

CITY OF NEWBERG
CITY RECORDER INDEX NO. 1904

CITY OF NEWBERG
CONSTRUCTION SERVICES AMENDMENT NO. 1
March 4, 2002

Project: Water Booster Pump Station Enclosure
Contractor: Scott McLean Construction

Summary of Proposed Changes:

1. Work Involved:

Design Improvement - Insulated doors to buffer noise better.

2. Cost Summary:

Original contract amount:	\$ 3,411.00
Net change by previous amendments:	0
Previous total:	\$ 3,411.00
This amendment:	\$ 750.00
Amended contract amount:	\$ 4,161.00

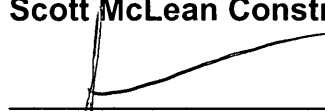
3. Contract Time:

This Amendment does not affect the contract schedule.

All other provisions of the construction services agreement remain in force.

ACCEPTANCE SIGNATURES:

Scott McLean Construction



Scott McLean

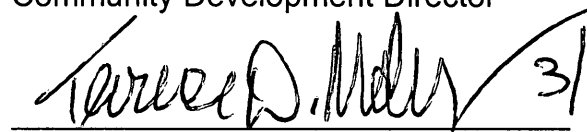
3/11/02

Date

City of Newberg



Mike Soderquist, P.E., P.L.S., DEE
Community Development Director



Terrence D. Mahr,
City Manager, Pro Tem

CITY OF NEWBERG
AGREEMENT WITH SCOTT McLEAN CONSTRUCTION
TO PROVIDE CONSTRUCTION SERVICES
TO THE CITY OF NEWBERG

THIS AGREEMENT is entered into this 28th day of February, 2002 by and between the City of Newberg, a municipal corporation of the State of Oregon, hereinafter called **City**, and

Scott McLean Construction
1303 N. Main Street
Newberg, Oregon 97132
503-538-1502
Cell: 503-260-3121

hereinafter called **Contractor**.

RECITALS:

1. **City** has need for the services of a **Contractor** with particular training, ability, knowledge, expertise and experience possessed by **Contractor**.
2. **City** has chosen the **Contractor** using the Request for Proposals process to provide construction of a wood enclosure for the Water Booster Pump Station at Oak Knoll.

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 **Contractor's** completed performance or on February 1, 2003 whichever date occurs first. This fact notwithstanding, the services of **Contractor** shall be authorized and paid on lump sum 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 **Contractor** warranty or any fault or defect in **Contractor'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 **Contractor**. The **City** may terminate immediately upon notice to the **Contractor** that the **City** does not have funding, appropriations, or other necessary expenditure

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

4. **Compensation:** The **Contractor** agrees to perform the work for a not-to-exceed fee as indicated in their professional fee proposal which is Exhibit "B" and attached hereto and incorporated by this reference. The not-to-exceed figure is as follows:

\$ 3,411.00

The **Contractor** shall not exceed the fee for any task included in the fee proposal amount. If the **Contractor**

sees that the fee is going to exceed the not-to-exceed figure because the task has changed or is outside the scope, the **Contractor** shall notify the **City** in writing of the circumstances with an estimated amount that the fee is to be exceeded. The **Contractor** shall obtain written permission from the **City** before exceeding the not-to-exceed fee amount. If the **Contractor** does work that exceeds the maximum fee amount prior to obtaining the written permission, the **Contractor** 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 **Contractor** 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 **Contractor** proceeds with work prior to obtaining permission and/or Agreement amendment, the **Contractor** 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 **Contractor** (if one was submitted), and the Request for Proposal (if one was used). Work is under the sole control of **Contractor**, 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:** **Contractor** 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, **Contractor** 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. **Contractor's Warranties:** The work to be performed by **Contractor** includes services generally performed by **Contractor** in his/her usual line of business. The work performed by the **Contractor** under this Agreement shall be performed in a good and businesses-like manner in accordance with the highest professional standards. The **Contractor** shall, at all times, during the term of this

Agreement, be qualified, be professionally competent, and duly licensed to perform the work.

10. **Indemnity:** **Contractor** 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 **Contractor**, or its officers, employees, subcontractors, or agents under this Agreement.

11. **Independent Contractor:** **Contractor** is not currently employed by the **City**. The parties to this Agreement intend that the **Contractor** perform all work as an Independent Contractor. No agent, employee, or servant of **Contractor** 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 **Contractor**, 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:** **Contractor** 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 **Contractor**, including any expenses, in accordance with the Federal Internal Revenue Service and the State of Oregon Department of Revenue regulations.

13. **Insurance:**

a) **Contractor**, its subcontractors, 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, **Contractor** represents that he or she is a sole proprietor and is exempt from the laws requiring workers' compensation coverage.

b) **Contractor** will, at all times, carry a Commercial General Liability insurance policy for at least \$500,000.00 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 \$1,000,000.00. 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) **Contractor** 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. **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.

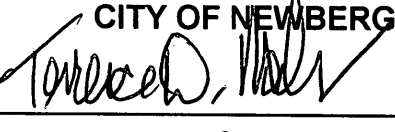
IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above mentioned.

CONTRACTOR
By: 
Name: Scott McLean
Title: Owner
Date: 2/28/02

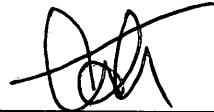
Division Approval: 

Recommended for Approval By:


Michael Soderquist, P.E., P.L.S., DEE
Community Development Director

CITY OF NEWBERG
By: 
Name: Terrence D. Mahr
Title: City Manager, Pro Tem
Date: 2/28/02

Approved as to form:


Terrence D. Mahr
City Attorney

2/11/02

Scott McLean Construction
1303 N. Main
Newberg, OR 91732
CCB # 55364

EXHIBIT A

City of Newberg
Water Booster Pump Station
3613 Ivy Drive
Newberg, OR 97132

Attn: Bob Stewart

SCOPE OF WORK

Labor and materials to frame and attach walls and roof with 1/2" interior un-taped drywall, insulate and side exterior, apply 3 tab roofing per drawing, install gutter and downspout, install gate style doors fabricated from corresponding siding parts and clean up to broom swept finish.

NOTE

Painting is not included in bid price.

PAYMENT SCHEDULE

Balance due within 10 days after completion.

Respectfully Submitted
Scott McLean Construction
Scott McLean


Date 2/11/01

date
wrong should
be 02.
15

Accepted

Date 2/28/02

For me



**Scott McLean
Construction**

LIC. # 55364

1303 North Main • Newberg, Oregon 97132
503-538-1502

Date 2/11/02

Contract Number CN-1

EXHIBIT

B

Proposal

Proposal Submitted To <u>City of Newberg - Water Pump</u>	Architect <u>Comm. City Engineering</u>	Date of Plans <u>2/5/02</u>
Address <u>3613 Ivy Drive</u>	Job Name <u>Water Booster Pump Station</u>	
City / State / Zip <u>Newberg OR 97132</u>	Job Location <u>3613 Ivy Dr Newberg OR</u>	
Phone <u>503 538-1240</u>	Job Phone <u>N/A</u>	

We hereby submit specifications and estimates for:

LABOR + MATERIALS per Attached Spec Sheet

We propose hereby to furnish material and labor — complete in accordance with the above specifications, for the sum of:
THREE THOUSAND FOUR HUNDRED ELEVEN dollars (\$ 3411.00)
Payment to be made as follows:
per Attached Payment Schedule

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workmen's Compensation Insurance.

Authorized
Signature [Signature]

Note: This proposal may be withdrawn by us if not accepted within 10 days.

Acceptance of Proposal - The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Date of Acceptance X

Signature [Signature]

Signature X

white for me - yellow for you