

JAY INSLEE  
Governor



JOHN R. BATISTE  
Chief

STATE OF WASHINGTON  
WASHINGTON STATE PATROL

General Administration Building • PO BOX 42602 • Olympia, WA 98504-2602 • (360) 596-4043 • [www.wsp.wa.gov](http://www.wsp.wa.gov)

March 26, 2014

Chief Mark Langford  
Milton Police Department  
1000 Laurel St.  
Milton WA 98354

Dear Chief Langford:

Subject: WSP Agreement No. C140649GSC – Academy Facility Use Agreement

Enclosed with this letter is one fully executed original of the referenced agreement between the Washington State Patrol and your agency. Please keep this original for your records.

The Washington State Patrol contract tracking number is the agreement number referenced above; please use this number on all correspondence regarding this agreement. If you need further assistance, please contact Ms. Pat Hill at Budget and Fiscal Services, (360) 596-4076.

Sincerely,

A handwritten signature in blue ink that reads "Patricia Hill" with "for:" written below it.

Mr. Robert L. Maki, CFE, CGFM  
Budget and Fiscal Services

RLM:ph  
Enclosure



<b>WASHINGTON STATE PATROL WSP Academy Facility Use Agreement</b>		WSP Agreement No. <b>C140649GSC</b>	
		Other Agreement No.	
This Agreement is between the State of Washington, Washington State Patrol and the Organization identified below.			
<b>ORGANIZATION NAME</b> <b>Milton Police Department</b>			
Organization Location Address 1000 Laurel St Milton WA 98354		Organization Billing Address (if different from location address)	
Organization Contact Name Chief Mark Langford		Organization Contact Telephone (253) 922-8735	
Organization Contact Fax (253) 922-2707		Organization Contact E-mail Address	
<b>WSP Contact Information</b>			
WSP Project Manager Name and Title Lieutenant Tim Coley WSP Training Division		WSP Project Manager Address WSP Training Academy 631 W Dayton-Airport Road Shelton WA 98584-8945	
Telephone (360) 432-7502	Fax (360) 432-7642	E-mail Address tim.coley@wsp.wa.gov	
WSP Administrative Contact Name and Title Ms. Cindy Haider Contracts Specialist		WSP Administrative Contact Address PO Box 42602 Olympia WA 98504-2602	
Telephone (360) 596-4071	Fax (360) 596-4077	E-mail Address cindy.haider@wsp.wa.gov	
<b>Agreement Start Date</b> <b>February 1, 2014</b>		<b>Agreement End Date</b> <b>January 31, 2019</b>	
ATTACHMENTS. The following Exhibits are attached to and incorporated into this Agreement by reference: <ul style="list-style-type: none"> <li>- General Terms and Conditions</li> <li>- Exhibit A, Facility Use Regulations</li> <li>- Exhibit B, Individual Release of Civil Claims and Indemnity Agreement</li> <li>- Exhibit C, Insurance Requirements for EVOC Use</li> </ul>			
This Agreement, including the attached Terms and Conditions and any other documents incorporated by reference, contains all of the terms and conditions agreed upon by the parties. No other understandings or representations, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or bind the parties. The parties signing below warrant that they have read and understand this Agreement and have the authority to enter into this Agreement.			
<b>FOR THE WASHINGTON STATE PATROL:</b>		<b>FOR THE ORGANIZATION:</b>	
WSP Signature 	Date 2/25/14	Organization Signature 	Date 2-13-14
FOR: John R. Batiste, Chief		Printed Name and Title MARK LANGFORD Chief of Police	

APPROVED AS TO FORM BY THE OFFICE OF THE ATTORNEY GENERAL 7/3/03

## WSP Academy Facility Use Agreement General Terms and Conditions

1. **Statement of Work.** Based on availability, WSP shall provide the use of its WSP Academy facilities and other services to the Organization as requested. These facilities and services include:

- Overnight lodging for students
- Meals for students attending training at the WSP Academy
- Classroom use, including a personal computer lab
- Multipurpose Building/Gym
- Training Tank/Pool
- Firing Range
- Hazardous Materials Training Pit
- Emergency Operator Vehicle Course (EVOC), which can include training vehicles and PIT vehicles
- Instructors for various subjects, including EVOC and the Firing Range

The Organization acknowledges that WSP shall not tolerate unruly behavior, including but not limited to, horseplay or roughhousing. The Organization and its members shall make every effort to ensure their own safety and the safety of others. If WSP determines that this section has been violated by the Organization, WSP may stop all Organization training taking place under this Agreement, order the Organization off of WSP premises, and restrict the Organization from the use of WSP facilities in the future.

2. **Registration for Use of Facilities.** The Organization must make all requests no less than three (3) business days in advance of facility use. The Organization shall make requests to use specific facilities available at the WSP Academy to the WSP Project Manager identified on Page 1 of this Agreement. The Organization shall make this request in writing, and must provide the following information to WSP:

- This Facility Use Agreement Number
- The facility being requested
- The dates/times the facility will be needed
- An Organization point of contact for this use

If available, WSP shall notify the Organization in writing in order to confirm the Organization's use of the requested facility. WSP reserves the right to cancel any registration should WSP mission needs require any facilities use, however WSP shall notify the Organization of any such cancellations as soon as possible.

3. **Facility Regulations.** The Organization shall follow WSP Facility Use Regulations while using WSP facilities under this Agreement. The *WSP Facility Use Regulations* are attached as Exhibit A to this Agreement. Additionally, each individual using either the Multipurpose Building/Gym for ground tactics training, the EVOC, the Firing Range, or the Training Tank/Pool shall sign a *Release of Civil Claims and Indemnity Agreement* (Exhibit B) prior to facility use.

4. **Insurance Requirements for EVOC Use.** If the Organization will use the EVOC at any time during the period of performance of this Agreement, the Organization shall comply with the insurance requirements contained in Exhibit C, *Insurance Requirements for EVOC Use*.

5. **Fees.** The Organization shall reimburse WSP for services rendered under the terms of this Agreement according to rates and fees established in the WSP Training Division User Fee Study in effect at the time of the service. Organizations can obtain this study from the WSP Project Manager identified on Page 1 of this Agreement.

6. **Payment for Services.** WSP shall bill the Organization no more than once per month in accordance with this Agreement. WSP shall send billings to the Organization billing address identified on Page 1 of this Agreement. The Organization shall reimburse WSP within 30 days of receipt of billing from WSP.

7. **Definitions.**

"Agreement" means this Facility Use Agreement, including all documents attached or incorporated by reference, and any amendments executed in accordance with this Agreement.

"Organization" means the entity purchasing services under this Facility Use Agreement from WSP, and includes the Organization's officers, directors, trustees, employees and/or agents unless otherwise stated in this Agreement. For the purposes of this agreement, the Organization shall not be considered an employee or agent of WSP.

## General Terms and Conditions (Continued)

"WSP" means the State of Washington, Washington State Patrol, federal employer identification number 91-6001127, and its officers, directors, trustees, employees and/or agents. For the purposes of this agreement WSP shall not be considered an employee or agent of the Organization.

8. **Assignment.** The work to be provided under this Agreement, and any claim arising thereunder, is not assignable or delegable by either party in whole or in part, without the express written consent of the other party.
9. **Agreement Alterations and Amendments.** WSP and the Organization may mutually amend this Agreement. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind WSP and the Organization.
10. **Compliance with Civil Rights Laws.** During the period of performance for this Agreement, both parties shall comply with all federal and state nondiscrimination laws.
11. **Disputes.** In the event a dispute arises under this Agreement, it shall be determined by a Dispute Board in the following manner: The Chief of WSP shall appoint a member to the Dispute Board. The Organization shall appoint a member to the Dispute Board. The Chief of WSP and the Organization shall jointly appoint a member to the Dispute Board. The Dispute Board shall evaluate the dispute and make a determination of the dispute. The determination of the Dispute Board shall be final and binding to all parties to this Agreement.
12. **Governing Law.** This Contract shall be governed in all respects by the laws of the State of Washington. The jurisdiction for any action hereunder shall be the Superior Court for the State of Washington. The venue of any action hereunder shall be in the Superior Court for Thurston County, State of Washington.
13. **Indemnification.** The Organization shall be responsible for and shall indemnify and hold WSP harmless for all claims resulting from the acts or omissions of the Organization.
14. **Maintenance of Records.** During the term of this Agreement and for six years following termination or expiration of this Agreement, both parties shall maintain records sufficient to document performance of all acts required by statute, regulation, rule, or this Agreement; substantiate the parties' statement of its organization's structure, tax status, capabilities and performance; and demonstrate accounting procedures, practices and records which sufficiently and properly document WSP's invoices to the Organization and all expenditures made by WSP to perform as required by this Agreement.
15. **Order of Precedence.** In the event of any inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order to: applicable federal and state law, regulations and rules; any other provision of this Agreement; and any document incorporated by reference.
16. **Personnel.** WSP employees performing work under the terms of this Agreement shall be under the direct command and control of the Chief of WSP or designee, and shall perform duties required under this Agreement in a manner consistent with WSP policy and regulations, and applicable federal, state and local laws. The assignment of WSP personnel under this Agreement shall be at the discretion of the Chief of WSP or designee.
17. **Responsibility for Property Damage.** The Organization shall be responsible for the actual costs for the repairs of any damage resulting from the Organization's use of any WSP facility under this Agreement.
18. **Severability.** If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Agreement, and to this end the provisions of this Agreement are declared to be severable.
19. **Termination.** Except as otherwise provided in this Agreement, either party may terminate this Agreement, in whole or in part, upon thirty (30) calendar days written notification. If this Agreement is so terminated, the terminating party shall be liable only for performance in accordance with the terms of this Agreement for performance rendered prior to the effective date of termination.
20. **Waiver.** A failure by either party to exercise its rights under this Agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in writing and signed by an authorized representative of the party and attached to the original Agreement.

# WSP FACILITY USE REGULATIONS

## 1. General Rules for All Facilities

- a. Safety is the first concern while using WSP facilities.
- b. Report all injuries to the WSP Administrative Building immediately.
- c. The Organization must check in at the WSP Administrative Building prior to beginning training.
- d. The Organization must ensure that all trash has been placed in appropriate trash containers, and that the facility configuration is returned to its original condition at the end of each day of use.
- e. Alcoholic beverages and non-prescription drugs are not allowed at the WSP Academy. Individuals with any noticeable indication of alcohol on their breath will be dismissed from the premises.
- f. The WSP Academy Commander or designee has the final say on determining if the Organization is complying with these Facility Use Regulations, and may suspend the Organization's use of WSP Academy facilities if he/she determines that the Organization is not in compliance.

## 2. Classrooms

- a. No smoking, food or beverages are allowed in the classrooms.
- b. Place chairs on top of desks after the last class of the day.
- c. Ensure that all materials and trash are cleaned up at the end of the day.
- d. Do not open classroom windows.

## 3. Multipurpose Building (Gym)

- a. No smoking, food or beverages are allowed in the Multipurpose Building, including locker rooms and restrooms.
- b. High-top tennis or court shoes are required for all users during sporting events or activities such as basketball or volleyball.
- c. Appropriate attire shall be worn at all times.
- d. No impact weapons will be used on punching bags or Body Opponent Bags (BOB).
- e. Bag gloves will be worn to protect hands while hitting punching bags.
- f. No competitive sparring or wrestling is allowed.
- g. Do not engage in weightlifting without a spotter.
- h. Clean and replace all equipment after use.

## 4. Training Tank

- a. All individuals using the Training Tank must familiarize themselves with the type and location of rescue devices prior to training.
- b. The Organization must have a minimum of two people in the Training Tank area in order to use the Training Tank. The second person does not have to be in the water, but must be able to observe the swimmer.
- c. There is absolutely no running in the Training Tank area.
- d. All swimmers must shower before entering the Training Tank. No swimmer may enter the Training Tank with open sores or wounds, bandages, jewelry, bobby pins or other small items. All swimming attire shall be conservative in appearance.
- e. When training is taking place in the Training Tank, the Organization is required to have two instructors in the Training Tank area for any training taking place in the Training Tank. However, if underwater training is taking place the Organization will have a minimum of three instructors in the Training Tank area (one remaining out of the water, and with two of the three being certified divers). Instructors must explain all safety procedures prior to training taking place. No one will be forced to perform any exercise in which they are not comfortable.
- f. The Organization shall ensure the Training Tank area is locked and secured after use.

## 5. Firing Range

- a. Safety is everyone's responsibility on the firing range. If anyone sees an unsafe situation occur on the firing range they must immediately call a cease fire and notify the firearms instructor.
- b. All firing range training must be supervised by a qualified firearms instructor.

## **WSP FACILITY USE REGULATIONS (continued)**

- c. All personnel present must use eye and hearing protection, as well as protective body armor.
  - d. Steel targets will not be engaged closer than 15 yards.
  - e. Discipline must be maintained at all times to prevent mishaps or injuries. All personnel present must obey all range commands immediately.
  - f. No one shall give a firearm or take a firearm from anyone unless the firearm's cylinder or action is open, unloaded, and with the safety engaged. Likewise, no firearm shall be benched without ensuring the firearm is unloaded, the action opened and the safety engaged.
  - g. Shooters shall use the clearing barrels to load, unload or clear rounds from firearms.
  - h. No one shall go forward of the firing line unless directed to do so by the firearms instructor.
  - i. Handguns will remain holstered at all times except for the firing line. Shotguns and rifles shall be carried with the action or bolt open, the safety engaged and with the muzzle higher than the tallest person in the area. Using a sling to carry a shotgun or rifle over the shoulder is acceptable.
  - j. Dry firing is allowed only on the firing line and only at the direction of the firearms instructor.
  - k. Firearms may be cleaned in designated areas only.
  - l. No food, beverages or smoking is allowed in the firing range area.
  - m. Horseplay or unruly behavior will not be tolerated.
- 6. Hazardous Materials Pit**
- a. The gate to the Hazardous Materials Pit must be locked when not in use.
  - b. There is no smoking within 500 feet of the outer fence.
  - c. The Hazardous Material Pit may not be used at the same time as the Firing Range.
- 7. Emergency Vehicle Operator Course (EVOC)**
- a. The Organization shall follow all directions of the WSP Trooper present during use of the EVOC. WSP may suspend training should the Organization fail to follow these regulations, operate vehicles in an unsafe manner or if weather conditions dictate a suspension of training for safety purposes.
  - b. One qualified instructor must be present during use of the EVOC.
  - c. Instructors must explain Emergency Stop Procedures prior to training.
  - d. High beam headlights will be on, seat belts will be fastened and helmets will be worn by students and instructors at all times while in student training vehicles.
  - e. All vehicles will travel in the same direction during training.
  - f. Cone setters shall remain off the paved portion of the course when not resetting cones. Students must understand that student drivers are learning and may experience complete loss of control at any time while driving on the EVOC.
  - g. Visitors are not allowed on the EVOC without the permission of the WSP Academy Commander.
  - h. There is a 50 mph speed limit on the brake-and-steer exercise approaching the skid pan, and a 15 mph speed limit on general skid pan exercises.
  - i. Driving on the skid pan while the surface is dry is prohibited. Do not drive on gravel prior to driving on the skid pan. Do not drive on the fire hoses that feed water to the skid pan.
  - j. Pursuit Immobilization Technique (PIT) training shall only be performed on the four-lane area of the EVOC. PIT training is not authorized for any other area of the EVOC.
  - k. The Organization shall ensure that all debris left on the track is cleaned up, such as dirt debris and coffee cups.
  - l. Live fire exercises are expressly prohibited on the EVOC. Blank ammunition and/or simulators may be used provided the use is authorized in writing by the WSP Academy Commander. If authorized, the Organization shall follow WSP directions in the use of these materials.

RELEASE OF CIVIL CLAIMS AND INDEMNITY AGREEMENT

For and in consideration of being permitted to use Washington State Patrol facilities at the Washington State Patrol Academy in Shelton, Washington State; and understanding I am in no way an employee or agent of the Washington State Patrol;

I, \_\_\_\_\_, (Please print your full name)

for myself, my heirs, assigns or other successors in interest, do hereby release and forever discharge the Washington State Patrol, the State of Washington, its officers, agents, employees, agencies and departments from any and all liability for all existing and future claims, damages, and causes of action of any nature whatsoever which I may have or which may cause injury to me or which may otherwise arise as a result of my being a permissive user of Washington State Patrol facilities, and I do hereby waive any claim against the Washington State Patrol, the State of Washington, its officers, agents, employees, agencies and departments for personal injuries, loss of service, or medical expenses of whatever nature which might arise during or as a result of my being a permissive user of Washington State Patrol facilities.

Furthermore, I do agree that I will forever protect, defend, hold harmless and indemnify the Washington State Patrol, the State of Washington, its officers, agents, employees, agencies and departments against any and all claims for damages, judgments, or liabilities by third persons that may occur as a direct or indirect result of my using Washington State Patrol facilities, including those resulting directly or indirectly from my acts or omissions, from the indemnitee's acts or omissions, or any combination thereof.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

Signed: \_\_\_\_\_

Witness: \_\_\_\_\_

## INSURANCE REQUIREMENTS FOR EVOC USE

1. **General.** In order to use the EVOC, the Organization shall, at all times during the term of this Agreement at its cost and expense, buy and maintain insurance of the types and amounts listed below. Failure to buy and maintain the required insurance may result in the termination of this Agreement at WSP's option. All insurance and surety bonds should be issued by companies admitted to do business within the State of Washington and have a rating of A-, Class VII or better in the most recently published edition of Best's Reports.

Before gaining access to the EVOC, the Organization shall furnish the WSP Administrative Contact named on Page 1 of this Agreement with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements specified in this Agreement. All insurance provided in compliance with this contract shall be primary as to any other insurance or self-insurance programs afforded to or maintained by WSP. If the Organization is self-insured, evidence of its status as a self-insured entity shall be provided to WSP. If requested by WSP, the Organization must describe its financial condition and the self-insured funding mechanism.

2. **Level of Insurance.**

- a. **General Liability:** The Organization shall maintain general liability (CGL) insurance with a limit of not less than \$1,000,000 per each occurrence. If such CGL insurance contains aggregate limits, the General Aggregate limit shall be at least twice the "each occurrence" limit. CGL insurance shall have products-completed operations aggregate limit of at least two times the "each occurrence" limit.
- b. **Business Auto Liability:** The Organization shall maintain business auto liability with a limit not less than \$1,000,000 per accident. Such insurance shall cover liability arising out of "Any Auto." Business auto coverage shall be written on ISO form CA 00 01, or substitute liability form providing equivalent coverage. The Organization waives all rights against WSP for the recovery of damages to the extent they are covered by business auto liability insurance.

3. **Cancellation of Insurance.** The Organization's insurer shall give WSP forty-five (45) calendar days advance notice of cancellation or non-renewal of any insurance referred to herein. If cancellation is due to non-payment of premium, WSP shall be given ten (10) days advance notice of cancellation.

JAY INSLEE  
Governor



JOHN R. BATISTE  
Chief

STATE OF WASHINGTON  
WASHINGTON STATE PATROL

General Administration Building • PO BOX 42600 • Olympia, WA 98504-2600 • (360) 596-4000 • www.wsp.wa.gov

January 29, 2014

Chief Mark Langford  
Milton Police Department  
1000 Laurel St  
Milton WA 98354

Subject: WSP Agreement No. C140649GSC – WSP Academy Facility Use  
Agreement

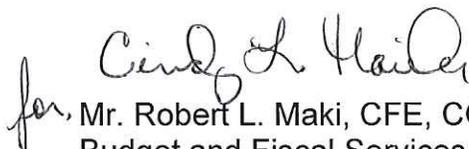
Enclosed are two originals of the referenced agreement between the Washington State Patrol and your agency. Once an approved representative of your organization has signed these originals, please return both originals to the following:

Ms. Cindy Haider  
Budget and Fiscal Services  
Washington State Patrol  
PO Box 42602  
Olympia WA 98504-2602

MAILED 2/13/14

Please ensure a copy of your agencies' insurance certificate, as stated in Exhibit C, is included. One fully executed original will be returned to you for your records. The Washington State Patrol contract tracking number is the contract number referenced above; please use this number on all correspondence regarding the agreement. If you need further assistance, please contact Cindy Haider at (360) 596-4071.

Sincerely,

  
for Mr. Robert L. Maki, CFE, CGFM  
Budget and Fiscal Services

RLM:clh  
Enclosure





Insurance Authority

P.O. Box 88030

Tukwila, WA 98138

Phone: 206-575-6046

Fax: 206-575-7426

13-Feb-14

Cert#: 8807

Washington State Patrol  
Attn: Ms. Cindy Hader  
PO Box 42602  
Olympia, WA 985042602

RE: City of Milton  
Insurance requirements of EVOC use

### Evidence of Coverage

The above captioned entity is a member of the Washington Cities Insurance Authority (WCIA), which is a self insured pool of over 150 public entities in the State of Washington.

WCIA has at least \$1 million per occurrence limit of liability coverage in its self insured layer that may be applicable in the event an incident occurs that is deemed to be attributed to the negligence of the member.

WCIA was created by an interlocal agreement among public entities and liability is self funded by the membership. As there is no insurance policy involved and WCIA is not an insurance company, your organization cannot be named as an additional insured.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric B. Larson".

Eric B. Larson  
Deputy Director

cc: Subir Mukerjee

cletter

## PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this 3rd day of March, 2014, by and between the City of Milton, Washington, a municipal corporation, hereinafter referred to as the "CITY" and James Webber, hereinafter referred to as the "SERVICE PROVIDER."

### WITNESSES

Whereas, the CITY desires to engage the services of a skilled investigator to perform a neutral, third-party workplace investigation and

Whereas, the SERVICE PROVIDER represents that the SERVICE PROVIDER is qualified and possesses sufficient skills and necessary capabilities and has provided a summary of qualifications to the CITY, NOW, THEREFORE

In consideration of the terms, conditions, covenants, and mutual benefits contained herein, the parties agree as follows:

1. SCOPE OF SERVICES. The SERVICE PROVIDER will conduct a workplace investigation allegation of a hostile work environment summarized in a complaint dated February 20, 2014. The SERVICE PROVIDER is requested to interview the complaining employee who alleges a hostile work environment and such witnesses as the investigator deems appropriate. The SERVICE PROVIDER will provide a written report of his factual findings regarding the incident. The SERVICE PROVIDER will assess the credibility of witnesses and provide recommended findings of fact but shall not reach any legal conclusion as to whether or not any CITY policy has been violated, without the express written request of the CITY. Provided, however, that the investigator is requested to make an initial determination of whether the complainant's allegations constitute a "hostile work environment" within the meaning of state and federal law. Should the SERVICE PROVIDER reasonably believe further inquiry is required, he may request an expansion of the scope of work.

2. TERM. The SERVICE PROVIDER shall commence the services no earlier than March 3, 2014, and shall attempt to complete the investigation by presentation of a written report within two to three weeks of the date the investigation commences. The term may be extended with the express written consent of the CITY.

3. COMPENSATION AND METHOD OF PAYMENT.

3.1 The SERVICE PROVIDER shall invoice for services performed within any thirty-day period by presentation of a written summary of hours rendered and expenses to Bio F. Park, City Attorney. The SERVICE PROVIDER will bill for services at \$275 per hour and expenses for travel with mileage at the IRS rate. Travel time is not compensable. The CITY shall pay for all reasonable charges and expenses within thirty days of receipt of the invoice, provided, however, that the CITY may notify the contractor of any questions and disputed charges for resolution. Payment for reasonable services and expenses incurred shall not be

unreasonably refused. The budget for services provided under this agreement for investigative services, including any applicable sales tax, shall not exceed Fifteen Thousand Dollars (\$15,000). Except as provided in Section 6, services above \$15,000 require amendment of this Agreement and the express consent of the City Council. The SERVICE PROVIDER shall promptly notify the City Attorney when estimated contract costs for services rendered reach Ten and Fifteen Thousand Dollars.

3.2 No payment shall be made for any service rendered by the SERVICE PROVIDER for any service not within the Scope of Services identified within this Agreement.

#### 4. RECORDS.

4.1 The SERVICE PROVIDER shall at any time during normal business hours and as often as the CITY or State Examiner, make available for examination all of its judicial records and data with respect to all matters covered, directly or indirectly, by this Agreement and shall permit the CITY or designated authorized representative to audit and inspect the data relating to all matters covered by this Agreement. The CITY shall receive a copy of all audit reports made by the agency or firm as to the SERVICE PROVIDER's activity. The CITY may at its discretion conduct an audit at its own expense, using its own or outside auditors of the SERVICE PROVIDER's activities which relate directly or indirectly to this Agreement.

#### 5. INDEPENDENT CONTRACT RELATIONSHIP.

5.1 The parties intend that an independent contractor relationship shall be created by this Agreement. The CITY is interested primarily in the results to be achieved, that is a report of factual conclusions relating to the investigation, and the SERVICE PROVIDER shall conduct investigative services solely within its discretion in accordance with the SERVICE PROVIDER's expertise. No agent, employee, servant, or representative of the SERVICE PROVIDER shall be deemed to be an employee, servant or representative of the CITY for any purpose and the employees of the SERVICE PROVIDER, if any, are not entitled to any of the benefits of the CITY. The SERVICE PROVIDER, an independent contractor, shall be solely and entirely responsible for the act and actions of its agents, employees, servants, subcontractors, or representatives, if any, during the performance of this Agreement.

5.2 In the performance of services herein contemplated, the SERVICE PROVIDER is an independent contractor with the authority to control and direct the performance of the details of the work, however the result of the work contemplated herein must meet the approval of the CITY and shall be subject to the CITY's general rights of inspection and review to secure the satisfactory completion of the assignment.

6. HOLD HARMLESS AND INDEMNIFICATION. The CITY shall defend, indemnify and hold the SERVICE PROVIDER harmless from any and all claims, injuries, damages, losses, or suits, including all legal costs and attorneys' fees arising out of or in connection with the performance of this Agreement; provided, however, that nothing herein shall require the City to hold harmless, insure, indemnify or defend the SERVICE PROVIDER from

claims, loss or liability arising from his tortuous, illegal or intentionally wrongful acts. The CITY shall name the SERVICE PROVIDER as an additional insured through the CITY's liability insurance pool. In the event that litigation is commenced concerning the subject matter of an employment-related investigation conducted by the SERVICE PROVIDER for the CITY under the terms of this Agreement, including any administrative proceeding or grievance, the CITY shall reimburse the SERVICE PROVIDER at its customary hourly rate for his actual expenses incurred for his activities in connection with the litigation, administrative proceeding or grievance, including testimony he may be asked to provide, without regard to the DO NOT EXCEED amount set forth in Section 3.1 above.

The provisions of this section shall survive the expiration or termination of this Agreement.

#### 7. COMPLIANCE WITH LAWS.

The SERVICE PROVIDER, as an independent contractor in the performance of this Agreement shall comply with all applicable federal, state, or local laws and ordinances, and is solely responsible for the payment of taxes applicable to the services performed under this Agreement, including regulations for licensing, certification and operation of facilities, maintenance of insurance and records, programs and accreditation, licensing of individuals, and any other standards or criteria as described in this Agreement.

#### 8. NONDISCRIMINATION

8.1 Nondiscrimination in Employment. In the performance of this Agreement, the SERVICE PROVIDER will not discriminate against any employee or applicant for employment on the grounds of race, creed, color, national origin, sex, marital status, age, sexual orientation, religion, veteran's status, or the presence of any sensory, mental or physical handicap or any other bases prohibited by applicable federal, state or local law; provided that the prohibition against discrimination in employment is because of the particular work involved. The SERVICE PROVIDER shall ensure that applicants are employed, and that employees are treated during employment without discrimination because of their race, creed, color, national origin, sex, marital status, age, or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to: employment, upgrading, demotion or transfers, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and such action with respect to this Agreement as may be required to ensure full compliance with local, state and federal laws prohibiting discrimination in employment.

8.2 Nondiscrimination in Services. The SERVICE PROVIDER will not discriminate against any recipient of any services, or benefits provided for in this Agreement on the grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap.

8.3 If any assignment and/or subcontracting have been authorized by the CITY, said assignment or subcontract shall include appropriate safeguards against

discrimination. The SERVICE PROVIDER shall take such action as may be required to ensure full compliance with the provisions in the immediately preceding paragraphs herein.

9. ASSIGNMENT/SUBCONTRACTING

9.1 The SERVICE PROVIDER shall not assign its performance under this Agreement or any portion of this Agreement without the written consent of the CITY, and it is further agreed that said consent must be sought in writing by the SERVICE PROVIDER not less than thirty (30) days prior to the date of any proposed assignment. The CITY reserves the right to reject without cause any such assignment.

9.2 Any work or services assigned hereunder shall be subject to each provision of this Agreement and proper bidding procedures where applicable as set forth in local, state and/or federal statutes, ordinances and guidelines.

9.3 Any technical/professional service subcontract not listed in this Agreement must have express advance approval by the CITY.

10. CHANGES

Either party may request changes to the scope of services and performance to be provided hereunder, however no change or addition to this Agreement shall be valid or binding upon either party unless such change or addition is in writing and signed by both parties. Such amendments shall be attached to and made a part of this Agreement.

11. POLITICAL ACTIVITY PROHIBITED

None of the funds, materials, property or services provided directly or indirectly under this Agreement shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office.

12. PROHIBITED INTEREST

No member, officer, ore employee of the CITY shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

13. TERMINATION

13.1 Termination for Convenience. The CITY may terminate this Agreement in whole or in part at any time by at least five (5) days written notice to SERVICE PROVIDER.

The SERVICE PROVIDER shall be paid its costs, including contract close-out costs, and profit on work satisfactorily performed up to the time of termination. The SERVICE PROVIDER shall promptly submit a termination claim to the CITY. If the SERVICE PROVIDER has any property in its possession belonging to the CITY, the SERVICE PROVIDER will account for the same, and dispose of it in the manner directed by the CITY.

13.2 Termination for Cause. If the SERVICE PROVIDER fails to perform in the manner called for in this Agreement, or if the SERVICE PROVIDER fails to comply with any other provisions of the Agreement and fails to correct such noncompliance within five (5) days written notice thereof, the CITY may terminate this agreement for cause. Termination shall be effected by serving a notice of termination on the SERVICE PROVIDER setting forth the manner in which the SERVICE PROVIDER is in default. The SERVICE PROVIDER will only be paid for services performed in accordance with the manner of performance set forth in this agreement.

14. NOTICE

Notice provided for in this Agreement shall be sent by certified mail to the addresses designated for the parties on the last page of this Agreement.

15. ATTORNEYS' FEES AND COSTS

If any legal proceeding is brought for the enforcement of this Agreement, or because of a dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party shall be entitled to recover from the other party, in addition to any other relief to which such party may be entitled, reasonable attorney's fees and other costs incurred in that action or proceeding.

16. JURISDICTION AND VENUE

16.1 This Agreement has been and shall be construed as having been made and delivered within the state of Washington, and it is agreed by each party hereto that this Agreement shall be governed by the laws of the state of Washington, both as to interpretation and performance.

16.2 Any action of law, suit in equity, or judicial proceeding for the enforcement of this Agreement or any provisions hereof, shall be instituted and maintained only in any of the courts of competent jurisdiction in King or Pierce County, Washington.

17. SEVERABILITY

17.1 If, for any reason, any part, term or provision of this Agreement is held by a court of the United States to be illegal, void, or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

17.2 If it should appear that any provision hereof is in conflict with any statutory provision of the state of Washington. Said provision which may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform to such statutory provisions.

18. ENTIRE AGREEMENT

The parties agree that this Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded. Further, any modifications of this Agreement shall be in writing and signed by both parties. Failure to comply with any of the revisions stated herein shall constitute material breach of contract and cause for termination. Both parties recognize time is of the essence in the performance of the provisions of this Agreement. It is also agreed by the parties that the forgiveness of the nonperformance of any provision of this Agreement does not constitute a waiver of any other of the provisions of this Agreement.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed the day and year first hereinabove written.

**CITY OF MILTON**  
1000 Laurel St.  
Milton WA 98354

**SERVICE PROVIDER**

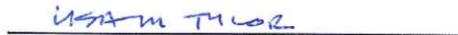
By:

  
Mark Langford, City Administrator

  
James Webber

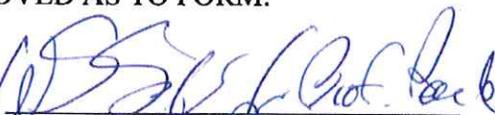
ATTEST/AUTHENTICATED:

By:

  
Lisa Tylor, City Clerk

APPROVED AS TO FORM:

By:

  
Bio F. Park, City Attorney