

CITY OF NEWBERG
AGREEMENT WITH NET ASSETS
TO PROVIDE CONSULTING SERVICES
TO THE CITY OF NEWBERG

THIS AGREEMENT is entered into this 13th day of November, 2000 by and between the City of Newberg, a municipal corporation of the State of Oregon, hereinafter called **City**, and **Net Assets**

2550 S Ginger St

(Address)

Cornelius OR 97113

888-627-1300

(Phone)

(Fax)

hereinafter called **Consultant**.

RECITALS:

1. **City** has need for the services of a **Consultant** with particular training, ability, knowledge, expertise and experience possessed by **Consultant**.
2. **City** has chosen the **Consultant** following the rules and regulations in the Public Contracting Ordinance.

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

1. **Effective Date and Duration:** This Agreement shall become effective on the date that this Agreement has been signed by every party hereto.

Unless, terminated or extended, this Agreement shall expire when the **City** accepts **Consultant's** completed performance or on December 31, 2000 or the date that work is completed in accordance with schedule whichever date occurs first. This fact notwithstanding, the services of **Consultant** shall be authorized and paid on a phase-by-phase basis as described in Exhibit "A."

Expiration shall not extinguish or prejudice **City's** right to enforce this Agreement with respect to any reach of a **Consultant** warranty or any fault or defect in **Consultant's** performance that has not been cured.

2. **Termination:** This Agreement may be terminated at any time by mutual, written consent of the parties. The **City** may, at its sole discretion terminate this Agreement in whole or part upon a 30-day written notice to **Consultant**. The **City** may terminate immediately upon notice to the **Consultant** that the **City** does not have funding, appropriations, or other necessary expenditure authority to pay for **Consultant's** work. The **City** may terminate Agreement at any time for material breach. This Agreement may be terminated by either party at the end of a project phase as defined in Exhibit "A" or at any

time upon a 30-day written notice.

3. **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.

4. **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:

\$4,500

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 not-to-exceed 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.

5. **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, provide an estimated fee amount, and obtain written instructions to proceed with work in the form of an Agreement 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 Agreement amendment, the **Consultant** waives any right to collect fees for work performed.

6. **Agreement Documents:** This Agreement consists of the following documents which are listed in descending order of preference:

This work performed under this Agreement is 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.

7. **Benefits:** **Consultant** will not be eligible for any federal social security, state workers compensation, unemployment insurance, or public employees' retirement system benefits from the Agreement payment except as a self-employed individual.

8. **Federal Employment Status:** In the event any payment made pursuant to this Agreement 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.

9. **Consultant's Warranties:** The work to be performed by **Consultant** includes services generally performed by **Consultant** in his/her usual line of business. The work performed by the **Consultant** under this Agreement shall be performed in a good and businesses-like manner in accordance with the highest professional standards. The **Consultant** shall, at all times, during the term of this Agreement, be qualified, be professionally competent, and dully licensed to perform the work.

10. **Indemnity:** **Consultant** shall defend, indemnify and hold harmless **City** from and against all liability or loss and against all claims, suits, actions, losses, damages, liabilities, costs, and expenses of any nature whatsoever resulting from, arising out, or relating to the activities of the **Consultant**, or its officers, employees, subcontractors, or agents under this Agreement.

11. **Independent Contractor:** **Consultant** is not currently employed by the **City**. The parties to this Agreement intend that the **Consultant** perform all work as an 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 Agreement; 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.

12. **Taxes:** **Consultant** will be responsible for any federal or state taxes applicable to payments received under this Agreement. **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.

13. **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 Agreement, **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 \$1,000,000.00 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 \$2,000,000.00. The **City**, 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 \$500,000.00. 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 Agreement.

d) **Consultant** shall furnish the **City** with Certificates of Insurance upon execution of Agreement. Such Certificates of Insurance evidencing any policies required by this Agreement 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.

14. **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 Agreement as a whole without written consent of the

other.

15. **Ownership of Work Product:** All original documents prepared by Consultant in performance of this 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. City shall indemnify and hold harmless Consultant and Consultant's independent professional associates or Subconsultants from all claims, damages, losses and expenses including

attorney's fees arising out of any unauthorized use of any instruments of professional service.

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.

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

CONSULTANT

By: 

Name: Rick Gates

Title: Dir. of Development

Date: 10/16/2000

CITY OF NEWBERG

By: 

Name: Duane Cole

Title: City Manager

Date: Nov. 13, 2000

Approved as to form:



Terrence D. Mahr, City Attorney

Newberg Online Liens Project Planning Guide

Project: On-line Lien Package Implementation

Lead Staff Person: Kathy Tri

Project Deadline: December 31, 2000

1. Primary Purpose of the project

To implement a system for on-line access to City lien records for use by title companies and other potential users.

2. Description of project scope

City staff will coordinate with Mr. Gates of Net Assets to implement an on-line, web-based system for maintaining, tracking and communicating information relating to City property liens. The project will require input and participation from the City's Finance Department staff, and Information Services contacts, and potentially require some review or input from the City's legal counsel.

The project team will organize and convert the City's existing data into a web-based data management system, establish access to that data, and provide a means for updating the data. Access to the data can be fee based, and the system will capture information based on assigned logins and passwords.

3. Project goals and objectives

- Design system to work with existing City equipment and systems for maintaining, tracking and communicating lien and utility information.
- Establish security and access to liens system to allow controlled outside access to data, and if desired, provide for fee recovery.
- Train staff in the management of the data system.
- Develop implementation tools including forms for communicating with title companies and internal procedures and processes for communicating changes and updates to data.
- Make provision for ongoing maintenance of the liens system.

4. Resources required (staff and other)

- Finance Director – Oversee and review financial information related to project. Coordinate with other City staff in establishing systems for tracking, accounting and reporting program revenues and costs. Analyze resources and costs of program.

Newberg Online Liens Project Planning Guide

- Rick Gates, Consulting Professional – Provide an outline including timelines for phases of work including system design and development, training, testing and continuing support. Coordinate with technical contacts to dovetail with existing systems or recommend enhancements for consideration by City staff. Train City staff on use and maintenance of liens package. Provide ongoing customer and technical support.
- Finance Department staff – Provide initial information regarding liens and property records, with possible input from other City departments as necessary (i.e. Planning, Building Inspection, etc.). Work with consultant to provide information as necessary toward meeting project goals. Work with consultant to resolve data issues. Document system and procedures relating to liens package once implemented and operational.
- Information Services staff – Work with consultant to provide information and coordination regarding web services providers, hardware and software considerations, password and logon accesses to City systems.

5. Potential problems identified and possible solutions

- Inability of current City systems to support web-based liens package due to hardware, software or provider limitations.

Every effort must be made to work with existing systems and equipment. If current equipment, systems or providers are not adequate to support the project, City staff and the consultant will discuss the value in proceeding with the project given cost estimates and recommendations from the consultant. If the determination is made to proceed, the consultant should make every effort possible to provide value and cost effective solutions.

- Difficulty getting property information to tie in with liens/utility information.

If the information is not resident on City systems and easily accessed internally, work with the County Assessor's office to obtain property records.

6. Budget Implications

Upon obtaining a proposal from the consultant for provided services, a determination of budget resources must be performed. The determination will likely include an analysis of current resources available for the project, costs associated with current methods of lien search, current fees charged for lien search services, and the estimated payback given the cost of the lien package proposal and current or proposed fees for lien search services provided by the City.

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7. Specific Steps to completion

a. Design and development

- Provide logon and password access to City systems for consultant.
- Consultant will provide ongoing updates of project progress.
- Evaluation of current hardware and software systems in support of web-based lien search package.
- Evaluation of web or Internet service provider in support of package.
- Gather property, lien and utility data in a format prescribed by the consultant. Communicate that information electronically to the consultant for merging into lien system database.
- Provide communication internally and externally that system is on-line and operational.
- Establish means for access by title companies and other potential users through assigned logons and passwords. In addition, provide means for tracking accesses for purposes of statistics and cost recovery through fee billings.

b. Testing

- Test data integrity
- Test access to data using logon and password
- Test user-friendliness of system using staff and outside parties.
- Test ability to track user access for statistical and billing purposes.
- Test ability to update and change information within the package relating to lien billings and payments, new or changing property records, or other factors as defined.

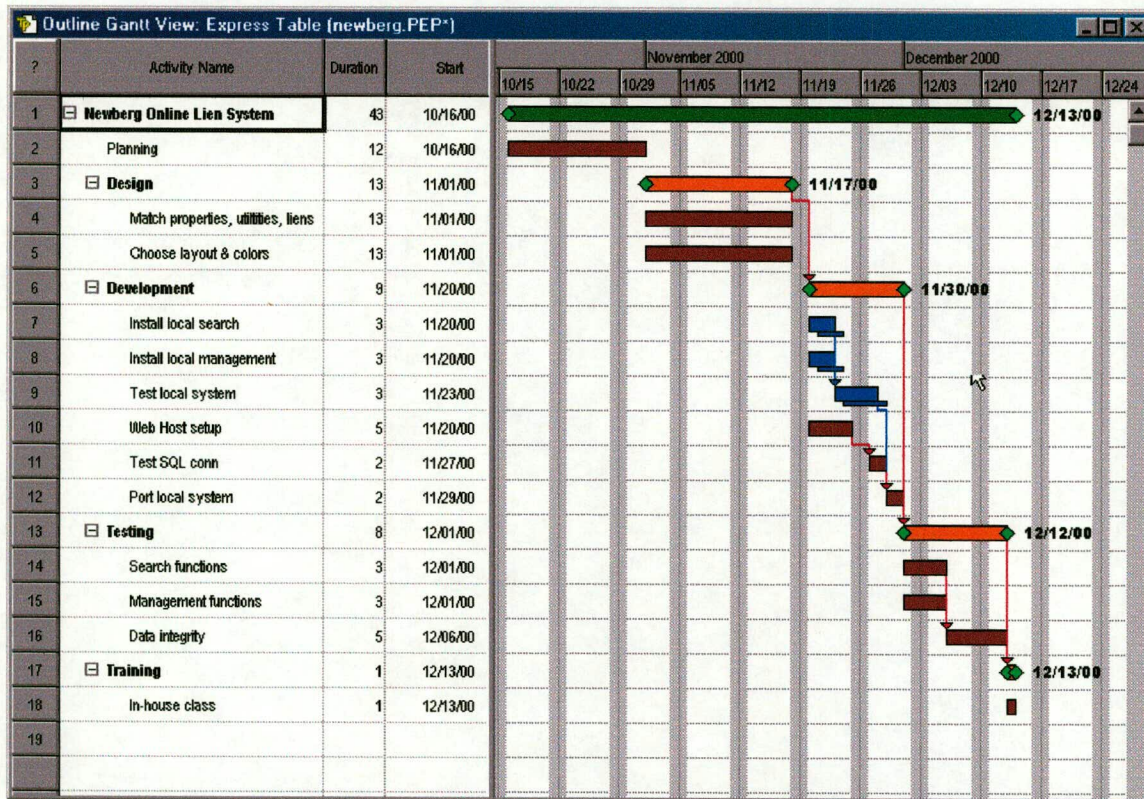
c. Training

- Identify City staff involved in various operations of system and provide consultant with desired goals of training.
- Consultant to train staff in operation of package including assisting with setup of users on system, how to walk through system, and how to update package data for additions, deletions and changes in both lien information and property records.
- Train staff in internal procedures for communicating property and financial information impacting liens package.

d. Continuing Support

- Establish a framework for continuing technical and customer support between City staff and the consultant.
- Identify a primary contact within the City for communications with the consultant. This contact will coordinate troubleshooting and problem resolution, and work with the consultant in all phases of customer service relating to the package.

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(Initial Timeline)

Implementation and Evaluation:

1. Revisions to original plan
2. Changes and recommendations for future processes
3. Results for goals established