

CITY OF NEWBERG
AGREEMENT WITH
SOUTHWOOD ENGINEERING CORP.
TO PROVIDE CONSULTING SERVICES
TO THE CITY OF NEWBERG

THIS AGREEMENT is entered into this 18 day of October, 2001 by and between the City of Newberg, a municipal corporation of the State of Oregon, hereinafter called **City**, and Southwood Engineering Corp., 3301 Southwood Drive, Philomath, Oregon, 97370 P: 541-929-2533, F: 541-929-2077, 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** due to design experience with Newberg's past sewage pump stations.

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, 2002, 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:

\$ 2,000.00

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 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). 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: Ronald P. Staehlin
Name: Ronald P. Staehlin
Title: President
Date: 10/18/01

CITY OF NEWBERG

By: Terrence D. Mahr
Name: Terrence D Mahr
Title: City Manager, Pro Tem
Date: 11/04/01

Approved as to form:

Terrence D. Mahr
Terrence D. Mahr, City Attorney

"Exhibit A"

**SOUTHWOOD ENGINEERING CORPORATION
3301 SOUTHWOOD DR.
PHILOMATH, OR 97370
(541) 929-2533
FAX: (541) 929-2077**

October 18, 2001

Jadene Torrent Stensland, P.E.
Utility Engineer
City of Newberg
P. O. Box 970
Newberg, OR 97132

Dear Jadene:

Subject: Crater Lane Pump Station – Preliminary Engineer's Report

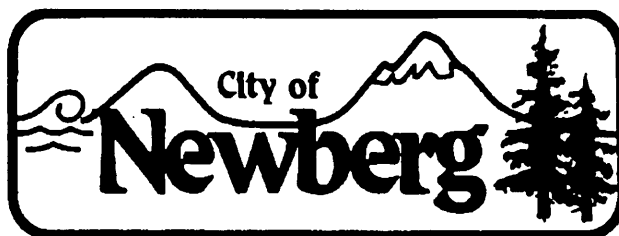
This letter is to notify you that I agree to provide a Preliminary Engineer's Report for the proposed Crater Lane Pump Station for a maximum fee of \$2,000.00. The scope of work shall be as stated in your letter, dated October 15, 2001, which includes work associated with the pump station, force main, gravity sewer, and a cost estimate.

I look forward to working with you on this project.

Sincerely,

A handwritten signature in cursive script that reads "Ron Staehlin".

Ron Staehlin, P.E.



Community Development Office

P.O. BOX 970 • 414 E. FIRST STREET • NEWBERG, OREGON 97132 • (503) 537-1240 • FAX (503) 537-1272

October 15, 2001

Ron Staehlin, P. E.
Southwood Engineering Corporation
3301 Southwood Dr.
Philomath, OR 97370

via FAX: 541-929-2077
Pages: 3

Dear Ron:

The City of Newberg would like to hire you to provide a Preliminary Engineer's Report (PER). I have a \$2,000.00 budget, so please let me know what services you can provide for this cost. The City is able to provide mapping and other services to assist you with the PER.

The preliminary report should be in sufficient detail to estimate the total cost within 10%. No specifications or drawings are needed, except maps. It should include the following:

- 1) Preliminary design of sewage pump station:
 - a) The location of the pump station. Assuming it is on private property, it should include the approximate area of the pump station and approximate value of the land (the City can assist with land valuation).
 - b) Anticipated type of pump station – submersible, similar to existing systems.
 - c) Miscellaneous improvements needed (access roads, engineered structure (building for control room), fencing, and so forth)
 - d) Invert elevations of inflow(s) and force main as well as depth of wet-well and vaults.
 - e) An analysis and statement of whether components of the school's existing pump station can be used.
- 2) Preliminary design of Force Main
 - a) The force main shall be installed from the pump station to the existing force main. It should be designed to be able to serve the entire area of discussion. The design should include:
 - i) Length of force main needed.
 - ii) Cross-sectional depth of the main.

- iii) Horizontal location of the main.
- iv) Size of pipe
- v) An analysis of the right-of-way needed for the main, if any.

3) Preliminary design of Gravity Sewer Main

- a) The gravity sewer main shall be installed from Foothills Drive to near the south of the LID boundary. It should be designed to be able to serve the school site and the properties immediately north of the ball fields. The design should include:
 - i) Length of force main needed.
 - ii) Cross-sectional depth of the sewer main.
 - iii) Horizontal location of the sewer main.
 - iv) Size of pipe
 - v) An analysis of the right-of-way needed for the main.
 - vi) An estimate of the number of services, tees, and so forth needed.
 - vii) Cost estimate to reconnect the school.

4) Cost estimates for all of the above, including 15% staff time and approximately 30% contingency.

5) Maps of all of the above.

The City of Newberg looks forward to working with your firm. If you have any questions, please feel free to contact me at 503-554-8881.

Sincerely,



Jadene Torrent Stensland, P.E.
Utility Engineer/Project Manager

JTS/jts

Enc.: none



CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

10/26/01

PRODUCER

GETTY NOSKE INS AGENCY INC
P. O. Box 70066
Eugene, OR 97401
(541)484-5453

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND
CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE
DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE
POLICIES BELOW.

COMPANIES AFFORDING COVERAGE

COMPANY LETTER **A** MUTUAL OF ENUMCLAW INSURANCE CO

COMPANY LETTER **B**

COMPANY LETTER **C**

COMPANY LETTER **D**

COMPANY LETTER **E**

INSURED

Southwood Engineering
Corporation
3301 Southwood Dr
Philomath OR 97370

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD
INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS
CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS,
EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY	BINDER #102601	10/22/01	10/22/02	GENERAL AGGREGATE \$ 2,000,000
	☒ COMMERCIAL GENERAL LIABILITY				PRODUCTS-COMP/OP AGGR. \$ 2,000,000
	☐ CLAIMS MADE ☒ OCCUR.				PERSONAL & ADV. INJURY \$ 1,000,000
	☐ OWNER'S & CONTRACTOR'S PROT.				EACH OCCURRENCE \$ 1,000,000
					FIRE DAMAGE (Any one fire) \$ 100,000
					MED. EXPENSE (Any one person) \$ 10,000
	AUTOMOBILE LIABILITY				COMBINED SINGLE LIMIT \$
	☐ ANY AUTO				BODILY INJURY (Per person) \$
	☐ ALL OWNED AUTOS				BODILY INJURY (Per accident) \$
	☐ SCHEDULED AUTOS				PROPERTY DAMAGE \$
	☐ HIRED AUTOS				
	NON-OWNED AUTOS				
	GARAGE LIABILITY				
	EXCESS LIABILITY				EACH OCCURRENCE \$
	☐ UMBRELLA FORM				AGGREGATE \$
	☐ OTHER THAN UMBRELLA FORM				
	WORKER'S COMPENSATION AND EMPLOYERS' LIABILITY				STATUTORY LIMITS
					EACH ACCIDENT \$
					DISEASE-POLICY LIMIT \$
					DISEASE-EACH EMPLOYEE \$
	OTHER				

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS

THE CITY, ITS AGENTS, EMPLOYEES AND OFFICIALS ALL WHILE ACTING WITHIN THEIR
OFFICIAL CAPACITY AS SUCH, ARE LISTED AS ADDITIONAL INSURED:

CERTIFICATE HOLDER

CITY OF NEWBERG
ATTN: JADENE STENSLAND
P.O. BOX 970
NEWBERG, OR 97132

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE
EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO
MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE
LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR
LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YY)

OCT 22 01

PRODUCER
HUDSON INSURANCE AGENCY, INC.
P. O. BOX 1940
101 E. THIRD STREET
THE DALLES OR 97058-0381
PHONE: 541-296-2268
FAX: 541-296-9427

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND
CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE
DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE
POLICIES BELOW.

COMPANIES AFFORDING COVERAGE

INSURED
SOUTHWOOD ENGINEERING CORP
3301 SOUTHWOOD DR
PHILOMATH OR 97370

COMPANY A: WESTPORT INSURANCE CORP.

COMPANY B:

COMPANY C:

COMPANY D:

COMPANY E:

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED.
NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED
OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES.
LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	GENERAL LIABILITY	AEPL1007691	JUL 21 01	JUL 21 04	EACH OCCURRENCE	\$ 500,000
	☐ COMMERCIAL GENERAL LIABILITY				FIRE DAMAGE (Any One Fire)	\$
	☒ CLAIMS MADE ☐ OCCUR				MED. EXP (Any One Person)	\$
	☒ PROFESSIONAL LIABILITY				PERSONAL & ADV INJURY	\$
	GEN'L AGGREGATE LIMIT APPLIES PER:				GENERAL AGGREGATE	\$ 1,000,000
	☐ POLICY ☐ PROJECT ☐ LOC				PRODUCTS-COMP/OP AGG.	\$
	AUTOMOBILE LIABILITY				COMBINED SINGLE LIMIT (Ea accident)	\$
	☐ ANY AUTO				BODILY INJURY (Per person)	\$
	☐ ALL OWNED AUTOS				BODILY INJURY (Per accident)	\$
	☐ SCHEDULED AUTOS				PROPERTY DAMAGE	\$
	☐ HIRED AUTOS					
☐ NON-OWNED AUTOS						
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT	\$
	☐ ANY AUTO				OTHER THAN EA ACC	\$
					AUTO ONLY: AGG	\$
	EXCESS LIABILITY				EACH OCCURRENCE	\$
	☐ OCCUR ☐ CLAIMS MADE				AGGREGATE	\$
	☐ DEDUCTIBLE					\$
	☐ RETENTION \$					\$
						\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				WC STATU- TORY LIMITS	OTHER
	E.L. EACH ACCIDENT				\$	
	E.L. DISEASE-EA EMPLOYEE				\$	
	E.L. DISEASE-POLICY LIMIT				\$	
OTHER:						

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS

CERTIFICATE HOLDER

ADDITIONAL INSURED; INSURER LETTER:

CANCELLATION

CITY OF NEWBERG
PO BOX 970
NEWBERG, OR 97132

Attention: JADENE STENSLAND

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE
EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30
DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT
FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE
INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

