

**CITY OF NEWBERG
AGREEMENT WITH SQUIER ASSOCIATES
TO PROVIDE CONSULTING SERVICES
TO THE CITY OF NEWBERG**

THIS CONTRACT is entered into this 14th day of April, 1999 by and between the City of Newberg, a municipal corporation of the State of Oregon, hereinafter called **City**, and Squier Associates, hereinafter called **Consultant**.

RECITAL

1. **City** has need for the services of a consultant with particular training, ability, knowledge, expertise and experience possessed by **Consultant**.

NOW, THEREFORE, in consideration of mutual promises, covenants and agreements of the parties, it is agreed as follows.

1. **Scope of Work:** The **Consultant** agrees to provide the services provided in the Scope of Work which is Exhibit "A" and attached hereto and incorporated by this reference. The **Consultant** represents and warrants to the **City** that the **Consultant** can perform the work outlined in the Scope of Work for the fee proposal amount.

2. **Compensation:** The **Consultant** agrees to perform the work for a not-to-exceed fee as indicated in their professional fee proposal obtained in the Scope of Work. The not-to-exceed figure is as follows:
\$78,000.00

The **Consultant** shall not exceed the fee for any task included in the fee proposal amount. If the **Consultant** sees that the fee is going to exceed the not-to-exceed figure because the task has changed or is outside the scope, the **Consultant** shall notify the **City** in writing of the circumstances with an estimated amount that the fee is to be exceeded. The **Consultant** shall obtain written permission from the **City** before exceeding the maximum fee amount. If the **Consultant** does work that exceeds the maximum fee amount prior to obtaining the written permission, the **Consultant** waives any right to collect that fee amount.

3. **Additional Work Not Shown Within The Scope of Work:** If **City** requests or requires work to be done not within the Scope of Work of this project, the **Consultant** shall notify the **City** of such work, give an estimated fee amount, and obtain written instructions to proceed with work in the form of a contract amendment prior to proceeding with work and incurring any costs on behalf of the **City**. If **Consultant** proceeds with work prior to obtaining permission and/or contract amendment, the **Consultant** waives any right to collect fees for work performed.

4. **Status:** **Consultant** is not currently employed by

the **City**. The parties to this contract intend that the relationship between them created by this contract is that of an employer-independent contractor. No agent, employee, or servant of **Consultant** shall be or shall be deemed to be the employee, agent or servant of **City**. **City** is interested only in the results obtained under this contract; the manner and means of conducting the work are under the sole control of **Consultant**, however, the work contemplated herein must meet the approval of the **City** and shall be subject to **City's** general right of inspection and supervision to secure the satisfactory performance thereof.

5. **Work Performed:** The work to be performed by **Consultant** includes services generally performed by **Consultant** in his or her usual line of business.

6. **Taxes:** **Consultant** will be responsible for any federal or state taxes applicable to payments received under this contract. **City** will report the total of all payments to **Consultant**, including any expenses, in accordance with the Federal Internal Revenue Service and the State of Oregon Department of Revenue regulations.

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8. **Federal Employment Status:** In the event any payment made pursuant to this contract is to be charged against federal funds, **Consultant** certifies that he or she is not currently employed by the federal government and the amount charged does not exceed his or her normal charge for the type of services provided.

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liability or loss and against all claims or actions based upon or arising out of damage or injury to persons or property caused by or sustained in connection with the negligent acts, errors, and omissions of the Consultant.

10. Insurance:

a) **Consultant**, its subconsultants, if any, and all employers working under this agreement are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage for all their subject workers; or by signing this contract, **Consultant** represents that he or she is a sole proprietor and is exempt from the laws requiring workers' compensation coverage.

b) **Consultant** will at all times carry a Comprehensive General Liability insurance policy for at least \$1,000,000 combined single limits per occurrence for Bodily Injury, Property Damage, and Personal Injury. If the policy is written on the new occurrence form then the aggregate limit shall be \$2,000,000. The City of Newberg, its agents, employees and officials all while acting within their official capacity as such, shall be named as an additional insured on the insurance specified in this paragraph.

c) **Consultant** will at all times carry a Professional Liability/Errors and Omission type policy with limits of at least \$500,000. If this policy is a "claims made" type policy, the policy type and company shall be approved by the City Manager prior to commencement of any work under this contract.

d) **Consultant** shall furnish the **City** with Certificates of Insurance upon execution of contract. Such certificates of insurance evidencing any policies required by this contract shall be delivered to the **City** prior to the commencement of any work. A 30-day notice of cancellation clause shall be included in said certificate. The **City** has the right to reject any certificate for unacceptable coverage and/or companies.

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12. Employees' Taxes: **Consultant** shall also defend, indemnify and hold harmless **City** against all liability and loss in connection with and shall assume full responsibility for, payment of all federal, state and local taxes or contributions imposed or required under unemployment insurance, social security and income tax laws, with respect to **Consultant's** employees engaged in the performance of this contract.

13. Termination: This contract may be terminated by either party at the end of a project phase as defined in Exhibit "A" or at any time upon 30 days written notice.

14. Contract Duration: Except as provided for under paragraph 3, the duration of this contract shall be in accordance with Exhibit "A" or until project completion, whichever comes first. This fact notwithstanding, the services of **Consultant** shall be authorized and paid on a phase-by-phase basis as described in Exhibit "A".

15. Assignment: The parties hereto each bind themselves, their partners, successors, assigns and legal representatives of such other party in respect to all terms of this Agreement. Neither party shall assign the contract as a whole without written consent of the other.

16. Entire Agreement: This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements, written and oral, courses of dealing, or other understanding between the parties. No modification of this Agreement shall be binding unless in writing and signed by both parties.

17. Additional Services: If the project is materially changed, or if **City** desires other professional services not already included in this Agreement or not customarily furnished as part of the agreed upon services, then additional consideration shall be paid to **Consultant** which shall be subject to negotiation by both parties, however, such services shall be furnished per the direct labor rate outlined in the professional fee proposal in the scope of work. Indirect labor costs and fixed fee shall be applied to the direct labor costs for these extra services in accordance with this agreement. The terms of this agreement shall apply to such additional services.

18. Documents: All original documents prepared by **Consultant** in performance of this Professional Services Agreement, including but not limited to original maps, plans, drawing and specifications are the property of **City** unless otherwise agreed in writing.

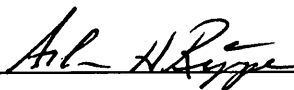
Quality reproducible records copies shall be provided to City at City's expense, upon request. Any reuse, change or alteration to original documents prepared by Consultant is not permitted without written verification or adaption by Consultant. City shall indemnify and hold harmless Consultant and Consultant independent professional associates or consultants from all claims, damages, losses and expenses including attorney's fees arising out of any

unauthorized use of any instruments of professional service.

19. **Supplemental Terms:** Attached is an attachment which sets out supplemental terms and by this reference is incorporated as part of the agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above mentioned.

CONSULTANT

By: 

Name: Arlan H. Rippe

Title: Senior Vice President

Date: Apr. 15, 1999

CITY OF NEWBERG

By: 

Name: Duane R. Cole

Title: City Manager

Date: April 14, 1999

Approved as to form:



Terrence D. Mahr, City Attorney

EXHIBIT "A"
SCOPE OF WORK
Agreement with Squier Associates to Provide
Consulting Services to the City of Newberg

Below is the work scope outline, summary of deliverables, assumptions to Consultant's scope of work, and assumed services to be provided by the City for Exhibit A to Agreement with Squier Associates to provides consulting services to the City.

1.0 WORK SCOPE OUTLINE

The work scope to be done under this contract by the Consultant includes the following:

- a. **Review Existing Data and Conceptual Approaches.** Review existing reports and mapping completed for the site. Conduct site reconnaissance and geologic mapping as needed. Develop conceptual approaches for landslide remediation and discuss with City the chosen repair concept to begin permitting process. Identify additional information needed to access alternatives and complete final design of remedial measures.
- b. **Obtain Permits.** Prior to beginning permitting effort provide City, a description of anticipated permits required for construction, issuing agency(s), brief outline of permit process, estimated time frame to obtain permits, and description of assistance needed from the City will be outlined. Consultant will assume lead role in obtaining permits with assistance from the City, and inform City of planned meetings with agencies, and copy City with correspondence during permit process. Consultant will inform City of any requirements for repair concepts or additional permitting requirement arising during the permitting process prior to proceeding with requirements.
- c. **Complete Data Acquisition and Testing.** Obtain geotechnical data previously identified and agreed upon by the City, including an anticipated four (4) borings to characterize landslide and design remedial measures. The Consultant will be responsible for subcontracting the construction of an access for the drill rig to bottom of the slide area and preparation of drill sites. Access will be completed in a manner acceptable to Smurfit Newsprint Corporation. Subcontract will be done with drilling company and full-time observation of geotechnical drilling and sampling will be done by the Consultant. In place testing procedures and obtaining samples will be per ASTM standards. Appropriate laboratory tests will be according to ASTM.

- d. **Confirmation of Repair Concept, Design and Complete Findings Report.** Evaluate subsurface conditions, and confirm repair concept. Perform preliminary engineering analysis and provide preliminary construction cost analysis and discuss risks and construction issues associated with the preferred design concept. Meet with City representatives to discuss the preferred design concept and obtain City approval of the preferred stabilization concept prior to final design. Prepare a final report summarizing the results of the subsurface explorations, laboratory testing, conclusions, and final design recommendations of preferred alternative. Submit 2 Draft copies and of the report for City review (allowed 7 calendar days for City review). The City will review the Draft for completeness, clarity, and consistence with the proposed scope of work. Provide the City with revised and completed reports, one unbound and 5 copies. The final report version will be stamped by a Registered Civil Engineer and a Certified Engineering Geologist in the state of Oregon.
- e. **Prepare Construction Bid Package.** Using an example of contract documents provided by the city as a guide, prepare bid package including legal sections, technical specifications, and drawings for landslide stabilization. Existing site mapping will be provided by the City in electronic format. City vertical datums will be used and standard english units will be acceptable. Submit 2 copies of a 90 percent Draft of the bid package for City review and comment (allowed 14 calendar days for City review). The final bid package is to be stamped by a Registered Civil Engineer. Submit final bid package in reproducible format for City reproduction along with one copy as a reference copy. Drawings will be 11x17 in size using a standard scale. Prepare final engineer's construction cost estimate for the landslide stabilization.
- f. **Conduct Contractor Procurement.** Prepare bid advertisement notice, advertise according to City legal requirements, conduct bid process, including arranging prebid site visit, provide bid clarifications and preparation and sending of necessary addendums. Assist City in gathering bids, opening, evaluating, and awarding contract.
- g. **Perform Services During Construction.** Obtain necessary contractual information from successful low bidder prior to issuing notice to proceed. Arrange and conduct preconstruction meeting with appropriate representation from City and permit agencies. Review Contractor submittals and progress payment requests. Consultant will provide a full-time construction resident engineer as the City's representative, to prepare daily construction reports and collect daily information. Coordinate with work and on-site inspections permit agencies as required in permits of by State statue. Evaluate any

Contractor change order requests with assistance from the City and process City approved change orders. Prepare contract project closeout including final project walk throughs and contract closeout with assistance from the City. Prepare brief post-construction documentation including as-constructed measurements and drawings. If long-term monitoring is to be performed, prepare a brief set of instructions for City personnel to follow.

2.0 SUMMARY OF DELIVERABLES

The minimum number of deliverables to complete the above scope of work are as follows:

- a. **Geotechnical Findings Report.** Contains exploration data obtained, laboratory testing, evaluation of site conditions, analysis of preferred stabilization alternative, and brief description of key construction recommendations.
- b. **Construction Bid Document for Landslide Stabilization.** Contains complete bid package including bidding procedure and bid proposal, legal sections, technical specifications, and drawings.
- c. **Construction Cost Estimate Letter.** Contains a breakdown of estimated final construction costs and construction period and appropriate assumptions.
- d. **Post-Construction Letter Report.** Contains as-constructed information such as final quantities, measurements and drawings. If long-term monitoring is to be performed, include a brief set of instructions for City personnel to follow.

3.0 ASSUMPTIONS TO CONSULTANT'S SCOPE OF WORK

The following are assumptions to the Consultant's scope of work:

- a. The permit jurisdiction for the project lies with Yamhill County only. Since the conceptual repair method is above the mean winter high water mark of elevation 85 MSL at river mile 50, state and/or federal permits will not be required.
- b. Access to the bottom of the slide area for explorations will be gained by cleaning a

narrow path on the plant side of Smurfit's wood-stave outfall pipe; thereby not needing to crossover the wood-stave pipes. Only brush and some small Alder trees will be removed. No cuts into the hillside or importing fill to provide a road surface is planned. Any trees cut will be cut into pieces with lengths less than 12 feet and hauled to Smurfit's hog fuel area for chipping. Brush will be side-casted on the slopes.

- c. Four borings are planned, three at the bottom of the slide area in the landslide debris and one at the top of the bluff between the slide and the water plant. A slope inclinometer will be installed in the boring on the bluff and up to three readings to develop a base reference. A total drilling footage of 160 linear feet is planned using an all-terrain drill rig.
- d. Services during construction (construction management) are based on an estimated two months of earthwork construction. We have also included five (5) daily construction survey trips by Crane & Merseeth. Labor costs for overtime, weekend, and holiday work periods have not been included in our fee estimate.

4.0 ASSUMED SERVICES TO BE PROVIDED BY THE CITY

Throughout the duration of this contract, we assume the City will perform services and furnish information and items as necessary to provide ongoing support for the consultant in the completion of the project as follows:

- a. Furnish electronic file of mapping performed at the site.
- b. Furnish existing reports and available drawings of the existing facilities at the site.
- c. Assist consultant in permit process as agreed upon prior to beginning of permit process, and remit permit fees to appropriate agencies.
- d. Obtain permission from adjacent landowners for site access, including exploration program and access roadway construction, and slide stabilization construction activities.
- e. Provide input, reviews and comments to stabilization alternatives evaluation, reports, and construction contract documents.

- f. Complete reproduction of necessary copies for bidding and distribute to plan centers for bidding process. Included in number of copies will be 10 copies for the Consultant. The estimated number of copies for the initial printing is 50 copies. Complete reproduction and distribution of any addendums to the contract documents prepared by the Consultant and approved by the City during bidding process.
- h. Obtain bid advertisement from the Consultant and advertise as appropriate according to City requirements.
- I. Collect contractor bid proposals, open and evaluate, and award contract with assistance from consultant.
- j. Issue payment for approved construction progress payments, assist consultant with evaluation of construction change orders, and provide final approval of change orders.
- k. Assist consultant with substantial complete walk-through and project closeout.

5.0 ESTIMATED FEE

Estimated fee breakdown for tasks performed by Consultant are as follows:

Task Number	Description (reference to work scope outline)	Estimated Fee
1	Permitting (b)	\$4,000
2	Data Acquisition and Testing (c)	\$17,000
3	Meetings, Analysis, Reports, Design, Preparation Contract Documents, and Contractor Procurement (a, d, e, f)	\$27,000
4	Services During Construction (g)	\$30,000
Estimated Project Fee		\$78,000

ATTACHMENT "A" — Page 1 of 2

SUPPLEMENTAL TERMS

TO THE CITY OF NEWBERG'S CONSULTING SERVICES AGREEMENT

A. DISCOVERY OF UNANTICIPATED HAZARDOUS MATERIALS

Hazardous materials may exist at a site where there is no reason to believe they could or should be present. Consultant and Client agree that the discovery of unanticipated hazardous materials constitutes a changed condition mandating a renegotiation of the scope of work or termination of services. Client agrees to compensate Consultant for the additional cost of working to protect employees' and public's health and safety. In addition, Client waives any claim against Consultant and agrees to defend, indemnify, and save Consultant harmless from any claim or liability for injury or loss arising from Consultant's discovery of unanticipated hazardous materials or suspected hazardous materials. Client also agrees to compensate Consultant for any time spent and expenses incurred by Consultant in defense of any such claim.

B. RIGHT OF ENTRY

The Client will provide for right of entry of the Consultant, their contractors, and all necessary equipment, in order to complete the work. While the Consultant will take all reasonable precautions to minimize damage to the property, the Client understands that in the normal course of work some damage may occur, the correction of which is not part of this Agreement.

C. UTILITIES

In the prosecution of the work, the Consultant will take reasonable precautions to avoid damage or injury to subterranean structures or utilities. The Client agrees to hold the Consultant harmless for any damages to subterranean structures or utilities which are not called to the Consultant's attention and correctly shown on the plans furnished.

D. SAMPLES

All samples of soil and rock will be discarded 30 days after completion of the construction work, unless Client advises otherwise. Further storage or transfer of samples can be made at Client's expense upon written request. Any and all samples of soil, rock, and water obtained from the project that are contaminated by hazardous substances shall remain the property of the Client, and the Client shall be responsible for proper transportation and disposal of same with appropriate licensed parties.

ATTACHMENT "A" — Page 2 of 2

SUPPLEMENTAL TERMS

TO THE CITY OF NEWBERG'S CONSULTING SERVICES AGREEMENT

E. STANDARD OF CARE

The standard of care applicable to Engineer's services will be the degree and skill and diligence normally employed by professional engineers or consultants performing the same or similar services at the time the services are performed. Engineer will reperform any services not meeting this standard without additional compensation.

F. TERMS OF PAYMENT

The Engineer will issue monthly invoices for work performed as detailed in Exhibit A, Scope of Work. Invoices are due and payable within 30 days of receipt.

G. RECORD DRAWINGS

Record drawings, if required, will be prepared, in part, on the basis of information compiled and furnished by others, and may not always represent the exact location, type of various components, or exact manner in which the Project was finally constructed. Engineer is not responsible for any errors or omissions in the information from others that is incorporated into the record drawings.

H. CITY-FURNISHED DATA

The City may provide to Engineer technical data in the City's possession relating to Engineer's services on the project. Engineer will reasonably rely upon the accuracy, timeliness, and completeness of the information provided by the City.

I. SUSPENSION, DELAY, OR INTERRUPTION OF WORK

The City may suspend, delay, or interrupt the services of Engineer for the convenience of the City. In such event, Engineer's contract price and schedule shall be equitably adjusted.

J. SUBSURFACE INVESTIGATIONS

In soils, foundation, groundwater, and other subsurface investigations, the actual characteristics may vary significantly between successive test points and sample intervals and at locations other than where observations, exploration, and investigations have been made. Because of the inherent uncertainties in subsurface evaluations, changed or unanticipated underground conditions may occur that could effect total Project cost and/or execution. These conditions and cost/execution effects are not the responsibility of Engineer.

K. DISPUTES

In the event that a dispute arises in any way connected with this contract, and if the dispute cannot be settled through direct discussions, the parties agree to first attempt to settle the dispute by mediation, before recourse to arbitration or a judicial forum. If the dispute results in arbitration or litigation, it is agreed that the prevailing party shall be entitled to recover its reasonable attorneys fees and attorney costs, court costs and expert fees, at trial, arbitration and on appeal.

INITIAL: CONSULTANT



CITY



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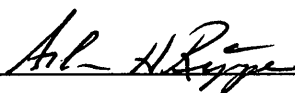
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Title: Senior Vice President

Date: Apr. 15, 1999

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By: 

Name: Duane R. Cole

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The work scope to be done under this contract by the Consultant includes the following:

- a. **Review Existing Data and Conceptual Approaches.** Review existing reports and mapping completed for the site. Conduct site reconnaissance and geologic mapping as needed. Develop conceptual approaches for landslide remediation and discuss with City the chosen repair concept to begin permitting process. Identify additional information needed to access alternatives and complete final design of remedial measures.
- b. **Obtain Permits.** Prior to beginning permitting effort provide City, a description of anticipated permits required for construction, issuing agency(s), brief outline of permit process, estimated time frame to obtain permits, and description of assistance needed from the City will be outlined. Consultant will assume lead role in obtaining permits with assistance from the City, and inform City of planned meetings with agencies, and copy City with correspondence during permit process. Consultant will inform City of any requirements for repair concepts or additional permitting requirement arising during the permitting process prior to proceeding with requirements.
- c. **Complete Data Acquisition and Testing.** Obtain geotechnical data previously identified and agreed upon by the City, including an anticipated four (4) borings to characterize landslide and design remedial measures. The Consultant will be responsible for subcontracting the construction of an access for the drill rig to bottom of the slide area and preparation of drill sites. Access will be completed in a manner acceptable to Smurfit Newsprint Corporation. Subcontract will be done with drilling company and full-time observation of geotechnical drilling and sampling will be done by the Consultant. In place testing procedures and obtaining samples will be per ASTM standards. Appropriate laboratory tests will be according to ASTM.

- d. **Confirmation of Repair Concept, Design and Complete Findings Report.** Evaluate subsurface conditions, and confirm repair concept. Perform preliminary engineering analysis and provide preliminary construction cost analysis and discuss risks and construction issues associated with the preferred design concept. Meet with City representatives to discuss the preferred design concept and obtain City approval of the preferred stabilization concept prior to final design. Prepare a final report summarizing the results of the subsurface explorations, laboratory testing, conclusions, and final design recommendations of preferred alternative. Submit 2 Draft copies and of the report for City review (allowed 7 calendar days for City review). The City will review the Draft for completeness, clarity, and consistence with the proposed scope of work. Provide the City with revised and completed reports, one unbound and 5 copies. The final report version will be stamped by a Registered Civil Engineer and a Certified Engineering Geologist in the state of Oregon.
- e. **Prepare Construction Bid Package.** Using an example of contract documents provided by the city as a guide, prepare bid package including legal sections, technical specifications, and drawings for landslide stabilization. Existing site mapping will be provided by the City in electronic format. City vertical datums will be used and standard english units will be acceptable. Submit 2 copies of a 90 percent Draft of the bid package for City review and comment (allowed 14 calendar days for City review). The final bid package is to be stamped by a Registered Civil Engineer. Submit final bid package in reproducible format for City reproduction along with one copy as a reference copy. Drawings will be 11x17 in size using a standard scale. Prepare final engineer's construction cost estimate for the landslide stabilization.
- f. **Conduct Contractor Procurement.** Prepare bid advertisement notice, advertise according to City legal requirements, conduct bid process, including arranging prebid site visit, provide bid clarifications and preparation and sending of necessary addendums. Assist City in gathering bids, opening, evaluating, and awarding contract.
- g. **Perform Services During Construction.** Obtain necessary contractual information from successful low bidder prior to issuing notice to proceed. Arrange and conduct preconstruction meeting with appropriate representation from City and permit agencies. Review Contractor submittals and progress payment requests. Consultant will provide a full-time construction resident engineer as the City's representative, to prepare daily construction reports and collect daily information. Coordinate with work and on-site inspections permit agencies as required in permits of by State statute. Evaluate any

Contractor change order requests with assistance from the City and process City approved change orders. Prepare contract project closeout including final project walk throughs and contract closeout with assistance from the City. Prepare brief post-construction documentation including as-constructed measurements and drawings. If long-term monitoring is to be performed, prepare a brief set of instructions for City personnel to follow.

2.0 SUMMARY OF DELIVERABLES

The minimum number of deliverables to complete the above scope of work are as follows:

- a. **Geotechnical Findings Report.** Contains exploration data obtained, laboratory testing, evaluation of site conditions, analysis of preferred stabilization alternative, and brief description of key construction recommendations.
- b. **Construction Bid Document for Landslide Stabilization.** Contains complete bid package including bidding procedure and bid proposal, legal sections, technical specifications, and drawings.
- c. **Construction Cost Estimate Letter.** Contains a breakdown of estimated final construction costs and construction period and appropriate assumptions.
- d. **Post-Construction Letter Report.** Contains as-constructed information such as final quantities, measurements and drawings. If long-term monitoring is to be performed, include a brief set of instructions for City personnel to follow.

3.0 ASSUMPTIONS TO CONSULTANT'S SCOPE OF WORK

The following are assumptions to the Consultant's scope of work:

- a. The permit jurisdiction for the project lies with Yamhill County only. Since the conceptual repair method is above the mean winter high water mark of elevation 85 MSL at river mile 50, state and/or federal permits will not be required.
- b. Access to the bottom of the slide area for explorations will be gained by cleaning a

narrow path on the plant side of Smurfit's wood-stave outfall pipe; thereby not needing to crossover the wood-stave pipes. Only brush and some small Alder trees will be removed. No cuts into the hillside or importing fill to provide a road surface is planned. Any trees cut will be cut into pieces with lengths less than 12 feet and hauled to Smurfit's hog fuel area for chipping. Brush will be side-casted on the slopes.

- c. Four borings are planned, three at the bottom of the slide area in the landslide debris and one at the top of the bluff between the slide and the water plant. A slope inclinometer will be installed in the boring on the bluff and up to three readings to develop a base reference. A total drilling footage of 160 linear feet is planned using an all-terrain drill rig.
- d. Services during construction (construction management) are based on an estimated two months of earthwork construction. We have also included five (5) daily construction survey trips by Crane & Merseeth. Labor costs for overtime, weekend, and holiday work periods have not been included in our fee estimate.

4.0 ASSUMED SERVICES TO BE PROVIDED BY THE CITY

Throughout the duration of this contract, we assume the City will perform services and furnish information and items as necessary to provide ongoing support for the consultant in the completion of the project as follows:

- a. Furnish electronic file of mapping performed at the site.
- b. Furnish existing reports and available drawings of the existing facilities at the site.
- c. Assist consultant in permit process as agreed upon prior to beginning of permit process, and remit permit fees to appropriate agencies.
- d. Obtain permission from adjacent landowners for site access, including exploration program and access roadway construction, and slide stabilization construction activities.
- e. Provide input, reviews and comments to stabilization alternatives evaluation, reports, and construction contract documents.

- f. Complete reproduction of necessary copies for bidding and distribute to plan centers for bidding process. Included in number of copies will be 10 copies for the Consultant. The estimated number of copies for the initial printing is 50 copies. Complete reproduction and distribution of any addendums to the contract documents prepared by the Consultant and approved by the City during bidding process.
- h. Obtain bid advertisement from the Consultant and advertise as appropriate according to City requirements.
- I. Collect contractor bid proposals, open and evaluate, and award contract with assistance from consultant.
- j. Issue payment for approved construction progress payments, assist consultant with evaluation of construction change orders, and provide final approval of change orders.
- k. Assist consultant with substantial complete walk-through and project closeout.

5.0 ESTIMATED FEE

Estimated fee breakdown for tasks performed by Consultant are as follows:

Task Number	Description (reference to work scope outline)	Estimated Fee
1	Permitting (b)	\$4,000
2	Data Acquisition and Testing (c)	\$17,000
3	Meetings, Analysis, Reports, Design, Preparation Contract Documents, and Contractor Procurement (a, d, e, f)	\$27,000
4	Services During Construction (g)	\$30,000
Estimated Project Fee		\$78,000

ATTACHMENT "A" — Page 1 of 2

SUPPLEMENTAL TERMS

TO THE CITY OF NEWBERG'S CONSULTING SERVICES AGREEMENT

A. DISCOVERY OF UNANTICIPATED HAZARDOUS MATERIALS

Hazardous materials may exist at a site where there is no reason to believe they could or should be present. Consultant and Client agree that the discovery of unanticipated hazardous materials constitutes a changed condition mandating a renegotiation of the scope of work or termination of services. Client agrees to compensate Consultant for the additional cost of working to protect employees' and public's health and safety. In addition, Client waives any claim against Consultant and agrees to defend, indemnify, and save Consultant harmless from any claim or liability for injury or loss arising from Consultant's discovery of unanticipated hazardous materials or suspected hazardous materials. Client also agrees to compensate Consultant for any time spent and expenses incurred by Consultant in defense of any such claim.

B. RIGHT OF ENTRY

The Client will provide for right of entry of the Consultant, their contractors, and all necessary equipment, in order to complete the work. While the Consultant will take all reasonable precautions to minimize damage to the property, the Client understands that in the normal course of work some damage may occur, the correction of which is not part of this Agreement.

C. UTILITIES

In the prosecution of the work, the Consultant will take reasonable precautions to avoid damage or injury to subterranean structures or utilities. The Client agrees to hold the Consultant harmless for any damages to subterranean structures or utilities which are not called to the Consultant's attention and correctly shown on the plans furnished.

D. SAMPLES

All samples of soil and rock will be discarded 30 days after completion of the construction work, unless Client advises otherwise. Further storage or transfer of samples can be made at Client's expense upon written request. Any and all samples of soil, rock, and water obtained from the project that are contaminated by hazardous substances shall remain the property of the Client, and the Client shall be responsible for proper transportation and disposal of same with appropriate licensed parties.

ATTACHMENT "A" — Page 2 of 2

SUPPLEMENTAL TERMS

TO THE CITY OF NEWBERG'S CONSULTING SERVICES AGREEMENT

E. STANDARD OF CARE

The standard of care applicable to Engineer's services will be the degree and skill and diligence normally employed by professional engineers or consultants performing the same or similar services at the time the services are performed. Engineer will reperform any services not meeting this standard without additional compensation.

F. TERMS OF PAYMENT

The Engineer will issue monthly invoices for work performed as detailed in Exhibit A, Scope of Work. Invoices are due and payable within 30 days of receipt.

G. RECORD DRAWINGS

Record drawings, if required, will be prepared, in part, on the basis of information compiled and furnished by others, and may not always represent the exact location, type of various components, or exact manner in which the Project was finally constructed. Engineer is not responsible for any errors or omissions in the information from others that is incorporated into the record drawings.

H. CITY-FURNISHED DATA

The City may provide to Engineer technical data in the City's possession relating to Engineer's services on the project. Engineer will reasonably rely upon the accuracy, timeliness, and completeness of the information provided by the City.

I. SUSPENSION, DELAY, OR INTERRUPTION OF WORK

The City may suspend, delay, or interrupt the services of Engineer for the convenience of the City. In such event, Engineer's contract price and schedule shall be equitably adjusted.

J. SUBSURFACE INVESTIGATIONS

In soils, foundation, groundwater, and other subsurface investigations, the actual characteristics may vary significantly between successive test points and sample intervals and at locations other than where observations, exploration, and investigations have been made. Because of the inherent uncertainties in subsurface evaluations, changed or unanticipated underground conditions may occur that could effect total Project cost and/or execution. These conditions and cost/execution effects are not the responsibility of Engineer.

K. DISPUTES

In the event that a dispute arises in any way connected with this contract, and if the dispute cannot be settled through direct discussions, the parties agree to first attempt to settle the dispute by mediation, before recourse to arbitration or a judicial forum. If the dispute results in arbitration or litigation, it is agreed that the prevailing party shall be entitled to recover its reasonable attorneys fees and attorney costs, court costs and expert fees, at trial, arbitration and on appeal.

INITIAL: CONSULTANT



CITY

