

CONTRACT FOR PROFESSIONAL SERVICES

THIS AGREEMENT IS made this 9 day of July, 1985,
between the Newberg Centennial Redevelopment Commission, the urban
renewal agency of the City of Newberg, Oregon, hereinafter called
"NCRC," and Carl H. Buttke, Inc. Consulting Transportation Engineer,
hereinafter called "Engineer".

WITNESSETH:

THAT WHEREAS NCRC intends to develop a Newberg Downtown Development Plan
for the area bounded by Sheridan Street, River Street, Third Street, and
a line drawn from Highway 99W and Third Street to Lincoln and Sheridan
Streets, hereinafter referred to as "Study Area"; that NCRC desires the
services of an independent contractor consultant for the preparation of
an integrated traffic plan, market study and downtown development plan;
and that the Engineer is willing to provide the services necessary to
prepare the Plan, hereinafter referred to as the "Project"

NOW, THEREFORE, NCRC and Engineer for the considerations hereinafter set
forth agree as follows:

- A. THE ENGINEER AGREES to perform the following Engineering Services
for the Project:

1. INVENTORY AND SURVEYS

- a. Review all applicable data, reports, and plans concerning land use development, traffic circulation, and parking for the downtown area. These would include the 1981 Mayor's Task Force Report.
- b. Inventory and evaluate the existing condition of the pedestrian and vehicular traffic environment in the downtown. The inventory will review the following factors:
 - ° Street trees
 - ° Sidewalks
 - ° Building massing and volumes
 - ° Street right-of-way and pavement width
- c. Obtain from NCRC and City of Newberg the existing and future land use or employment within the downtown.
- d. Design parking inventory and usage studies to be conducted by NCRC to determine the location and amount of parked vehicles in the downtown on a typical day.
- e. Design and provide postcard survey to be distributed by NCRC on the windshields of all parked vehicles during the peak period of parking to determine the motorists' trip purposes, destinations, parking duration, and trip origin.
- f. Interview a cross-section of downtown business people and merchants to obtain their specific needs, seasonal fluctuations in business, and their ideas concerning downtown development, traffic problems, and solutions.

- g. Examine traffic count data and, if necessary, design a program for additional machine counts to be made by NCRC. The consultant will supply traffic counters to be used for this task.
- h. Design peak period turning movement count program at key intersections within the study area to be conducted by NCRC.
- i. Surveys of traffic passing through the downtown to be made at key time periods to determine how much traffic is passing through the downtown without stopping and to determine the purpose of those trips (commuter, shopping, tourist). Consultant will perform this step.

These surveys would be made on a typical weekday and/or weekend day by interviewing a sample of motorists. This roadside interview technique would require approval by the Oregon Department of Transportation (ODOT).

Roadside interview data was collected by ODOT and analyzed for Newberg in 1971. This data is available and may be applicable to this project or may reduce the survey needs.

- j. Conduct an observation survey of pedestrian use in the downtown. The survey will focus on:

- ° Where the street is crossed most often
 - ° How often the street is crossed
 - ° Other issues that affect street crossing
- k. Identify and evaluate the physical factors that now affect the attractiveness of the downtown as a shopping destination, using the information generated in Tasks 1.b and 1.j, if applicable.

2. TRAFFIC FLOW AND PARKING REQUIREMENTS

- a. Determine the current vehicular traffic usage on the streets within the downtown by identifying total street traffic, through traffic, and commercial vehicle traffic and prepare a traffic flow map.
- b. Calculate the capacity of streets and compare with the current traffic volumes to identify capacity deficiencies in or surrounding the downtown.
- c. Estimate the future traffic volumes on the streets within and leading to the downtown on the basis of the expected growth of the downtown and through traffic.
- d. Define the adequacy of the existing street system to serve the current and future transportation demands.
- e. Determine the current parking requirements by block face within the downtown and relate this requirement to the adjacent land use by short term and long term spaces. .

3. MARKET ANALYSIS

- a. Describe the demographic characteristics of the residents in the Newberg area (population, households, age, marital status, household size, income, tenancy, etc.).
- b. Estimate retail expenditures of the resident population by type of goods and translate to the square footage of retail space that can be supported. Inventory the supply of retail space in the market area by type of goods sold. NCRC will provide retail space measurements for the downtown.
- c. The approximate volume of tourist traffic passing through Newberg will be obtained from the transportation surveys and analyses.
- d. Conduct a statistically valid random telephone survey with a 95% confidence level of local residents (minimum of 200 residents) to determine the following:
 - (1) Demographic characteristics of households interviewed including place of employment.
 - (2) Shopping patterns by type of goods (e.g. convenience goods and shopper goods).
 - (3) Opinions and attitudes about downtown Newberg. How frequently people go to the downtown and for what purpose. How often people shop downtown.
 - (4) Obtain ideas about how the downtown could be improved and what would entice people to visit downtown Newberg more frequently.
 - (5) Identify specific type of retail shops needs.

The survey will be used primarily to estimate retail leakage out of the area, obtain trip generation data, and to obtain peoples' attitudes about downtown and generate ideas how it can be improved, particularly with respect to retail shopping needs.

- e. Provide NCRC with written questionnaire, for distribution and collection by NCRC, and then follow-up with selected interviews.

4. DEVELOP AND TEST ALTERNATIVES

- a. Develop a concept and marketing strategies that are designed to accomplish the goal of inducing tourists and the local population to visit and shop in the downtown area as well as to increase downtown employment opportunities.
- b. Develop alternative design concepts as identified in the 1981 Mayor's Task Force Report and through meetings with the Newberg Centennial Redevelopment Commission (NCRC). These concepts will address traffic circulation, market potential, and overall urban design potential such as the following:
 - ° Providing street furniture
 - ° Using paving materials to visually integrate the two sides of the street
 - ° Revising the on-street parking
 - ° Extending the sidewalks to decrease the distance between the two sides of the street

- ° Using street trees to highlight the downtown and to create a more human scale
- ° Developing pedestrian corridors that connect the adjacent neighborhoods to the downtown.

Potential street crossing locations will also be identified and will respond to the locations of adjacent attractions such as the library, community center, churches, and city offices.

- c. Test each traffic circulation alternative by assigning the projected future traffic to each alternative, compare with the street capacity, and estimate the cost to construct each alternative. The alternatives would be ranked to determine the most beneficial solutions to providing the necessary traffic flow and circulation within the downtown.
- d. Identify general development costs for the alternatives.
- e. Review the alternative design concepts with the NCRC and identify one to be refined.

5. DEVELOP FINAL PLAN

- a. Detail the downtown development plan to include at least the following:
 - (1) Statement of general architectural treatment for existing buildings
 - (2) Street furniture and other pedestrian amenities
 - (3) Street tree plantings
 - (4) Conceptual building massing and volumes

- (5) Directional operation of streets
 - (6) Access and circulation to and around parking facilities
 - (7) On-street parking control
 - (8) Intersection traffic control
 - (9) Lane requirements on streets
 - (10) Location and size of special turning lanes
 - (11) Commercial vehicle routing and loading areas
 - (12) Pedestrian circulation facilities
 - (13) Street modifications including special usage
 - (14) Location and size of new off-street parking facilities
- c. Provide preliminary cost estimates for each of the public improvements.
 - d. Develop a schedule for implementation of each element of the public improvements based on need.

6. REPORT

- a. Attend five public meetings, one City Council meeting, and one Chamber of Commerce meeting. All meetings with NCRC staff shall be held jointly with regular project team meetings in Portland at Engineer's office or during regularly scheduled work trips in Newberg.
- b. Summarize the analyses, findings, and conclusions in a report suitably illustrated with tables, charts, and maps. Provide 30 copies to NCRC.
- c. Present the Final Plan to the NCRC and the City Council.

B. NCRC AGREES to perform the following services for the Engineer:

1. Attend all public meetings with Engineer.
2. Provide all existing information, data, available base maps and sepias, aerial photos, and reports that are property of the City of Newberg and NCRC and are relevant to the Project.
3. Provide, as requested by the Engineer, relevant transportation data available from the Oregon Department of Transportation.
4. Provide existing and future land use data for the Study Area. The existing land use data shall describe, by block, the number of dwelling units by type and the gross floor area by type of each land use, as mutually agreed upon by NCRC and the Engineer. NCRC will provide assistance and information to forecast future land use for the Study Area.
5. Provide traffic accident data and any previous analyses made for the Study Area.
6. Provide an inventory of all existing parking spaces in the Study Area and any previous usage studies, surveys, and analyses.
7. Distribute postcard surveys on the windshields of all parked vehicles during the peak period of parking to determine the motorists' trip purposes, destinations, parking duration, and trip origin.
8. Provide to the Engineer data relating to the economic condition in the area including employment, number of jobs, primary industries and businesses, retail sales, and other pertinent facts and trends.

C. TIME OF PERFORMANCE

The above designated work shall be initiated within two weeks after execution of this Agreement and completed within five months following authorization. Engineer shall provide NCRC within two weeks after execution of this agreement a detailed schedule broken down by task.

D. COMPENSATION AND METHOD OF PAYMENT

NCRC agrees to pay the Engineer for these services on a time and materials basis in an amount not to exceed sixty-eight thousand six hundred dollars (\$68,600.00) in monthly payments on the basis of his progress reports and percent of work completed. These payments shall be made within 30 days of the Engineer's invoice date.

In the event services beyond those specified in the Engineering Services for the Project and not included in the compensation above are required, the Engineer shall submit a fee estimate for such services, and a contract modification shall be negotiated and approved by NCRC prior to any effort being expended on such services.

It is understood and agreed by the parties and pledged by NCRC that the compensation to Engineer in the entire amount of \$68,600 is an indebtedness of NCRC to carry out NCRC's urban renewal plan and a portion of taxes received under ORS 457.440(4) is irrevocably pledged for payment of the indebtedness established by this contract in accordance with ORS 457.440(6) and ORS 457.075.

E. SUBCONTRACTORS

The Engineer shall retain full responsibility for the total project as set forth in Task A of this agreement. The Engineer intends to retain Leland and Hobson, Walker and Macy Landscape Architects, and David Evans and Associates, Inc., Consulting Engineers to assist in conducting surveys, inventories, market studies, and the downtown development plan to prepare preliminary cost estimates. In the event other subcontracts are necessary, the Engineer will submit the name and purpose to NCRC for approval.

F. TERMINATION

This agreement may be terminated by mutual consent by both parties at anytime or by either party upon 30 days written notice delivered by certified mail or in person in the event of the other party's substantial failure to perform in accordance with the terms of this agreement. If this agreement is terminated, the Engineer shall be paid for services performed prior to the effective date of termination, together with any termination expenses resulting therefrom. Termination expenses include any expenses associated with the assembly and transmission to NCRC of any data prepared to that point.

G. OWNERSHIP, DELIVERY

Unless otherwise provided by NCRC, all original reports, sketch plans, plan drafts, and other documents prepared or provided by the Engineer pursuant to this agreement are the property of NCRC and shall be turned over to NCRC upon termination or completion of this

agreement. In the event NCRC or any person, firm or corporation authorized by NCRC causes to be made or makes any changes or alterations in said reports, sketch plans, plans, plan drafts and other documents prepared or provided by the Engineer pursuant to this agreement, NCRC hereby releases, discharges, and exonerates the Engineer from any liability resulting from said change.

H. INDEPENDENT CONTRACTOR

In connection with the work to be conducted hereunder, the Engineer shall not be acting as an agent, employer or representative of NCRC, but the Engineer, for all purposes hereunder, shall be deemed an independent contractor. Engineer is ineligible under this contract for benefits under ORS Chapters 656 and 657 and NCRC will not be liable for, responsible for, or in any way or manner be required to provide Workers Compensation, social security, unemployment compensation or retirement system benefits, assessments, payments or taxes for Engineer or any of Engineer's Subcontractors. Engineer knowingly waives all rights to payment of any of the above taxes, assessments or benefits by NCRC. Engineer hereby agrees with the terms of and agrees to sign Exhibit A which is attached hereto and entitled "Joint Declaration of Independent Contractor Status".

I. This contract may be amended at any time by mutual agreement of NCRC and Engineer. Before any amendment shall be operative or valid, it shall be written, signed by both parties, and attached to this contract.

J. ENGINEER INDEMNITY OF NCRC

1. The Engineer shall defend, save, and hold harmless NCRC, its officers, agents, employees, and members, from all claims, suits, or actions of whatsoever nature resulting from or arising out of the activities of the Engineer or its subcontractors, agents, or employees under this agreement.
2. The Engineer shall secure at his/her expense and keep in effect during the term of this contract Comprehensive General Liability with Extended Coverage Endorsement from an insurance company authorized to do business in the State of Oregon.

The limits shall be not less than \$1,000,000 per occurrence for personal injury and property damage. The insurance policy or policies shall name NCRC and it's officers, employees, and agents as additional insureds. The policies shall contain a cross liability endorsement.

3. The Engineer shall secure at his/her expense and keep in effect during the term of this contract Comprehensive Auto Liability insurance from an insurance company authorized to do business in the State of Oregon. The limits shall be not less than \$1,000,000 per occurrence for personal injury and property damage.
4. The Engineer shall have NCRC, its officers, employees, and agents listed as additional insured in said insurance policy.

The policy cannot be cancelled without 30 days written notice to NCRC. The Engineer shall supply NCRC with a certificate of insurance listing the coverage and other requirements set out above.

K. NONDISCRIMINATION

Engineer agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations.

L. SUCCESSORS IN INTEREST

The provisions of this agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns.

M. ATTORNEY FEES

In the event a lawsuit of any kind is instituted on behalf of NCRC to collect any payment due under this contract or to obtain performance of any kind under this contract, Engineer agrees to pay such additional sums as the court may adjudge for reasonable attorney fees and to pay all costs and disbursements incurred therein.

N. FORCE MAJEURE

Engineer shall not be held responsible for delay or default caused by fire, riot, acts of God and war which was beyond the Engineer's reasonable control.

O. SEVERABILITY

The parties agree that if any term or provision of this contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular term or provision held to be invalid.

P. WAIVER

The failure of NCRC to enforce any provision of this contract shall not constitute a waiver by NCRC of that or any other provision.

IN WITNESS WHEREOF, the Engineer and NCRC, acting pursuant to authority granted by the Newberg Centennial Redevelopment Commission on the 9 day of July, 1985, have caused this instrument to be executed this 9 day of July, 1985.

NEWBERG CENTENNIAL
REDEVELOPMENT COMMISSION
The Urban Renewal Agency of
the City of Newberg, Oregon

By Michael Warren
Michael Warren, Executive Director

CARL H. BUTTKE, INC.
Consulting Transportation Engineer
a corporation of the State of Oregon

By Carl H. Buttke
Carl H. Buttke, P.E., President

EXHIBIT A
JOINT DECLARATION OF INDEPENDENT CONTRACTOR STATUS

This joint declaration is executed by the Newberg Centennial Redevelopment Commission (NCRC) and Carl H. Buttke, Inc.
in regard to services provided by Carl H. Buttke, Inc.
pursuant to a certain contract entered into between NCRC and Carl H. Buttke, Inc. on _____, 19____, and in accordance with ORS 656.029.

NCRC has contracted with Carl H. Buttke, Inc.
to provide services and/or perform specific functions as follows:

See Section A of Contract for Professional Services

The NCRC and Carl H. Buttke, Inc. entered into this contract on the premise that Carl H. Buttke was to exercise his own independent judgement in the performance of the contract requirements. The employment of Carl H. Buttke, Inc. is in accordance with the Rules of NCRC and is completely independent and apart from supervision by any NCRC member of staff. No instructions are given to Carl H. Buttke, Inc.. Carl H. Buttke, Inc. is required only to perform those services and/or work as required by the contract above referred to.

This agreement is executed to specifically meet the requirements of ORS 656.029 and establish that the services rendered by Carl H. Buttke, Inc. are as an independent contractor who is insured under the workers compensation law.

Dated this 9 day of July, 1985.

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CARL H. BUTTKE, INC.
Consulting Transportation Engineer
a corporation of the State of Oregon

By Michael Warren
Michael Warren, Executive Director

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Carl H. Buttke, P.E., President