty dollars (\$350.00) for the work to be performed under this Agreement upon satisfactory completion of all services and requirements specified herein. Invoices covering services performed by the Service Provider will be submitted to the City within ten (10) days following the completion of services. 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, and shall separate all charges for clerical work and reimbursable expenses.

**Section Three - Liability**

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 Service Provider's own risk, shall comply with all federal, state and municipal laws, ordinances, rules and regulations that are now or may be in the

future become applicable to Service Provider and 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.

#### **Section Four – Evaluation**

Although the Service Provider shall have the authority to control and direct the services and details of the work, the work must also meet the approval of the City and shall be subject to the City’s general right of inspection and supervision.

#### **Section Five – Insurance**

**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.** 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.** 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. 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. 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.

## **Section Six – Indemnification**

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.

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.

### **Section Seven – Termination & Breach**

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.

In the event of termination, the City shall only be responsible to pay for all services satisfactorily performed by 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.

All costs incurred by the City due to Service Provider's failure to comply with the terms and conditions of this Agreement shall be the responsibility of the Service Provider. The City may deduct its costs from any payments due to the Service Provider.

### **Section Eight - 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.

### **Section Nine - Modifications**

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 Service Provider.

### **Section Ten – 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.

**Section Eleven – Governing Law – Disputes**

This Agreement shall be governed by the laws of the State of Washington, and the jurisdiction of any dispute under this Agreement shall be the Superior Court of Snohomish County, Washington.

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

**CITY OF SULTAN**

**SERVICE PROVIDER**

By: \_\_\_\_\_  
Carolyn Eslick, Mayor

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Taxpayer ID #: \_\_\_\_\_

**CITY CONTACT**

**SERVICE PROVIDER CONTACT**

\_\_\_\_\_  
City of Sultan  
319 Main Street, Suite 200  
Sultan, WA 98294  
Phone: 360-793-2231  
Fax: 360-734-3344

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Phone:  
Fax:

**ATTEST/AUTHENTICATED**

By: \_\_\_\_\_  
City Clerk

**APPROVED AS TO FORM**

By: \_\_\_\_\_  
Office of the City Attorney