

CITY OF NEWBERG
AGREEMENT WITH
CH2M HILL, INC.
TO PROVIDE CONSULTING SERVICES
TO THE CITY OF NEWBERG

THIS AGREEMENT is entered into this 28 day of September, 2001 by and between the City of Newberg, a municipal corporation of the State of Oregon, hereinafter called **City**, and CH2M HILL, Inc., 825 NE Multnomah Dr., Ste. 1300, Portland, OR 97232, Phone (503) 235-5000, FAX: (503) 736-2000, 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** using the request for proposals and an evaluation committee.

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 June 30, 2003, 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 breach 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:

\$ 468,820.00

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 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 Agreement with attached Exhibit "A", the proposal of the **Consultant** (if one was submitted), the Request for Proposal (if one was used), and Attachment "A". Work 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 sub-consultants, 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.

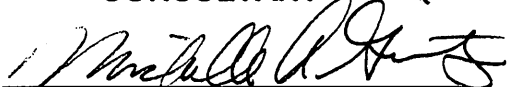
15. **Ownership of Work Product:** All original documents prepared by **Consultant** in performance of this Agreement, including but not limited to original maps, plans, drawing and specifications are the property of **City** unless otherwise agreed in writing. Quality reproducible records copies shall 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.

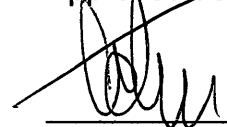
CONSULTANT

By: 
Name: Mitchell R. Gerts
Title: Vice President
Date: October 18, 2001 ^{ZMHG}

CITY OF NEWBERG

By: 
Name: Duane R. Cole
Title: City Manager
Date: Oct 28, 2001

Approved as to form:


Terrence D. Mahr, City Attorney

ATTACHMENT A

SUPPLEMENTAL TERMS TO THE CITY OF NEWBERG CONSULTING SERVICES AGREEMENT – CORRAL CREEK ROAD RESERVOIR PROJECT

1. 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 re-perform any services not meeting this standard without additional compensation.

2. 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.

3. 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.

4. 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.

5. 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.

6. 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 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.

Scope of Services

City of Newberg, Oregon

Corral Creek Road Reservoir Project

Introduction

CH2M HILL's scope of service for the Corral Creek Reservoir Project is presented below. The scope of services is based, in part, on the City's Request for Proposal (RFP) and our proposal submitted to the City. A cost estimate for the engineering services related to specific tasks is attached. Our costs are based on a time and materials contract, and will not exceed the budget presented in the attached table without the City's authorization. CH2M HILL's rate schedule is also attached. In general, the scope of services for the project includes engineering design and construction oversight for an additional 4.0 million gallons of potable water storage. The selected site is along Corral Creek Road. The City selected the Corral Creek Road site to provide this storage because:

- It meets elevation requirements for storage in Newberg's water system.
- The distribution system will obtain hydraulic benefits from placing storage in a different area of the system from existing storage.
- The City will acquire additional fire-flow capability in the industrial, high fire-flow demand area.

Scope of Services

Task A—Predesign

Task A.1 – Predesign Effort

The predesign task will take the general concept developed from preliminary engineering work to further refine and develop the project. This is the phase of the work that uses existing and to-be-gathered information to develop specific, detailed design criteria and prepare the design report concerning site/civil, reservoir, and telemetry issues. This report will contain specific design criteria, plans, and specifications that have been completed to about a 25 percent complete level. This will also include initiation of the operations and maintenance manual outline, and a conceptual level construction cost estimate. Upon completion of the conceptual design workshop, the City will have the opportunity to comment on the conceptual design.

Engineer will consider access and parking, grading, drainage (surface and tank), aesthetic treatment, landscaping, onsite piping and valving, onsite drain line piping, and lighting (as required) in the overall siting element. Engineer will recommend the most efficient layout for the reservoir, considering cost-effective diameter-to-height ratios and foundation

requirements, operational issues, maximizing the capacity per vertical foot of reservoir, and backfill requirements, as needed.

The preliminary design will include the construction cost estimate, preliminary traffic control plan, and other preliminary design requirements as determined in the predesign workshop.

We have also included in our scope of work two formal staff meetings for presentation/discussion purposes during the preliminary design activities. We propose that these meetings be conducted at the beginning and close of this predesign task with the operation and maintenance staff, engineering staff, and managers so that we can present the preliminary design document to City staff in a workshop format. We expect that the City will provide comments, direction, and, ultimately, approval for the project to progress to the final design phase.

Task A.2 - Initiate Project Permits and Approvals

Engineer will assist the City with the preparation of information and materials to define the project's technical elements for the City to prepare and negotiate permits and approvals. The permits requirements may include a road approach permit and a building permit. The City will monitor and pay for all permits necessary for the project.

Task B—Conduct Field Survey

Through the previously completed siting study, an electronic base map has been created. The need for additional surveying on the site for design purposes is therefore unnecessary. Only surveying required for locating existing utilities and setting controls for construction staking will be required. These elements of the surveying needs are described below.

Task B.1 Provide Construction Staking Control

Temporary benchmarks and horizontal survey control will be established during the mapping phase of the project and will be used during the proposed construction staking. This task assumes that everything will be staked only one time.

Task C—Final Design

Upon agreement of the preliminary design, Engineer will commence final design for the reservoir and associated elements of the project. The final design will be based on the accepted preliminary engineering design report by the City. Engineer will prepare construction contract documents for obtaining competitive bids and for defining the construction elements, details and specifications.

Task C.1 Design Onsite Improvements

We will perform final design of the reservoir and associated elements. These onsite elements include:

- Reservoir inlet/outlet system

- Reservoir overflow system
- Reservoir drain system
- Altitude valve and vault
- Site improvements including landscaping, roads, fencing, drainage
- Recirculation facility, if determined necessary
- Telemetry system improvements

It is assumed that others will perform offsite improvements, or those infrastructure systems necessary to the project and located outside of the Corral Creek property owned by the City of Newberg. This offsite work will need to be in place by the time the reservoir contractor is ready to fill the reservoir for the leakage test.

Task C.2 Perform Civil Site Work

This task includes the design of earthwork for excavation and backfill site grading, an access road, onsite drainage for stormwater, and an offsite drain line for site runoff, the tank drain, overflow, and underdrain. The design and specifications will address the control of stormwater runoff from both the construction site and the completed site.

Task C.3 Design Site Piping

This task consists of locating and designing site and overflow piping at the reservoir site, including the inlet/outlet pipe, reservoir overflow drain line connections with offsite piping, isolation valves, forced circulation, and underdrain system piping. Engineer will include an altitude control valve and vault in the design. Engineer will design the reservoir's interior inlet/outlet piping to minimize short-circuiting of the water in the reservoir with the intent to maintain good quality water. Check valves, or other mechanical equipment may be included as decided in the predesign task.

Task C.4 Provide Geotechnical Design

Engineer will provide the geotechnical expertise throughout the design process. Since prestressed reservoirs are particularly sensitive to differential settlement and slope stability is key to a safe construction site, having geotechnical engineers follow project development is a key part of our quality assurance/quality control (QA/QC) program.

Engineer will prepare a brief design memorandum for the structural designers presenting foundation recommendations and design parameters. Foundation recommendations will include allowable bearing capacity and settlement estimates, AWWA D100 seismic zone and soil profile for design, control of water during construction and compaction requirements. We will evaluate site-specific site hazards and present recommendations for foundation type and design criteria. Recommendations for seismic zone and profile per AWWA D-110 standards also will be considered and evaluated. The site-specific data will be used to select a seismic Zone 3 or 4 equivalent force level of the AWWA D110 document for seismic design of the structure. The site is located in a seismic Zone 3 area. Because there is considerable discussion regarding a large seismic event and because building codes will likely change to a higher seismic design in the future, many of our clients decide to design for seismic Zone 4 or 5. Engineer will discuss this with the City in this subtask.

Engineer will also prepare special provisions Contract Documents related to earthwork, including, but not limited to, site preparation, excavation, subgrade preparation, fill and backfill, trench backfill (for pipeline and drainage system), geomembranes and geotextiles.

Task C.5 Perform Reservoir Structural Design

This task involves identifying the structural design of the reservoir. Engineer's scope of services is the design of one circular, prestressed 4.0 MG concrete reservoir.

Elements of the design will include definition of:

- Reinforcing steel – columns, wall, foundation, roof, and slab
- Mill tests requirements for circumferential prestressing strand
- Neoprene bearing pad
- Concrete mix design
- Manway hatch
- Sealants
- Fabricated metals
- Seismic cables
- Vertical prestressing units
- Circumferential prestressing strand
- Shotcrete specification
- Membrane liner under reservoir
- Waterstops
- Paint
- Drain pipe
- Drain rock
- Pipe and fittings
- Valves
- Telemetry equipment
- Safety climb equipment
- Vent

Task C.6 60 Percent Design Submittal

During the final design phase, Engineer will communicate frequently with City staff to keep them apprised of the project status. Engineer will deliver, for City staff review, the plans at the 60 percent complete stage. At this stage, the engineer will conduct a 60 percent design review meeting. This level of completion will include the first draft of the technical specifications. Following the review meeting, the City may provide additional review comments. An engineer's estimate will be provided at this level of completion. Five sets of the 60 percent submittal will be provided and will include drawings, specifications, and a cost estimate.

Task C.7 95 Percent Design Submittal

This level of completion will provide the City with the opportunity to provide final comments on the project package before full completion and bidding of the project. Engineer will continue to work during the review periods to ensure schedules are met. Five sets of the 95 percent submittal will be provided and will include drawings, specifications, and cost estimate.

Task C.8 Reproduce Bidding Documents

At the close of the final design phase, Engineer will reproduce thirty sets of the 100 percent submittal for distribution during bidding phase. CH2M HILL will hold and distribute the documents as necessary.

Engineer will also forward the work products of the team from the predesign and final design effort for the City's use and archives. The following list details the work products that we will provide:

- Schematic and conceptual reports
- Plans (full scale, one-half scale, and electronic) - Electronic files provided in PDF format
- Special provisions
- Cost estimates
- Survey notes
- Computations
- Sequence of operations
- Startup list
- Operation and maintenance manuals

Task D—Telemetry System Improvements

Task D.1 Perform Telemetry and Electrical Design

The reservoir site will require minor/low voltage electrical service for site power, lighting, and the telemetry system. Engineer will design the electrical service adequate to accommodate the anticipated electrical and telemetry equipment. We anticipate that the instrumentation and control (I&C) needs for this project will add to the City's overall water supervisory control and data acquisition (SCADA) system.

Engineer proposes to provide the design and specification of the Corral Creek Road Reservoir SCADA elements, including the SCADA remote terminal unit (RTU) panel and the instruments associated with the reservoir. The following are task items included in the scope of services.

1. Specification of equipment
2. Instrumentation design (level instrumentation)
3. Control diagrams
4. Services during construction (submittal reviews of contractor submitted items)

The following items are not included as part of the scope of work for the consultant. Our assumption is that the construction contractor will be responsible for the programming of the main control panel operation, and remote RTU/communication systems. This places overall responsibility of the SCADA operation in the hands of one party.

1. Remote (reservoir) programmable logic controller (PLC) programming
2. SCADA system testing
3. SCADA system startup
4. SCADA system operations and maintenance manual
5. SCADA system training

Engineer will assist the City and Contractor with troubleshooting during startup, and to provide overall guidance to the contractors system integrator. Engineer will also review the proposed training to be provided by the system integrator. Engineer will not be responsible to conduct the PLC or Headquarters system programming, or communications systems.

Task E—Bidding Services

Engineer will provide the necessary bidding services to ensure award to a prequalified contractor. These services are described below.

Task E.1 Prequalify Contractors

Engineer will work with the City to develop a prequalification form specifically tailored to the requirements of this project that will guarantee multiple bids and appropriate costs for the work, while maintaining a high level of contractor that can perform the work.

Engineer will include a first draft in the preliminary design document, finalize it during the final design phase, and recommend it be bound into the construction contract bid document.

Task E.2 Prepare and Deliver Bid Documents

Engineer will reproduce the construction contract document and distribute them to the prequalified bidders and plan centers during the bidding phase of the project.

Task E.3 Clarify Document to Plan Holders

Engineer will provide interpretation of the construction contract document to plan holders during the bidding phase of the project.

Task E.4 Conduct Pre-bid Conference

Engineer will participate in a pre-bid conference and prepare a record of the proceedings.

E.5 Prepare Addendum

We will prepare one addendum that may be required during the bid phase.

Task E.6 Bid Opening

Engineer will attend the bid opening, summarize the bid proposals, and make recommendation to City for Notice of Award (as appropriate). The City will be responsible for delivery of the notice of award, and contracting with the successful construction contractor, including obtaining bonds, and insurance, and executed contract

Task F—Construction Oversight

During this task, Engineer will ensure that the contractor rigidly adheres to the purpose and intent of the contract documents from the preconstruction conference through the final payment and contract closeout. Engineer will provide a part-time construction observer for

the project throughout its duration. Engineer will also provide record drawings of the project based on records provided by the contractor

Task F.1 Facilitate Preconstruction Conference

Engineer will facilitate and coordinate the preconstruction conference to address technical issues and questions.

Task F.2 Provide Inspection Services

Engineer will provide onsite observation at appropriate times throughout the construction based on the level and importance of the ongoing construction activities. For purposes of the budget, Engineer has proposed one-half observation time (average 20 hours/week) over the 12-month construction period. Construction observation includes inspection of the reservoir and onsite improvements. Some construction activities will require intense inspection; other activities will require only occasional visits. In addition, our design staff will visit as frequently during construction as needed to assist in the observation function and to ensure adherence to design concepts. Engineer will provide a video and photographic record of the construction and daily inspection records when Engineer's staff is onsite. These records will be forwarded to the City on a weekly basis.

Task F.3 Other Construction Management Services

Construction Administrative services that will also be provided during the construction phase are:

- Construction staking for control (benchmarks for Contractor's use)
- Construction progress meetings
- Plans and specification interpretation
- Change order consultation and preparation (a total of four change orders is allotted)
- Payment Application (a total of 12 payment applications will be reviewed/prepared)
- Shop drawing review
- Documentation of progress
- Operational testing and startup
- Substantial completion inspection
- Startup Assistance
- Record Drawings
- Operation and maintenance manual
- Project closeout
- Warranty inspection

Task G—Project Management

Project management will be ongoing throughout the duration of the project as the Engineer performs this scope of services. Engineer will work closely with the City to ensure that the project meets schedule, budget, and technical requirements. Work under this task will include communications with City, including prearranged specific meetings, predesign workshops, telephone conversations, and intermittent meetings with City staff as the project proceeds.

Engineer will provide a summary report of engineering services work completed for each monthly invoice and note work anticipated for the next period and any issues of concern on the project. Engineer will meet monthly with the City to discuss the status of the project and distribute meeting notes. We will use electronic tracking software to monitor and update project schedule status.

Work Plan Assumptions

City Responsibilities

The City will deliver the following:

- Available reports, studies, and other data at the time of the notice to proceed
- Make site available for access to conduct surveying at the time of the notice to proceed
- Review and comment on memorandums and plans and specifications in 5 working days
- Accomplish the bid phase in 8 weeks
- Prepare correspondence and documents for award and contract signing
- Coordinate permit requirements on project
- Owner has acquired conditional use permit and requirements
- Other items as identified in the Request for Proposals

Other Assumptions

- Dechlorination equipment of the drain/overflow system need only include a point for having sodium biosulfide/thiosulfate and will be the only treatment requirement.
- The consultant will not conduct a public involvement/education program, but will attend two neighborhood/business association meetings within the scope of work.
- There will be no design review board to which to present and from which to obtain approval.
- The drain/overflow line will be extended no farther than the edge of property required for the tank.
- No wetlands assessment or environmental assessment will be required.
- Solid rock requiring additional techniques for evaluation and removal is not included in this scope of work.
- Excavated material for backfill around the tank and other structures, except for granular wall backfill adjacent to the tank wall will be used, and no borrow areas will need to be assessed.
- The cost of field material tests during construction will be borne by the contractor.

Task	Description	CH2M HILL	
		Labor	Expenses
Task A	Predesign	27,374	2,278
Task B	Field Survey	2,092	1,303
Task C	Final Design	151,562	10,183
Task D	Telemetry System Improvements	10,760	769
Task E	Bidding Services	12,581	2,744
Task F	Construction Oversight	181,037	18,789
Task G	Project Management	43,508	3,840
Totals		\$428,914	\$ 39,906
		GRAND TOTAL	\$468,820

CH2M HILL Rate Schedule

Role/Classification	Hourly Rate ^(a)
Senior Consultant (Bob Fuller)	\$167
Project Manager (Brad Phelps)	\$150
Senior Engineer (Sue Frey)	\$120 - \$145 (\$135- Frey)
Project Engineer (Tim Yamada)	\$85 - \$115
Staff Designer	\$75 - \$100
Technician	\$75 - \$100
Drafting/CADD	\$60 - \$75
Office Support (Administrative Assistant)	\$50 - \$70
Expenses	
Computer	\$4.80 / labor hour
Communications Systems	\$1.35 / labor hour
Mileage	\$0.42/mile, \$26/day
Direct Expense	Cost
Markup on Outside Services and Expenses	10%

^(a) Except for the specific individuals shown, these are average hourly rates for staff that will be working on this project. Actual rates will vary based on specific personnel involved. Labor rate includes communication, computer charges, and health and safety. These rates will remain effective through the scheduled duration of the project.

ATTACHMENT A

SUPPLEMENTAL TERMS TO THE CITY OF NEWBERG CONSULTING SERVICES AGREEMENT - CORRAL CREEK ROAD RESERVOIR PROJECT

1. 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 re-perform any services not meeting this standard without additional compensation.

2. 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.

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5. 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.

6. Subsurface Investigations

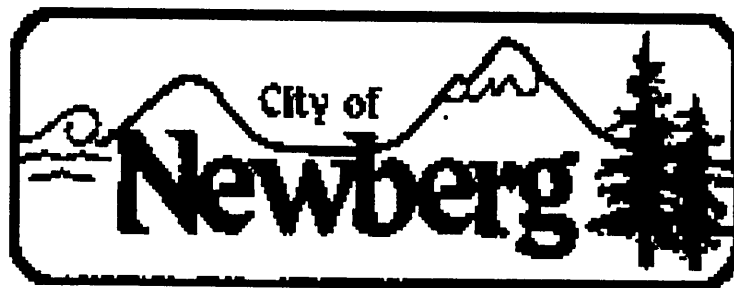
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CITY OF NEWBERG, OREGON

COMMUNITY DEVELOPMENT DEPARTMENT

REQUEST FOR PROPOSALS

**CORRAL CREEK ROAD
4.0 MG RESERVOIR
CIP # 7561**

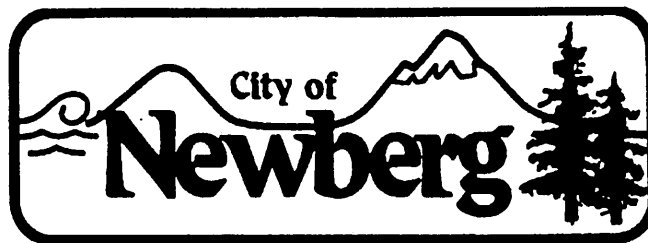


JULY 2001

**For information regarding this proposal,
contact:**

**Jadene Stensland, Project Manager
(503) 554-8881 or jadene@ci.newberg.or.us**

City of Newberg
414 E. First Street
P.O. Box 970
Newberg, OR 97132



City Manager
(503) 538-9421
(503) 538-5013 FAX

TO PLANHOLDERS

**CORRAL CREEK ROAD RESERVOIR PROJECT
ADDENDUM NO. 1
July 13, 2001**

This addendum, as delivered by email on 7/13/01, forms a part of the Request for Proposal Documents. It modifies the original documents as follows:

ITEM #	DESCRIPTION OF CHANGE																
Page 4 I-3	Schedule of Events is changed to read: <table><tr><td>Proposals Due</td><td>Friday, August 3, 2001</td></tr><tr><td>Oral Interviews (optional)</td><td>Friday, August 10, 2001*</td></tr><tr><td>Staff Recommendation</td><td>Friday, August 17, 2001*</td></tr><tr><td>City Council Approval</td><td>Tuesday, September 4, 2001*</td></tr><tr><td>Notice to Proceed</td><td>Monday, September 10, 2001*</td></tr><tr><td>Contractor Bid Opening</td><td>Wednesday, April 10, 2002*</td></tr><tr><td>Substantial Completion</td><td>Tuesday, April 15, 2003*</td></tr><tr><td>Project Completion</td><td>Friday, July 11, 2003*</td></tr></table>	Proposals Due	Friday, August 3, 2001	Oral Interviews (optional)	Friday, August 10, 2001*	Staff Recommendation	Friday, August 17, 2001*	City Council Approval	Tuesday, September 4, 2001*	Notice to Proceed	Monday, September 10, 2001*	Contractor Bid Opening	Wednesday, April 10, 2002*	Substantial Completion	Tuesday, April 15, 2003*	Project Completion	Friday, July 11, 2003*
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*These dates are approximate and subject to change

Proposers shall acknowledge that they have received this addendum and understand that the proposal due date has been changed to FRIDAY, AUGUST 3, 2001, by emailing a reply immediately to muellet@ci.newberg.or.us.

Jadene Torrent Stensland
Utilities Engineer
(503) 554-8881

**CITY OF NEWBERG
INVITATION TO SUBMIT PROPOSALS
RFP No. 707561**

NOTICE IS HEREBY GIVEN that the City of Newberg, Oregon, invites Proposals for Engineering Services to be submitted to the Utility Engineer, Community Development Department, P.O. Box 970, 414 East First Street, Newberg, Oregon, 97132, until **1:00 p.m. local time on Wednesday, July 25, 2001**, for the 4.0 MG Corral Creek Road Reservoir Project.

Request for Proposal documents may be obtained from the Newberg City Hall, 414 East First Street, Newberg, Oregon, 97132. For information concerning this procurement, contact Jadene Stensland, Utility Engineer, City of Newberg, at 503-554-8881.

The consultant shall provide a wide range of engineering services including, but not limited to, project management, geotechnical investigation, site surveying, design, preparation of construction plans, specifications, and cost estimates, bid and construction phase services and other items that may be necessary to complete the project.

The City reserves the right to accept or reject any and all Proposals or to postpone the Consultant selection for no more than sixty (60) days and to make the award that is in the best interest of the City.

Jadene Stensland
Utility Engineer
Community Development Department
City of Newberg
(503) 554-8881

Dated: July 9, 2001

Published: Monday, July 9 and July 16, 2001 – Daily Journal of Commerce

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SECTION I

GENERAL INFORMATION

I-1 Proposal Request

Written proposals and cost schedules (six copies) are to be submitted by **1:00 p.m. local time on Friday, August 3, 2001**, to the City Hall, City of Newberg, Attn: Jadene Stensland, Utility Engineer, 414 East First Street, P.O. Box 970, Newberg, Oregon, 97132. For more information please contact Jadene Stensland at (503) 554-8881.

I-2 Proposer's Proposal

Proposers responding to this proposal request must follow the rules stated within this RFP. Adherence to these rules will ensure a fair and objective analysis of your proposal. Proposals should provide a clear, concise description of your firm's capabilities to satisfy the requirements of the RFP.

All responses must be made in the format outlined in Section IV. Additional pages may be attached as necessary. Failure to comply with or complete any part of this request may result in rejection of your proposal.

I-3 Schedule of Events

Proposal Due	Friday, August 3, 2001
Oral Interviews (optional)	Friday, August 10, 2001*
Staff Recommendation	Tuesday, August 17, 2001*
City Council Approval	Tuesday, September 4, 2001*
Notice to Proceed	Monday, September 10, 2001*
Contractor Bid Opening	Wednesday, April 10, 2002*
Substantial Completion	Tuesday, April 15, 2003*
Project Completion	Friday, July 11, 2003*

**These dates are approximate and subject to change.*

I-4 Issuing Office

All correspondence pertaining to this RFP should be directed to Jadene Stensland, Project Manager, City of Newberg, 414 East First Street or P.O. Box 970, Newberg, Oregon 97132. Direct: 503-554-8881 FAX: 503-537-1277.

I-5 Response Date

To be considered, proposals must arrive at the City on or before the date and time specified in this RFP. Proposers mailing proposals should allow delivery time to ensure timely receipt of their proposals. ***No proposal or correction received after the closing date and time will be considered.***

I-6 Proposal Withdrawal

Any proposal may be withdrawn at any time before the "Proposal Due" date and time specified in the Schedule of Events, by providing written request for the withdrawal of the proposal to the City. The request shall be executed by a duly authorized representative of the firm. Withdrawal of a proposal will not prejudice the right of the proposer to file a new proposal.

I-7 Oral Presentation (at the City's option)

Firms selected for final evaluation may be required to make oral presentations of their proposals to the City's Selection Committee. Such presentations provide an opportunity for the firms to clarify the proposals to ensure mutual understanding. The City will schedule the times and location for these presentations, if it elects to conduct them.

I-8 Rejection or Acceptance of Proposals

The City reserves the right to reject any or all proposals. However, the City also reserves the right to waive any non-material irregularities or information in any proposal.

I-9 Selection of Consultant

The City's Selection Committee will recommend to the Newberg Community Development Director that the contract award be made to the proposer that is in the Committee's opinion, best qualified. The Newberg City Council must approve any selection.

I-10 Execution of Contract

Within 30 days after the City Council approval of the selection, the City and proposer will finalize the services contract. The exhibit section of the RFP contains a copy of the City's standard professional services agreement for proposer's information only (Exhibit V-1). The City will require the successful proposer to sign this contract.

If the selected proposer fails to execute a contract with the City within 30 days after the award has been made, the City may give notice to the proposer of the City's intent to award the service contract to the next best proposal, or to call for new proposals. The 30-day time period may be extended at the City's sole option.

I-11 Public Records

Any material submitted by a proposer shall become the property of the City unless otherwise specified. All proposals may be reviewed and evaluated by any person at the discretion of the City. Proprietary information should be segregated and clearly identified. This information will be kept confidential. All other parts of the proposals are public record.

I-12 Tax ID Number

Proposals must state the proposer's Federal/State of Oregon Taxpayer Identification Number.

I-13 Non-Discrimination Statement

The City of Newberg's programs, services, employment opportunities and volunteer positions are open to all persons without regard to race, religion, color, national origin, sex, age, marital status, disability or political affiliation.

SECTION II SCOPE OF WORK

II-1 Background

The City of Newberg has identified the need for an additional 4 MG of water storage in the southeast area of the City. The City has purchased land for the reservoir near Corral Creek Road, which is approximately 2 miles east of the City of Newberg, Oregon, and South of Hwy 99E. It is located in the southwest corner of Section 15, Township 3 South, Range 2 West. The Corral Creek Road Reservoir site has been under consideration since 1998 and various preliminary reports have been completed. Following is a list of the reports that are available for viewing at the Newberg City Hall. A fee will be required for copies of these reports.

**June 2000: Newberg Eastside 4-MG Reservoir Geotechnical Report by CH2M-Hill

**Sept. 1999: Preliminary Geologic & Geotechnical Evaluation (Fatal Flaws Analysis) by Alder Geotechnical Services

**May 1998: Corral Creek Road Reservoir Siting Study by CH2M-Hill

II-2 Scope of Work

The City of Newberg plans to retain consulting engineering services to perform the design and construction phase services for the new water reservoir project known as the Corral Creek Road Reservoir Project.

The new 4.0 MG reservoir is anticipated to be a cast-in-place pre-stressed concrete tank, 3/8" 7-wire strand prestressing wrap with vertical post-tensioning of walls and earthquake cables. The reservoir is to be similar in design to the City of Gresham's Great Butte, South Hills, Butler Road and Lusted Reservoirs and to the City of Salem's Lane Oak Reservoir.

The consultant shall provide a wide range of engineering services including, but not limited to, project management, geotechnical investigation, site surveying, design, preparation of construction plans, specifications, and cost estimates, bid and construction phase services and other items that may be necessary to complete the project as outlined below.

The City desires to have the reservoir on-line as soon as possible, but no later than the Spring of May, 2003.

The major capital components of the project will be:

1. 4.0 MG prestressed concrete reservoir
2. All on-site piping, including drain and overflow lines, complete
3. Altitude valve and vault
4. Telemetry
5. Site work, including access road and landscaping

A) Pre-design Phase

1. Develop a preliminary design report, to a level of detail necessary for specific feedback from city staff. Provide six copies of the report addressing the following:
 - a) Establishes the design criteria and constraints for the on-site facilities and associated telemetry,
 - b) Site drainage,
 - c) Preliminary cost estimate for construction, and
 - d) Special and/or other design considerations.
2. Assist city staff with a preliminary design presentation to maintenance staff and managers

B) Land Surveying Services

- Establish horizontal and vertical control monuments for construction purposes,
- Provide construction staking, and
- Collect as-built information.

C) Design of On-site Improvements

Design all improvements within the reservoir site. Provide the following submittals:

- 60% submittal to include drawings, preliminary cost estimate and outline of specifications (5 sets)
- 95% submittal to include complete drawings, cost estimate and specifications (5 sets).
- 100% submittal to be complete bid-ready package of drawings, design calculations, bid sheet, specifications and final engineer's cost estimate (10 sets).

D) Telemetry

The consultant must incorporate a telemetry system that can be integrated with the City of Newberg's existing reservoir and flow monitoring system.

E) Bidding Phase

- Advertise and receive contractor responses.
- Prepare and deliver bid set of documents to identified short list.
- Respond to technical questions regarding the plans and specifications.
- Evaluate submitted contractor bids and make a recommendation for award.

F) Construction Phase

- Attend pre-construction conference to address technical issues and questions.
- Provide periodic construction observation and testing services at an appropriate frequency to confirm the contractor's adherence to the contract documents. Prepare daily reports and submit them to the City on a weekly basis.

- Review and recommend all shop drawings, change order requests and monthly pay requests from the contractor.
- Prepare a weekly digital photographic record of the construction.
- Provide complete set of original shop drawings and original catalog cuts from contractors' submittals.
- Provide preliminary and final O & M Manuals to meet the City's O & M Manual preferences. (6 copies)
- Provide final as built drawings in digital format and on 22" x 34" – 4 mil archival quality Mylar within 30 days of project completion.

G) Project Management

- With each monthly invoice, provide a summary report of work completed since last submitted invoice, work anticipated for the next period and any issues or concerns that may affect the progress of the project.
- Meet with the City on a monthly basis to discuss the status of the project. Consultant to prepare a written summary of each meeting
- Prepare a detailed project schedule utilizing Microsoft Project 2000 software. Update the project monthly and submit to the City.

II-3 Project Tasks To Be Performed by City of Newberg

The City will:

- a. Provide a project engineer/manager who is responsible for overall project management and will provide coordination between the consultant and the City,
- b. Provide City staff member(s) to provide timely response to any questions and to be available for any meetings requested by the consultant. All meetings will take place at the Newberg City Hall Building,
- c. Make available mapping and design information previously developed,
- d. Coordinate collection of data from City records such as as-built data,
- e. Make available guidelines, policies and regulations to be used in developing design,
- f. Conduct public hearings and prepare Council agenda items,
- g. Conduct Council workshops,
- h. Maintain records and process payment requests,
- i. Pay all permit fees to agencies, by internal transfer at the City of Newberg, or by check to outside agencies, upon the request of Consultant,
- j. Legal review of all contracts, bid forms, and real property conveyances,
- k. Provide the base or template provisions for the construction contract to which the consultant shall add terms and conditions unique to the project; and
- l. Perform other tasks as negotiated.

SECTION III

PROPOSAL REQUIREMENTS AND FORMAT

III-1 Proposal Submittal

To receive consideration, submit proposals in accordance with the following instructions:

Proposals should be prepared simply and economically, providing a straightforward, concise description of proposer's capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of content.

The City, at its sole discretion, has the right to negotiate with any or all proposers regarding their Proposals. Additionally, the City may reject or accept any or all Proposals or parts thereof, submitted in response to this RFP.

The City recognizes that in the submittal of Proposals, certain information is proprietary to the proposer and that the safeguarding of this information is necessary. Accordingly, the City will make every effort to prevent any disclosure of data supplied by any proposer where the proposer identifies those portions of its Proposal that are proprietary.

Proposals are due at **1:00 p.m. local time on Wednesday, July 25, 2001.** Proposals submitted after this time will be returned to the proposer unopened. Proposals must be submitted in a sealed envelope bearing the name, address, phone, fax and e-mail of the proposer and the name of the project to:

If your submittal is **mailed**, it must be addressed to:

Jadene Stensland, Project Manager
City of Newberg
P.O. Box 970
Newberg, Oregon 97132

Any mail addressed to the street address will be delayed by Post Office. Proposers mailing proposals should allow normal mail delivery time to ensure timely receipt of their proposals.

If your submittal is **hand delivered**, it must be brought to:

Jadene Stensland, Project Manager
Newberg City Hall
414 East First Street
Newberg, Oregon 97132.

III-2 Incurred Costs

The City is not liable for any costs incurred by proposers in the preparation and/or presentation of their proposals.

III-3 Signatures

All Proposals must include an introductory letter signed by a corporate official legally authorized to enter into a contract with the City.

III-4 Content of Proposals and Evaluation Criteria

The proposal shall include the information requested in each of the items identified in the following table and in the order indicated.

There are a maximum number of pages and minimum text font size permitted for each item of information. **A proposal exceeding the specified number of 8.5" x 11" pages and text font size less than 11 will be considered non-responsive and the proposal will not be considered.** Supporting information shall be in a separate section, at the end of the proposal, and not be counted in the page limit requirements.

Each proposal will be judged on the completeness and quality of content, and as a demonstration of the consultant's qualifications.

The items of information to be included in each submittal, evaluation criteria, maximum points, and page limitations are shown on the chart below. An explanation of each item appears immediately following the chart.

CONTENT AND EVALUATION CRITERIA	MAXIMUM NO. OF PAGES	MAXIMUM SCORE
1. Introductory letter	2	0
2. Table of contents	1	0
3. Insurance coverage	0.5	(see note below)
4. Computer equipment	0.5	(see note below)
5. Consulting firm's qualifications	4	20
6. Key personnel qualifications	4	35
7. Proposer's approach to the project	10	25
8. Project schedule (11" x 17" allowed)	1	10
9. Consultant's fee (11" x 17" allowed)	2	10
10. Additional Supporting information	No Limit	0
Totals	25	100

NOTE: Each proposal will initially be reviewed based upon the criteria of correct number of pages, insurance coverage, and computer equipment. Firms may be excluded from further consideration if the number of pages in each section is not correct, the firm's

insurance coverage is unsatisfactory, or if the firm's computer equipment lacks compatibility with the City's system.

1. Introductory Letter

The introductory letter shall include the company name, address, and telephone number of the proposer submitting the Proposal. A statement in the introductory letter shall provide the name, title, address, telephone number, e-mail address, and FAX number of the person or persons authorized to represent the consultant in any correspondence, negotiations and sign any contract that may result. The proposer may use this section to introduce the Proposal or to summarize the key provisions of the Proposal.

2. Table of Contents

Include a clear identification of the material by section and by page number.

3. Insurance Coverage

Provide a statement indicating that the firm has in effect or can obtain insurance coverage required by the City. If the consultant is unable to provide this coverage, the consultant must describe the insurance coverage that can be provided, and explain why the City's preferred coverage cannot be provided.

City of Newberg's required insurance coverage is described in the sample professional services agreement contained in Exhibit V-1. Insurance coverage includes the following categories of insurance:

- A. Comprehensive general liability - \$2,000,000.00
- B. Professional liability - \$500,000.00
- C. Automobile liability - \$500,000.00
- D. Worker's compensation - as required by ORS 656.017
- E. Professional Errors and Omissions - \$500,000.00

The selected consultants shall provide certification for all coverage and shall include City of Newberg, its officials, employees, and agents, as ADDITIONAL INSURED on all except workers compensation insurance policies.

4. Computer Equipment

Provide a statement verifying that the firm's computer equipment and services are compatible with current City equipment.

The selected consultant's computer services and submittals must be compatible with current City equipment. All documents and drawings shall be provided in the following formats. The City has largely converted to the Microsoft NT, version 4.0, environment and uses the following software:

- Word processing with Microsoft Word 2000.
- Financial tracking and other spreadsheets with Microsoft Excel 2000.
- Scheduling with Microsoft Project 2000.

- The City's computer aided design system consists of a windows based environment utilizing Windows NT, AutoCAD 2000 and most current version of Bentley Microstation
- The City's geographical information system consists of a windows based environment utilizing Windows NT, Arc View 3.2, and Arc Info 7.2.1.
- The City's hydraulic modeling software is Waterworks.

5. Consulting Firm's Qualifications

Provide a statement that portrays the firm's qualifications and experience in relation to the described work. The response should address the following:

- A) General qualifications and experience of the firm.
- B) Specific areas of expertise applicable to the described work.
- C) Similar projects, by date, type and location, which have been performed by the firm.

6. Key Personnel Qualifications

Provide a statement that portrays how the qualifications and experience of the firm's key personnel relate to the described work. The response should address the following:

- A) Qualifications and experience of principals and other key personnel with respect to the described work. Identify any applicable registrations.
- B) Key personnel experience with this type of project, and familiarity with the City of Newberg.

7. Proposer's Approach To The Project

- A) Include a statement of understanding of the project.
- B) Provide a detailed explanation of overall project plan and the techniques the proposer expects to use. This should include an explanation of any modifications of the work items and scope of work presented in this request for proposal.
- C) Describe how you would propose to use City personnel, if at all, to assist you during the project and indicate the approximate time requirement.
- D) Include a separate and specific description of each point in the RFP that is not completely met by the Proposal. If, in your project description you proposed an alternate approach to the RFP tasks, indicate that in this Proposal section.
- E) If the proposer has covered all items in the RFP, then this section should include the statement "All RFP items have been covered in this Proposal".

8. Project Schedule

Prepare a project schedule for each significant segment of the work for the reservoir project from Notice to Proceed for design services to completion of the reservoir construction.

9. Consultant's Fee

Indicate proposer's all-inclusive fee for which the requested work will be done, broken

down as follows:

- A) Cost estimate including hours by task and total hours.
- B) Identify by personnel category the total hours multiplied by your proposed hourly billing rate.
- C) The fee should include all out-of-pocket costs (travel, printing, etc.) and a fee should be stated for each segment of the project.
- D) Describe the method you would use in charging for any special requests, reports or broadening of the scope of work beyond that described in this RFP.

10. Additional Supporting Information

Any other data that the proposer feels is applicable to the evaluation of the Proposal or of their qualification for accomplishing the project should be included in this section. Supporting materials may include graphs, charts, photos, resumes, references, plans, reports, or similar documentation, and is totally discretionary to the firm. If there is no additional information to present, state "There is no additional information we wish to present"

SECTION IV

EVALUATION OF PROPOSALS

IV-1 Evaluation Standards

1. Firm Qualifications
2. Key Personnel Qualifications
3. Project Approach
4. Project Schedule
5. Proposed Fee

IV-2 Oral Presentations

Proposers selected for final evaluation may be required to make an oral presentation of their proposal to the City's Selection Committee. Such presentations provide an opportunity for the firm to clarify the proposal to ensure mutual understanding. The City will schedule the time and location for these presentations.

IV-3 Agreement

A professional services agreement will be negotiated with the number-one ranked proposer. The agreement will define extent of services to be rendered, method and amount of compensation. If agreement is not reached, negotiations will be terminated. Negotiations will then begin with the Selection Committee's second choice. When an agreement is reached, a contract for the work will be prepared and executed. The City's standard professional services agreement is attached (Exhibit V-1).

The negotiated agreement will be on an hourly rate basis with a "not to exceed" cost limit.

IV-4 Minimum Qualifications

The firm must be legally qualified in the State of Oregon to practice the work for which consideration is requested.

Previous professional work in the subject area will be a heavily weighted factor in the selection. Quality of performance on previous projects and ability to meet time schedules and produce a comprehensive and understandable analysis will be some of the attributes considered by the Selection Committee.

SECTION V

EXHIBITS

V-1 Standard Professional Services Agreement

V-2 Location Map

CITY OF NEWBERG
AGREEMENT WITH _____
TO PROVIDE CONSULTING SERVICES
TO THE CITY OF NEWBERG

THIS AGREEMENT is entered into this ____ day of _____, _____ by and between the City of Newberg, a municipal corporation of the State of Oregon, hereinafter called **City**, and

(Consultant's name)

(Address)

(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** using the _____ (insert words addressing the screening and selection process)

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 _____ (insert 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 breach 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:

\$ _____

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 Agreement with attached Exhibits, the proposal of the **Consultant** (if one was submitted), the Request for Proposal (if one was used), and _____
(insert any other documents that should be referenced)

Work 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: _____

Title: _____

Date: _____

CITY OF NEWBERG

By: _____

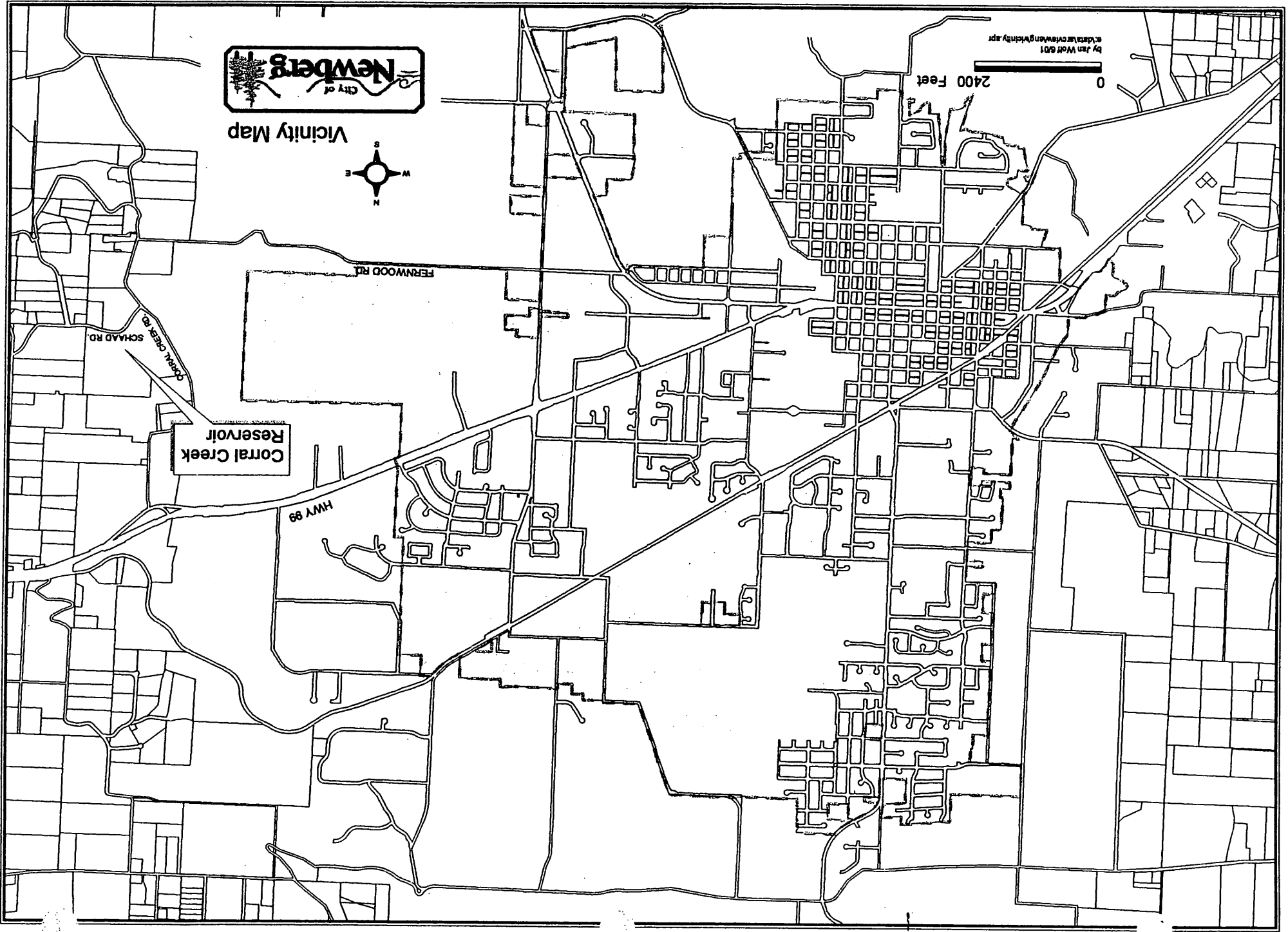
Name: _____

Title: _____

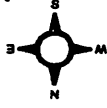
Date: _____

Approved as to form:

Terrence D. Mahr, City Attorney



Vicinity Map



2400 Feet

0
by Jan Wolff 6/01
e:\data\newberg\vicinity.apr

Record of Survey for : City of Newberg

Location:
SW 1/4 Section 15, T. 3 S., R. 2 W.,
of the Willamette Meridian,
Yamhill County, OR

Tax Lot. 3215 - 1300

Date: 18 March 2002

N 89°58'27" W

2142.93' (V.C. GPS 2143.15')

NE Corner S. Brucher DLC
No. 51, Yamhill County
IP & BC, down 1.5 feet in
figert orchard. Monument
is also GPS Control Point #10

SE Corner B. Hecter DLC
No. 50, Yamhill Co. P & BC,
cap broken, down 0.5' on N.
edge gravel drive. Monument
is GPS Control Point #177.

Narrative

The purpose of this survey is to mark the corners of a tract of land described in deed to the CITY OF NEWBERG and recorded in instrument No. 2000-13258. The Basis of Bearings is North along the center line of Section 15 as run in CS-2132 and monumented in CS-2169. The northeast corner of said CITY tract calls for a stake and stone. The parent deed for this tract came out in 1888 and the language in it suggests a survey had been done. I was not able to locate a recorded survey of this description. In CS-2132 (July 1910), an "old stone" (no mention of a stake) is shown 58.10 chains South and .385 chains East of the north quarter corner of Section 15. If you compute the deed corner on the section centerline per CS-2132, the stone would be 5.92' north and 25.41' east from the deed corner. CS-2132 also shows fences running east of the true section centerline. The fences now run much closer to the line run in CS-2132. I held deed distance north from the 1/4 corner to set the northeast corner. I was unable to find any monuments at the northwest corner of this tract on the east line of the Brucher DLC. I held deed distance north from the stone found at the southwest corner of this tract. This solution fits the existing fence lines on the north and south lines as well as the fence along the south line of Bk. 111, Page 657. The southeast corner of the CITY tract was set at deed distance north of the 1/4 corner which call is common to both inst No. 2000-13258 and Bk. 111, Page 657. The center line of CORRAL CREEK road was set as travelled.

Scale: 1" = 200'

North

By Matt Dunckel & Assoc
3765 Riverside Drive
McMinnville, Oregon 97128
Phone 503-472-7904
Fax 503-472-0367
Email: dunckel@spessart.com

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
MATTHEW E. DUNCKEL
1942
Renewable 31 December 2003

3/4" IP CSP-5860
up 0.3' & west of line
2.82'. Fence is west 2.5'
and north 8.0'

Legend

- = monument found, flush to 0.2' down, in good condition unless otherwise stated. Origin stated if known
- = set 5/8" iron rod with yellow plastic cap marked "Dunckel PLS 1942"
- x-x-x-x- = existing fence line

(____ #1) = data of record inst No. 2000-13258
(____ #2) = data of record Book 111, Page 657

