



10/2/95

## Interoffice Memorandum

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**To:** Peggy Hall, City Attorney's Office  
**From:** Mary Newell *Mary*  
**Subject:** Contract for LAN support  
**Date:** October 2, 1995

Peggy,

Enclosed is one signed original contract for LAN support services with the Marion/Salem Data Center.

This is an original to be filed in the safe. I have retained a photocopy for our reference file.

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## DATA PROCESSING SERVICES AGREEMENT

Dated as of July 1, 1995

This Agreement is made between:

**MARION-SALEM CENTRAL COMPUTER FACILITY ("MSCCF"),**

and

**CITY OF NEWBERG (CITY)**

and is made to engage the services of MSCCF to provide Local Area Network support for the Newberg Police Department.

In consideration of the mutual benefits and obligations herein set forth, the parties agree as follows:

### 1. SCOPE OF SERVICES

1.1 MSCCF shall provide basic support of CITY's Local Area Network via remote dial-in. On site support will be provided when necessary.

1.2 MSCCF shall offer the following services:

- 1.2.1 Fileserver installation, hardware upgrades and operating system upgrades.
- 1.2.2 Set up and maintenance of network security for users and groups.
- 1.2.3 Installation of Novell approved hardware.
- 1.2.4 Printer installation and configuration.
- 1.2.5 Installation or upgrade of supported versions of WorkPerfect, Quattro Pro, and WordPerfect Office/GroupWise on the fileserver.
- 1.2.6 Support for 3270 terminal emulation.
- 1.2.7 Maintenance of a local (single fileserver) WordPerfect Office or GroupWise Email system.
- 1.2.8 Provide a telephone help line.

1.3 CITY shall provide all PC's, printers, and software required to establish the LAN.

1.4 CITY shall provide a PC, connected to the LAN, with a modem and a phone line connected to the modem. An appropriate remote dial-in software package, approved by MSCCF, shall be purchased and installed on the dial-in PC referred to above. The City shall also be responsible for the phone line charges, including any initial installation charges.

1.5 The microcomputer products supported are limited to those which MSCCF staff supports on a daily basis. The products and versions listed may be revised by MSCCF via written notification to the CITY. Old releases and products will continue to be supported for a minimum of 12 months after the written notification of

discontinuance has been given. These products include the following:

- 1.5.1 NetWare versions 3.11, 3.12, or 4.1
- 1.5.2 Data Interface 3270 gateway version 3.62 or above. Other gateway products may be added in the future.
- 1.5.3 WordPerfect 5.1 for DOS or 6.1 for Windows
- 1.5.4 WordPerfect Office version 3.1 or above, single fileserver E Mail system.
- 1.5.5 Quattro Pro versions 3.0, 4.0, or 5.0 for DOS or version 6.0 for Windows.

- 1.6 Toll free access for CITY users to MSCCF's help line for telephone support, instructions, system self-diagnostic aid.

1.7 On-site visits to the CITY's location upon request will be billed at the then current hourly rate, including travel time from the MSCCF office in Salem.

1.6. MSCCF shall provide classroom instruction on supported products for CITY users under the schedule for classes offered to the City of Salem and Marion County, upon the condition that CITY pay MSCCF for such services at MSCCF's then-current rates.

1.8 CITY, or its users through CITY may, from time to time, request additional services from MSCCF. CITY shall pay for such services according to a separate, supplemental agreement providing therefor. Such additional services shall be billed at MSCCF's then-current established hourly rates for classes of services provided in developing and implementing the additional services.

## 2. FEES AND CHARGES

2.1 Services will be billed on an actual usage basis at the rate of \$58/hr for the period commencing July 1, 1995 and ending June 30, 1996. Statements will be sent monthly around the 15th day of the month following the service month. The statements will include a summary of the service provided for the previous month and YTD totals. A detailed description of the service can be provided if needed.

2.4 Charges for equipment maintenance and telephone circuits are the responsibility of CITY and are not included in the base charges.

## 3. BILLING AND PAYMENT

3.2 The fees for initialization and training, and any special services beyond those covered by the base charge shall be due and payable upon MSCCF's billing therefor. In the event such services span a period of more than one month, MSCCF may bill monthly for services performed during the preceding month.

#### 4. SECURITY

4.1. MSCCF shall have no responsibility or obligation with respect to access to the system through individual subscriber PC's except to allow access through such PC's only upon use of proper passwords and procedures. MSCCF shall have no obligation to verify the identity or authority of any person using the PC of any CITY subscriber who has used appropriate passwords and procedures to gain access to the system.

#### 5. TERMINAL AND MODEM MAINTENANCE

5.1. CITY shall be responsible for on-site hardware maintenance of user terminal equipment. MSCCF's sole obligation with respect to provision of such service shall be to provide 24 hour telephone access to MSCCF staff who shall place service calls where warranted after examination of diagnostic procedures. MSCCF shall have no obligation with respect to maintenance and repair of said equipment.

5.2. Under no circumstances shall MSCCF be held responsible for any consequential damages resulting from any defect, inadequacy, insufficiency, or malfunction of the user PC or LAN equipment, its installation, support, or maintenance, or for any delay or inadequacy of repair service, or failure or delay in calling for such service.

#### 6. LIMITATION OF LIABILITY

6.1. MSCCF assumes no liability for the accuracy of any data entered by users in its system, nor for errors in data transmission over telephone lines. MSCCF represents and warrants only that it will use its best efforts to support the LAN and its components.

6.3. MSCCF agrees, to the extent it may under the Constitution and laws of Oregon, to indemnify, defend, and save CITY harmless from any and all claims arising out of the acts, errors or omissions of MSCCF or those for whose acts MSCCF may be held liable under ORS 30.265, save and except any claim for which MSCCF has expressly disclaimed or limited its liability hereunder, to the extent of such disclaimer or limitation; and further provided that with respect to any single claim or occurrence, MSCCF's liability arising out of contribution or indemnity shall not exceed the limits provided by ORS 30.270, if applicable to the asserted claim.

#### 7. TERM AND TERMINATION

7.1. This Agreement shall be effective upon execution hereof on behalf of both parties, and shall continue until terminated as provided in §7.2.

7.2. This Agreement may be terminated by CITY upon written notice given not later than March 1 of any year. The MSCCF may terminate this agreement by written notice given by December 1 of any year. This Agreement shall terminate on the next ensuing July 1 unless a later date is provided in such notice, or unless such notice is withdrawn in writing and such withdrawal is accepted in writing by the other party.

7.3. Notwithstanding the giving of notice of termination as provided in §7.2, CITY shall remain obligated with respect to any unfulfilled financial obligation which accrued hereunder prior to the effective date of such termination.

#### 8. COMMUNICATIONS AND NOTICE

8.1. Any notice in writing required to be given hereunder shall be sufficient if sent by regular mail or personally delivered to the MSCCF Director, as agent for MSCCF; and to the Newberg Police Chief.

8.2. Each party shall designate, and may change from time to time, a representative for communication, negotiation, and general liaison with the other concerning the content, future, and administration of this Agreement. No such designated representative shall be held an agent or attorney-in-fact having authority to bind either party.

#### 9. ATTORNEY FEES

In the event it is necessary for either party to bring an action in the courts of the State of Oregon to enforce any rights under this Agreement, the non-prevailing party shall pay to the prevailing party its reasonable attorney fees at trial or on appeal in a sum determined by the Court.

#### 10. AMENDMENTS

This Agreement represents the complete and integrated agreement between the parties with respect to the subject matter hereof, and may be amended only by written amendment executed by both parties. As such, this Agreement cancels and supersedes all prior written and oral agreements, representations, negotiations, and communications between the parties and their representatives with respect to the subject matter hereof.

#### 11. DISCRIMINATION

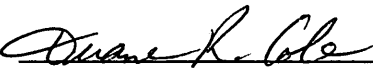
The parties agree to not discriminate on the basis of race, religion, sex, sexual orientation, color, disability, age, or national origin in the enforcement and execution of this agreement.

IN WITNESS WHEREOF the parties have caused this Agreement to be executed on their behalf by their duly authorized representatives as of the dates set forth below.

MARION-SALEM CENTRAL  
COMPUTER FACILITY

CITY OF NEWBERG

By:   
Ken Phillips

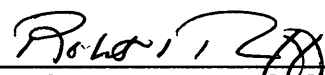
By:   
Duane R. Cole

Title: Director

Title: City Manager

Date: 9-19-95

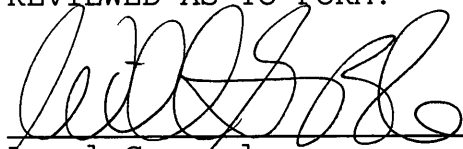
Date: September 27, 1995

By:   
Robert I. Tardiff

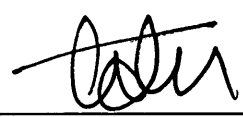
Title: Chief of Police

Date: 9-29-95

REVIEWED AS TO FORM:

  
Legal Counsel

REVIEWED AS TO FORM:

  
City Attorney

9/14/95  
NEWBERG.AFD

7/1/95