

CITY OF NEWBERG
CITY RECORDER INDEX NO. 1042

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City

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CITY OF NEWBERG, OREGON
IMPROVEMENT PROJECT, 1968-1

SPECIFICATIONS, PROPOSAL & CONTRACT DOCUMENTS

Public Works
Paving
Depot



8-28-68

DURELL BELANGER, MAYOR

C. N. WINDSOR, CHAIRMAN, PUBLIC WORKS COMMITTEE

G. H. BLIESNER, P.E., CITY ENGINEER

WELLER PROBASCO, SUPERINTENDENT OF PUBLIC WORKS

HERBERT SWIFT, CITY ATTORNEY

M. C. GILBERT, CITY RECORDER

CITY OF NEWBERG, OREGON
STREET IMPROVEMENT PROJECT, 1968-5

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ADVERTISEMENT FOR BIDS

NOTICE TO CONTRACTORS.

NOTICE IS HEREBY GIVEN that the City of Newberg, Oregon, will receive sealed proposals in the office of the City Recorder, until 7:30 P.M. PDST, on the 16th day of September, 1968, for the construction of public improvement numbered 1968-1.

The work will consist of 460 tons of asphaltic concrete, 4,700 s.y.'s of base preparation, 260 c.y.'s of 3/4"-0" crushed aggregate, 140 gals. of tack coat and 20 M. gals. of sprinkling water.

All work is to be done in accordance with plans and specifications prepared by the City Engineer, and filed in the office of the City Recorder, and in accordance with the provisions of the City Charter and the ordinances of the City of Newberg, pertaining to such work.

Plans, specifications, instructions to bidders, bid forms, form of contract bond and other contract documents may be obtained from the City Recorder, Newberg, Oregon upon deposit of \$25.00 which will be refunded to all plan holders submitting bona fide bids upon the return of the plans and specifications and contract documents within 15 days after the bid opening.

Attention is called to Bidder Prequalification Statement, Section 279-012 to 279-016 inclusive, Oregon Revised Statutes, which must be filed with the Recorder five (5) days before date for opening of bids and for which forms may be obtained at the office of the City Engineer.

Bids will be publicly opened and read aloud at a regular meeting of the Council of said city to be held in the Council Chambers in the City Hall at First and Howard Streets, Newberg, Oregon, at and after 7:30 P.M. on said 16th day of September, 1968.

Each bid must be accompanied by a certified check or bid bond, of not less than five percent (5%) of the amount bid, and made payable to the City of Newberg, such check or bid bond to be forfeited should the successful bidder fail to enter into a contract and provide a suitable bond, which bond shall be in the amount fixed by the Council, but not less than one hundred percent (100%) of the amount of the contract, within seven (7) days from the date on which he is notified that he is the successful bidder.

The City reserves the right to reject any and all bids, to waive informalities and to accept the proposal deemed by the City Council to be in the best interest of said City, considering prices bid, the experience of the bidders, their financial condition, their records of performance on similar projects and the litigation records of the bidders. The Council shall have the right to postpone making award of the contract for a reasonable period of time.

The City further reserves the right to reject any or all bids.

By order of the City Council of the City of Newberg, Oregon,
dated this 26th day of August, 1968.

M. C. Gilbert
City Recorder

Date of First Publication:-August 29, 1968

Second Publication:-September 5, 1968

Third and Last Publication:-September 12, 1968

INSTRUCTIONS TO BIDDERS

WORK ON WHICH BIDS ARE TO BE RECEIVED

The work on which bids are to be received is described in the special provision.

SUBMISSION OF PROPOSALS

Each proposal must be presented under sealed cover to the City Recorder at the time and place fixed for the receiving of bids. The proposal form is shown, as a bid schedule.

CONTRACT

The contract into which the successful bidder shall enter shall be of the form attached.

BID QUANTITIES APPROXIMATE ONLY

The bid quantities in this proposal are only an approximate estimate of the quantities of work involved, being given as a factor for the computation of the total amounts of bids, upon which basis such bids are to be compared. The City of Newberg does not expressly or by implication agree that the actual amount of work will correspond therewith, and reserves the right to increase or decrease the amount of any class or portion of the work as may be deemed necessary or expedient by the City.

FILLING IN PROPOSAL FORMS

The bidder must submit his proposal on the proposal form contained herein. The blank spaces in the proposal must be filled in correctly, where indicated for each and every item for which a quantity is given, and the bidder must state the unit prices (written in ink, both in words and numerals) for which he proposed to do each item of the work contemplated.

PROHIBITION OF ALTERATIONS

Proposals which are incomplete, or which are conditioned other than as herein authorized, or which contain an erasure, alteration, addition, or item not called for in the itemized proposal, or which contain any irregularity of any kind, or which are not in conformity to law, may be rejected as informal.

TIME OF COMPLETION

The time of completion of the work to be performed under this Contract is the essence of the Contract. Delays and extensions of time may be allowed in accordance with Section 16 of the General Conditions.

WAGE RATES ON PUBLIC WORKS

The Contractor shall comply with all requirements of Wage Rates on Public Works, ORS 279.312 to 279.356, Chapter 627, Oregon laws of 1959 and shall complete and submit copies of the Public Works Construction Wage Certification Form of the Oregon State Bureau of Labor and the proper time in compliance with the requirements set forth in Chapter 627.

NONDISCRIMINATION IN EMPLOYMENT

Contracts for work under this proposal will obligate the contractor and subcontractors not to discriminate in employment practices.

Bidders must submit, with their initial bid a signed statement as to whether they have previously performed work subject to the Presidents Executive Order No. 10925.

Bidders must, if requested, submit a compliance report concerning their employment practices and policies in order to maintain their eligibility to receive the award of the contract.

Successful bidders must, if requested, submit a list of all subcontractors who will perform work on the project, and written signed statements from authorized agents of the labor pools with which they will or may deal, for employees on the work, together with supporting information to the effect, that said labor pools, practices and policies are in conformity with Executive Order No. 10925 as amended by Executive Order No. 11114, and that said labor pools will affirmatively cooperate in or offer no hindrance to the recruitment, employment and equal treatment of employees seeking employment, and performing work under the contract or, a certification as to what efforts have been made to secure such statements, when such agents of labor pools have failed, or refused to furnish same, prior to the award of the contract.

Successful bidders must be prepared to comply in all respects with the Contract Provisions regarding nondiscrimination, as specified in the General Conditions.

WITHDRAWAL OF PROPOSAL

Permission will not be given to withdraw, modify, or explain any proposal after it has been deposited with the City Recorder.

PROPOSAL GUARANTY AND SURETY BOND

Each proposal must be submitted on the prescribed form and accompanied by a certified check, cashier's check or bid bond payable to the City of Newberg, Oregon, in an amount not less than five percent (5%) of the amount bid, and no bid will be considered unless accompanied by such checks or bid bond, and, if the contract be awarded, all checks shall be returned to the bidders, except that of the successful bidder, which shall be retained, until a contract be entered into for making the improvement, between the bidder and the City, in accordance with such bid. If such bidder fails to enter into such a contract within seven (7) days from the date on which he is notified, that he is the successful bidder, the said check and the amount thereof shall be forfeited to the City, as agreed, as liquidated damages for the failure to comply with the terms of the bid. Before such contract between the successful bidder and the City shall become valid or binding against the City of Newberg, the contractor shall furnish a bond, which bond shall be of the amount fixed by the City, but not less than one hundred percent (100%) of the contract price. Said bond to be approved by the Mayor of the City of Newberg and having as sureties thereon some surety company authorized to do business in the State of Oregon, guaranteeing in proper form the faithful performance of the contract and further indemnifying the City of Newberg against all claims or liens for labor, work or material, on account of all persons who may perform or cause to be furnished any skilled labor or materials in the execution of the contract.

OPENING OF PROPOSALS

Proposals shall be opened and read by the City Recorder in the presence of the Council and in the presence of bidders or their representatives submitting proposals, and any others who may be interested.

COMPARISON OF BIDS

All bids are to be compared on the basis of the total amount of the bids, as defined in the following paragraph.

TOTAL AMOUNT OF BID

The total amount of a bid for the purpose of determining the amounts of bidder's deposits and surety bond and of comparing the bids shall be the total sum computed from the quantities listed in the bidding sheets attached hereto, and the unit prices as entered on those sheets by the bidder, due consideration being given to any specified or agreed upon reductions or additions.

CONFLICTING BID PRICES

If, in the proposal submitted by the bidder, there is found to be conflict between a bid price as stated in words, and the same bid price as stated in the numerals, the price to govern shall be the one of the two prices which checks the extension shown. If neither price checks the extension shown, or, if no extension is shown, then the price which is stated in words shall control.

In case of conflict between a bid price and the corresponding extended amount, the bid price shall govern.

RIGHT TO REJECT PROPOSALS

The Council of the City of Newberg reserves the right to reject any or all proposals and to waive technicalities, as it may deem best for the interest of the City or may proceed to do the work under the supervision of the City Engineer, if in its opinions the best interest of the City will thereby be promoted.

AWARD OF CONTRACT AND RETURN OF PROPOSAL GUARANTEES

All proposals shall be submitted subject to acceptance within thirty (30) days from the date of opening, and the bidder will not be bound for a longer period except by special agreement.

All proposal guarantees except that of the successful bidder, will be released within three (3) days after the award of the contract or the rejection of the bids. In cases of deferred action, the proposal guarantees of all but the three (3) lowest bidders may, at the option of the City, be released at an earlier date, and in no case will the proposal guaranty of any but the successful bidder be held for more than (30) days without the consent of the bidder.

The proposal guaranty of the successful bidder will be held until the execution of the contract is completed and until a satisfactory surety bond is furnished.

TIME RESERVE FOR AWARD OF CONTRACT AND PREPARATION OF CONTRACT DOCUMENTS

The date or dates for the completion of the work contemplated by the contract shall be vitiated by the fact that there will, of necessity, be a certain period of elapsed time between the date of receiving bids and the signing of the written instruments by all parties thereto. In specifying the dates for completion, it has been assumed that a period of not more than seven days will elapse between the receiving of the bids and submission to the contractor of the written instruments of the contract and bond for his execution. If the above period exceeds this amount, consideration will be given to the granting of a corresponding extension of the time specified for the completion of the work.

MINIMUM PREVAILING WAGE RATES

The contractor or subcontractor shall not pay less than the following rate of wage to all workmen employed on the project at the site. Overtime pay shall not be less than one and one-half times the hourly rate.

STREET OR ROAD PROJECTS:

<u>Operators</u>	<u>Per Hour</u>	<u>Occupation</u>	<u>Per Hour</u>
Truck Drivers	\$3.00	Curb Form Setters	\$3.00
Motor Graders	3.50	Curb Finishers	3.35
Rollers	3.00	Laborers	2.50
Tractor Loaders	3.50	_____	_____
Distributors	3.00	_____	_____
Leverman	3.00	_____	_____
Dumpman	3.00	_____	_____
_____	_____	_____	_____

Should any dispute arise as to what is the prevailing rate of wage for this locality and if the dispute cannot be settled by the parties involved, the dispute shall be referred to the Commissioner of the Bureau of Labor, who shall then determine the prevailing rate of wage for the same trade or occupation in the locality.

Before payment is made of any sum due on account of this contract by the City Recorder, he shall require the contractor or his surety and every subcontractor or his surety to file a statement in writing in form prescribed by the State Labor Commissioner, certifying that no workman employed by him upon such public work has been paid less than the prevailing rate of wage or less than the minimum hourly rate of wage specified in the contract, which certificate of statement shall be verified by the oath of the contractor or his surety or subcontractor or his surety that he has read such statement and certificate and knows the contents thereof and that the same is true to his knowledge.

Any subcontractor or contractor or his surety who violates the provisions of Chapter 627, Oregon Laws, 1959, shall be liable as provided in Section 6 thereof.

PARTIAL PAYMENTS

At a regular period each month the engineer shall make an estimate of the amount of work completed and of the value of such completed work. With this estimate as a basis, a partial payment shall be made to the contractor for the amount so computed, less such amounts as may have been previously paid and less 15% to be retained in protection of the City's interest until 30 days after completion of all work under the contract.

Partial payments shall not be construed as an acceptance or approval of any part of the work covered thereby, and shall in no manner relieve the contractor of responsibility for defective workmanship or materials.

QUALIFICATION

It is further required that all bidders be prequalified with the Oregon State Highway Department or that they prequalify as provided by Section 98-103 O.C.L.A. Prospective bidders who have not previously prequalified shall file their prequalification statement with the City Recorder not later than 10 days prior to the date set for the bid opening. No bid will be received from persons not so qualified.

STANDARD SPECIFICATIONS

1. Crushed Rock Leveling Course:

Crushed rock for leveling and keying up the rock base shall be 3/4"-0" in size. It shall be placed in one layer, bladed and rolled and brought to 2" compacted thickness.

Material for this item will be measured in trucks at the point of delivery and paid for at the unit price quoted in the bid schedule, which shall include all the cost of furnishing and placing as noted above.

Construction Details:

The surface of each layer of the base course shall be at specified cross-section and grade closely paralleling that established for the finished surface at the time it is sprinkled and compacted as necessary and compacted by rolling, vibrating or other means, until the relative compaction of the layer is not less than 95 per cent of that determined by the State Highway Department's "Standard Method of Calculating Maximum Densities for Controlling Compaction of Granular Materials".

The sprinkling of base materials shall be done at such times and in such quantities as to preclude undue softening or yielding of underlying materials.

Irregularities, depressions or other defects which develop during sprinkling and compacting shall be corrected by removal work, replacement work or other means approved by the engineer.

On areas inaccessible to the normal compacting equipment, compacting shall be done with mechanical tampers or compaction rollers.

2. Asphaltic Concrete Pavement:

Work to be done:

Under these provisions, the contractor shall construct asphaltic concrete pavement as called for by the plans or designated by the engineer.

Specifications:

Asphaltic concrete pavement shall be constructed in conformance to the Oregon State Highway Standard Specifications, including particularly, Section 320, Published in 1964. No deviation from the aforesaid State of Oregon, Standard Specifications for Highway Construction, shall be allowed without written approval from the engineer in charge of the work.

Asphaltic Concrete:

Class "C" asphaltic concrete shall be used in the base and wearing surface of this project.

The asphaltic concrete shall be placed in one layer and to a depth of 2" compacted thickness.

The paved area shall slope at least two percent. It shall be level with the existing paved section by the gate.

Measurement and Payment:

The basis of measurement and payment for the construction of the asphaltic concrete pavement, as specified shall be as set forth in the Oregon State Highway Standard Specifications.

(a) The pay item shall be: Asphaltic Concrete.

3. Sprinkling:

Sprinkling of the subgrade and rock base may be ordered when deemed necessary by the engineer. The contractor shall have on hand and ready to operate at all times one gravity type sprinkling tank truck of not less than 1,000-gallon capacity.

Sprinkling water will be furnished by the City without cost, at the nearest fire hydrant, and the contractor will be paid for hauling and applying at the unit price per M gallon quoted in the bid schedule.

GENERAL CONDITIONS OF CONTRACT FOR ENGINEERING CONSTRUCTION

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SEC. 1—Definitions

(a) The Contract Documents shall consist of Advertisement for Bids or Notice to Contractors, Instructions to Bidders, Form of Bid or Proposal, the signed Agreement, the General and Special Conditions of Contract, the Drawings, and the Specifications, including all modifications thereof incorporated in any of the documents before the execution of Agreement.

(b) The Owner, the Contractor and the Engineer are those named as such in the Agreement. They are treated throughout the Contract Documents as if each were of singular number and masculine gender.

(c) Wherever in this Contract the word "Engineer" is used it shall be understood as referring to the Engineer of the Owner, acting personally or through assistants duly authorized in writing by the Engineer.

(d) Written notice shall be deemed to have been duly served if delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or to an authorized representative of such individual, firm, or corporation, or if delivered at or sent by registered mail to the last business address known to him who gives the notice, with a copy sent to the central office of the Contractor.

(e) The term "Subcontractor" shall mean anyone (other than the Contractor) who furnishes at the site, under an Agreement with the Contractor, labor, or labor and materials, or labor and equip-

ment, but shall not include any person who furnishes services of a personal nature.

(f) Work shall mean the furnishing of all labor, materials, equipment, and other incidentals necessary or convenient to the successful completion of the Contract and the carrying out of all the duties and obligations imposed by the Contract.

(g) Extra work shall mean such additional labor, materials, equipment, and other incidentals as are required to complete the Contract for the purpose for which it was intended but was not shown on the Drawings or called for in the Specifications, or is desired by the Owner in addition to that work called for in the Drawings and Specifications.

(h) Dispute shall mean lack of agreement between any parties that have any obligations, duties, or responsibilities under the terms of the Contract, Drawings, or Specifications.

SEC. 2—Execution and Correlation of Documents

The Contract Documents shall be signed in duplicate by the Owner and the Contractor.

The Contract Documents are complementary and what is called for by any one shall be as binding as if called for by all. In case of conflict between Drawings and Specifications, the Specifications shall govern. Materials or work described in words which so applied have a well-known technical or trade meaning shall be held to refer to such recognized standards.

SEC. 3.—Design, Drawings and Instructions

It is agreed that the Owner will be responsible for the adequacy of design and sufficiency of the Drawings and Specifications. The Owner, through the Engineer, or the Engineer as the Owner's representative, shall furnish Drawings and Specifications which adequately represent the requirements of the work to be performed under the Contract. All such Drawings and instructions shall be consistent with the Contract Documents and shall be true developments thereof. In the case of lump-sum Contracts, Drawings and Specifications which adequately represent the work to be done shall be furnished prior to the time of entering into the Contract. The Engineer may, during the life of the Contract, and in accordance with Section 18, issue additional instructions by means of Drawings or other media necessary to illustrate changes in the work.

SEC. 4—Copies of Drawings Furnished

Unless otherwise provided in the Contract Documents, the Engineer will furnish to the Contractor, free of charge, all copies of Drawings and Specifications reasonably necessary for the execution of the work.

SEC. 5—Order of Completion

The Contractor shall submit, at such times as may be reasonably requested by the Engineer, schedules which shall show the order in which the Contractor proposes to carry on the work, with dates at which the Contractor will start the several parts of the work, and estimated dates of completion of the several parts.

SEC. 6—Ownership of Drawings

All Drawings, Specifications and copies thereof furnished by the Engineer shall not be reused on other work, and, with the exception of the signed Contract, sets are to be returned to him on request, at the completion of the work.

SEC. 7—Familiarity with Work

The Owner shall make known to all prospective bidders, prior to the receipt of bids, all information that he may have as to subsurface conditions in the vicinity of the work, topographical maps, or other information that might assist the bidder in properly evaluating the amount and character of the work that might be required. Such information is given,

however, as being the best factual information available to the Owner. The Contractor, by careful examination, shall satisfy himself as to the nature and location of the work, the character of equipment and facilities needed preliminary to and during the prosecution of the work, the general and local conditions, and all other matters which can in any way affect the work under this Contract.

SEC. 8—Changed Conditions

The Contractor shall promptly, and before such conditions are disturbed, notify the Owner in writing of: (1) Subsurface or latent physical conditions at the site differing materially from those indicated in this Contract; or (2) previously unknown physical or other conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Contract. The Engineer shall promptly investigate the conditions, and if he finds that such conditions do so materially differ and cause an increase or decrease in the cost of, or the time required for, performance of this Contract, an equitable adjustment shall be made and the Contract modified in writing accordingly. Any claim of the Contractor for adjustment hereunder shall not be allowed unless he has given notice as above required; provided that the Engineer may, if he determines the facts so justify, consider and adjust any such claims asserted before the date of final settlement of the Contract. If the parties fail to agree upon the adjustment to be made, the dispute shall be determined as provided in Section 39 hereof.

SEC. 9—Materials and Appliances

Unless otherwise stipulated, the Contractor shall provide and pay for all materials, labor, water, tools, equipment, light, power, transportation and other facilities necessary for the execution and completion of the work. Unless otherwise specified, all materials incorporated in the permanent work shall be new and both workmanship and materials shall be of good quality. The Contractor shall, if required, furnish satisfactory evidence as to the kind and quality of materials.

SEC. 10—Employees

The Contractor shall at all times enforce strict discipline and good order among his employees, and shall seek to avoid employing on the work any unfit person or anyone not skilled in the work assigned to him.

Adequate sanitary facilities shall be provided by the Contractor.

SEC. 11—Royalties and Patents

The Contractor shall pay all royalties and license fees. He shall defend all suits or claims for infringement of any patent rights and shall save the Owner harmless from loss on account thereof except that the Owner shall be responsible for all such loss when a particular process or the product of a particular manufacturer or manufacturers is specified, unless the Owner has notified the Contractor prior to the signing of the Contract that the particular process or product is patented or is believed to be patented.

SEC. 12—Surveys

Unless otherwise specified, the Owner shall furnish all land surveys and establish all base lines for locating the principal component parts of the work together with a suitable number of bench marks adjacent to the work. From the information provided by the Owner, the Contractor shall develop and make all detail surveys needed for construction such as slope stakes, batter boards, stakes for pile locations and other working points, lines and elevations.

The Contractor shall carefully preserve bench marks, reference points and stakes and, in case of willful or careless destruction, he shall be charged with the resulting expense and shall be responsible for any mistakes that may be caused by their unnecessary loss or disturbance.

SEC. 13—Permits, Licenses and Regulations

Permits and licenses of a temporary nature necessary for the prosecution of the work shall be secured and paid for by the Contractor. Permits, licenses and easements for permanent structures or permanent changes in existing facilities shall be secured and paid for by the Owner, unless otherwise specified. The Contractor shall give all notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the work as drawn and specified. If the Contractor observes that the Drawings and Specifications are at variance therewith, he shall promptly notify the Engineer in writing, and any necessary changes shall be adjusted as provided in the Contract for changes in the work.

SEC. 14—Protection of the Public and of Work and Property

The Contractor shall provide and maintain all necessary watchmen, barricades, warning lights and signs and take all necessary precautions for the protection and safety of the public. He shall continuously maintain adequate protection of all work from damage, and shall take all reasonable precautions to protect the Owner's property from injury or loss arising in connection with this Contract. He shall make good any damage, injury or loss to his work and to the property of the Owner resulting from lack of reasonable protective precautions, except such as may be due to errors in the Contract Documents, or caused by agents or employees of the Owner. He shall adequately protect adjacent private and public property, as provided by Law and the Contract Documents.

In an emergency affecting the safety of life, of the work, or of adjoining property, the Contractor is, without special instructions or authorization from the Engineer, hereby permitted to act at his discretion to prevent such threatened loss or injury. He shall also so act, without appeal, if so authorized or instructed by the Engineer.

Any compensation claimed by the Contractor on account of emergency work, shall be determined by agreement or by arbitration.

SEC. 15—Inspection of Work

The Owner shall provide sufficient competent personnel, working under the supervision of a qualified engineer, for the inspection of the work while such work is in progress to ascertain that the completed work will comply in all respects with the standards and requirements set forth in the Specifications. Notwithstanding such inspection, the Contractor will be held responsible for the acceptability of the finished work.

The Engineer and his representatives shall at all times have access to the work whenever it is in preparation or progress, and the Contractor shall provide proper facilities for such access, and for inspection.

If the Specifications, the Engineer's instructions, laws, ordinances, or any public authority require any work to be specially tested or approved, the Contractor shall give the Engineer timely notice of its readiness for inspection, and if the inspection is by an authority other than the Engineer, of the date fixed for such inspection. Inspections by the Engi-

neer shall be made promptly, and where practicable at the source of supply. If any work should be covered up without approval or consent of the Engineer, it must, if required by the Engineer, be uncovered for examination and properly restored at the Contractor's expense, unless the Engineer has unreasonably delayed inspection.

Re-examination of any work may be ordered by the Engineer, and, if so ordered, the work must be uncovered by the Contractor. If such work is found to be in accordance with the Contract Documents, the Owner shall pay the cost of re-examination and replacement. If such work is not in accordance with the Contract Documents, the Contractor shall pay such cost.

SEC. 16—Superintendence

The Contractor shall keep on his work, during its progress, a competent superintendent and any necessary assistants. The superintendent shall represent the Contractor, and all directions given to him shall be binding as if given to the Contractor. Important directions shall immediately be confirmed in writing to the Contractor. Other directions shall be so confirmed on written request in each case. The Contractor shall give efficient superintendence to the work, using his best skill and attention.

SEC. 17—Discrepancies

If the Contractor, in the course of the work, finds any discrepancy between the Drawings and the physical conditions of the locality, or any errors or omissions in Drawings or in the layout as given by survey points and instructions, he shall immediately inform the Engineer, in writing, and the Engineer shall promptly verify the same. Any work done after such discovery, until authorized, will be done at the Contractor's risk.

SEC. 18—Changes in the Work

The Owner may make changes in the Drawings and Specifications or scheduling of the Contract within the general scope at any time by a written order. If such changes add to or deduct from the Contractor's cost of the work, the Contract shall be adjusted accordingly. All such work shall be executed under the conditions of the original Contract except that any claim for extension of time caused thereby shall be adjusted at the time of ordering such change.

In giving instructions, the Engineer shall have authority to make minor changes in the work not

involving extra cost, and not inconsistent with the purposes of the work, but otherwise, except in an emergency endangering life or property, no extra work or change shall be made unless in pursuance of a written order by the Engineer, and no claim for an addition to the Contract Sum shall be valid unless the additional work was so ordered.

The Contractor shall proceed with the work as changed and the value of any such extra work or change shall be determined as provided in the Agreement.

SEC. 19—Extension of Time

Extension of time stipulated in the Contract for completion of the work will be made when changes in the work occur, as provided in Section 18; when the work is suspended as provided in Section 23; and when the work of the Contractor is delayed on account of conditions which could not have been foreseen, or which were beyond the control of the Contractor, his Subcontractors or suppliers, and which were not the result of their fault or negligence. Extension of time for completion shall also be allowed for any delays in the progress of the work caused by any act (except as provided elsewhere in these General Conditions) or neglect of the Owner or of his employees or by other contractors employed by the Owner, or by any delay in the furnishing of Drawings and necessary information by the Engineer, or by any other cause which in the opinion of the Engineer entitled the Contractor to an extension of time, including but not restricted to, acts of the public enemy, acts of any government in either its sovereign or any applicable contractual capacity, acts of another contractor in the performance of a contract with the Owner, fires, floods, epidemics, quarantine restrictions, freight embargoes, unusually severe weather, or labor disputes.

The Contractor shall notify the Engineer promptly of any occurrence or conditions which in the Contractor's opinion entitle him to an extension of time. Such notice shall be in writing and shall be submitted in ample time to permit full investigation and evaluation of the Contractor's claim. The Engineer shall acknowledge receipt of the Contractor's notice within 5 days of its receipt. Failure to provide such notice shall constitute a waiver by the Contractor of any claim.

SEC. 20—Claims

If the Contractor claims that any instructions by Drawings or other media issued after the date of the

Contract involve extra cost under this Contract, he shall give the Engineer written notice thereof within ----- days after the receipt of such instructions, and in any event before proceeding to execute the work, except in emergency endangering life or property, and the procedure shall then be as provided for changes in the work. No such claim shall be valid unless so made.

SEC. 21—Deductions for Uncorrected Work

If the Engineer deems it inexpedient to correct work that has been damaged or that was not done in accordance with the Contract, an equitable deduction from the Contract price shall be made therefor, unless the Contractor elects to correct the work.

SEC. 22—Correction of Work Before Final Payment

The Contractor shall promptly remove from the premises all materials and work condemned by the Engineer as failing to meet Contract requirements, whether incorporated in the work or not. The Contractor shall promptly replace and re-execute his own work in accordance with the Contract and without expense to the Owner and shall bear the expense of making good all work of other contractors destroyed or damaged by such removal or replacement.

If the Contractor does not take action to remove such condemned materials and work within 10 days after written notice, the Owner may remove them and may store the material at the expense of the Contractor. If the Contractor does not pay the expense of such removal and storage within ten days' time thereafter, the Owner may, upon ten days' written notice, sell such materials at auction or at private sale and shall pay to the Contractor any net proceeds thereof, after deducting all the costs and expenses that should have been borne by the Contractor.

SEC. 23—Suspension of Work

The Owner may at any time suspend the work, or any part thereof, by giving ----- days' notice to the Contractor in writing. The work shall be resumed by the Contractor within ten (10) days after the date fixed in the written notice from the Owner to the Contractor so to do. The Owner shall reimburse the Contractor for expense incurred by the Contractor in connection with the work under this Contract as a result of such suspension.

If the work, or any part thereof, shall be stopped by notice in writing aforesaid, and if the Owner does not give notice in writing to the Contractor to resume work at a date within ----- days of the date fixed in the written notice to suspend, then the Contractor may abandon that portion of the work so suspended and he will be entitled to the estimates and payments for all work done on the portions so abandoned, if any, plus -----% of the value of the work so abandoned, to compensate for loss of overhead, plant expense, and anticipated profit.

SEC. 24—The Owner's Right to Terminate Contract

If the Contractor should be adjudged a bankrupt, or if he should make a general assignment for the benefit of his creditors, or if a receiver should be appointed as a result of his insolvency, or if he should be guilty of a substantial violation of the Contract, then the Owner, upon the certificate of the Engineer that sufficient cause exists to justify such action, may, without prejudice to any other right or remedy and after giving the Contractor and his Surety seven days' written notice, terminate the employment of the Contractor and take possession of the premises and of all materials, tools, equipment and other facilities installed on the work and paid for by the Owner, and finish the work by whatever method he may deem expedient. In such case the Contractor shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the Contract price shall exceed the expense of finishing the work, including compensation for additional managerial and administrative services, such excess shall be paid to the Contractor. If such expense shall exceed such unpaid balance, the Contractor shall pay the difference to the Owner. The expense incurred by the Owner as herein provided, and the damage incurred through the Contractor's default, shall be certified by the Engineer.

SEC. 25—Contractor's Right to Stop Work or Terminate Contract

If the work should be stopped under an order of any court, or other public authority, for a period of more than three months, through no act or fault of the Contractor or of anyone employed by him, or if the Engineer should fail to issue any estimate for payment within seven days after it is due, or if the Owner should fail to pay the Contractor within seven days of its maturity and presentation any sum certified by the Engineer or awarded by arbitrators, then the Contractor may, upon seven days' written

notice to the Owner and the Engineer, stop work or terminate this Contract and recover from the Owner payment for all work executed, plus any loss sustained upon any plant or materials plus reasonable profit and damages.

SEC. 26—Removal of Equipment

In the case of termination of this Contract before completion from any cause whatever, the Contractor, if notified to do so by the Owner, shall promptly remove any part or all of his equipment and supplies from the property of the Owner, failing which the Owner shall have the right to remove such equipment and supplies at the expense of the Contractor.

SEC. 27—Responsibility for Work

The Contractor assumes full responsibility for the work. Until its final acceptance, the Contractor shall be responsible for damage to or destruction of the work (except for any part covered by partial acceptance as set forth in Sec. 28). He agrees to make no claims against the Owner for damages to the work from any cause except negligence or willful acts of the Owner, acts of an Enemy, acts of war or as provided in Sec. 32.

SEC. 28—Partial Completion and Acceptance

If at any time prior to the issuance of the final certificate referred to in Section 42 hereinafter, any portion of the permanent construction has been satisfactorily completed, and if the Engineer determines that such portion of the permanent construction is not required for the operations of the Contractor but is needed by the Owner, the Engineer shall issue to the Contractor a certificate of partial completion, and thereupon or at any time thereafter the Owner may take over and use the portion of the permanent construction described in such certificate, and may exclude the Contractor therefrom.

The issuance of a certificate of partial completion shall not be construed to constitute an extension of the Contractor's time to complete the portion of the permanent construction to which it relates if he has failed to complete it in accordance with the terms of this Contract. The issuance of such a certificate shall not operate to release the Contractor or his sureties from any obligations under this Contract or the performance bond.

If such prior use increases the cost of or delays the work, the Contractor shall be entitled to extra

compensation, or extension of time, or both, as the Engineer may determine, unless otherwise provided.

SEC. 29—Payments Withheld Prior to Final Acceptance of Work

The Owner, as a result of subsequently discovered evidence, may withhold or nullify the whole or part of any payment certificate to such extent as may be necessary to protect himself from loss caused by:

- (a) Defective work not remedied.
- (b) Claims filed or reasonable evidence indicating probable filing of claims by other parties against the Contractor.
- (c) Failure of the Contractor to make payments properly to Subcontractors or for material or labor.
- (d) Damage to another contractor.

When the above grounds are removed or the Contractor provides a Surety Bond satisfactory to the Owner which will protect the Owner in the amount withheld, payment shall be made for amounts withheld, because of them.

No moneys may be withheld under (b) and (c) above if a payment bond is included in the Contract.

SEC. 30—Contractor's Insurance

The Contractor shall secure and maintain such insurance policies as will protect himself, his Subcontractors, and unless otherwise specified, the Owner, from claims for bodily injuries, death or property damage which may arise from operations under this Contract whether such operations be by himself or by any Subcontractor or anyone employed by them directly or indirectly. The following insurance policies are required:

- (a) Statutory Workmen's Compensation.
- (b) Contractor's Public Liability and Property damage—

Bodily Injury:
each person ----- \$ -----
each accident ----- \$ -----
Property Damage:
each accident ----- \$ -----
aggregate ----- \$ -----

- (c) Automobile Public Liability and Property Damage—

Bodily Injury:
each person ----- \$ -----
each accident ----- \$ -----
Property Damage:
each accident ----- \$ -----

All policies shall be for not less than the amounts set forth above or as stated in the Special Conditions. Other forms of insurance shall also be provided if called for by the Special Conditions.

Certificates and/or copies of policy of such insurance shall be filed with the Engineer, and shall be subject to his approval as to adequacy of protection, within the requirements of the Specifications. Said certificates of insurance shall contain a 10 days' written notice of cancellation in favor of the Owner.

SEC. 31—Surety Bonds

The Owner shall have the right, prior to the signing of the Contract, to require the Contractor to furnish bond covering the faithful performance of the Contract and the payment of all obligations arising thereunder, in such form as the Owner may prescribe in the bidding documents and executed by one or more financially responsible sureties. If such bond is required prior to the receipt of bids, the premium shall be paid by the Contractor; if subsequent thereto, it shall be paid by the Owner. The Owner may require additional bond if the Contract is increased appreciably.

SEC. 32—Owner's Insurance

The Owner shall secure and maintain insurance to 100% of the insurable value thereof against fire, earthquake, flood, and such other perils as he may deem necessary and shall name the Contractor and Subcontractors as additional insured. Such insurance shall be upon the entire work in the Contract and any structures attached or adjacent thereto. He shall also secure and maintain such insurance as will protect him and his officers, agents, servants, and employees from liability to others for damages due to death, bodily injury, or property damage resulting from the performance of the work. The limits of such insurance shall be equal to the amounts stated in subparagraphs (b) and (c), of Section 30.

SEC. 33—Assignment

Neither party to the Contract shall assign the Contract or sublet it as a whole without the written consent of the other, nor shall the Contractor assign any moneys due to him or to become due to him hereunder, except to a bank or financial institution acceptable to the Owner.

SEC. 34—Rights of Various Interests

Whenever work being done by the Owner's or by other contractor's forces is contiguous to work covered by this Contract, the respective rights of the various interests involved shall be established by the Engineer, to secure the completion of the various portions of the work in general harmony.

SEC. 35—Separate Contracts

The Owner reserves the right to let other contracts in connection with this project. The Contractor shall afford other contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work, and shall properly connect and coordinate his work with theirs.

If the proper execution or results of any part of the Contractor's work depends upon the work of any other contractor, the Contractor shall inspect and promptly report to the Engineer any defects in such work that render it unsuitable for such proper execution and results.

SEC. 36—Subcontracts

The Contractor shall, as soon as practicable after signing of the Contract, notify the Engineer in writing of the names of Subcontractors proposed for the work.

The Contractor agrees that he is as fully responsible to the Owner for the acts and omissions of his Subcontractors and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him.

Nothing contained in the Contract Documents shall create any contractual relation between any Subcontractor and the Owner.

SEC. 37—Engineer's Status

The Engineer shall perform technical inspection of the work. He has authority to stop the work whenever such stoppage may be necessary to insure the proper execution of the Contract. He shall also have authority to reject all work and materials which do not conform to the Contract and to decide questions which arise in the execution of the work.

SEC. 38—Engineer's Decisions

The Engineer shall, within a reasonable time after their presentation to him, make decisions in writing on all claims of the Owner or the Contractor and on all other matters relating to the execution and progress of the work or the interpretation of the Contract Documents.

SEC. 39—Arbitration

Any controversy or claim arising out of or relating to this Contract, or the breach thereof which cannot be resolved by mutual agreement, shall be settled by arbitration in accordance with the Rules of the American Arbitration Association, and judgment upon the award rendered by the Arbitrator(s) may be entered in any Court having jurisdiction thereof.

SEC. 40—Lands for Work

The Owner shall provide as indicated on Drawing No. ----- and not later than the date when needed by the Contractor the lands upon which the work under this Contract is to be done, rights-of-way for access to same, and such other lands which are designated on the Drawings for the use of the Contractor. Such lands and rights-of-way shall be adequate for the performance of the Contract. Any delay in the furnishing of these lands by the Owner shall be deemed proper cause for an equitable adjustment in both Contract price and time of completion.

The Contractor shall provide at his own expense and without liability to the Owner any additional land and access thereto that may be required for temporary construction facilities, or for storage of materials.

SEC. 41—Cleaning Up

The Contractor shall remove at his own expense from the Owner's property and from all public and private property all temporary structures, rubbish and waste materials resulting from his operations. This requirement shall not apply to property used for permanent disposal of rubbish or waste materials in accordance with permission of such disposal granted to the Contractor by the Owner thereof.

SEC. 42—Acceptance and Final Payment

(a) Upon receipt of written notice that the work is substantially completed or ready for final inspection and acceptance, the Engineer will promptly make such inspection, and when he finds the work acceptable under the Contract and the Contract fully performed or substantially completed he shall promptly issue a certificate, over his own signature,

stating that the work required by this Contract has been completed or substantially completed and is accepted by him under the terms and conditions thereof, and the entire balance found to be due the Contractor, including the retained percentage, less a retention based on the Engineer's estimate of the fair value of the claims against the Contractor and the cost of completing the incomplete or unsatisfactory items of work with specified amounts for each incomplete or defective item of work, is due and payable. The date of substantial completion of a project or specified area of a project is the date when the construction is sufficiently completed in accordance with the Contract Documents as modified by any change orders agreed to by the parties so that the Owner can occupy the project or specified area of the project for the use for which it was intended.

(b) Before issuance of final payment, the Contractor, if required in the Special Conditions, shall certify in writing to the Engineer that all payrolls, material bills, and other indebtedness connected with the work have been paid, or otherwise satisfied, except that in case of disputed indebtedness or liens, if the Contract does not include a payment bond, the Contractor may submit in lieu of certification of payment a surety bond in the amount of the disputed indebtedness or liens, guaranteeing payment of all such disputed amounts, including all related costs and interest in connection with said disputed indebtedness or liens which the Owner may be compelled to pay upon adjudication.

(c) The making and acceptance of the final payment shall constitute a waiver of all claims by the Owner, other than those arising from unsettled liens, from faulty work appearing within the guarantee period provided in the Special Conditions, from the requirements of the Drawings and Specifications, or from manufacturer's guarantees. It shall also constitute a waiver of all claims by the Contractor, except those previously made and still unsettled.

(d) If after the work has been substantially completed, full completion thereof is materially delayed through no fault of the Contractor, and the Engineer so certifies, the Owner shall, upon certificate of the Engineer, and without terminating the Contract, make payment of the balance due for that portion of the work fully completed and accepted. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

(e) If the Owner fails to make payment as herein provided, there shall be added to each such payment daily interest at the rate of 6 per cent per annum commencing on the first day after said payment is due and continuing until the payment is delivered or mailed to the Contractor.

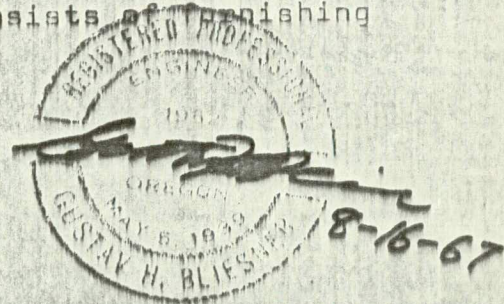
IMPROVEMENT PROJECT, 1968-5
DESCRIPTION AND SCOPE OF WORK
and
SPECIAL PROVISION

All work under this contract shall be done in accordance with the "Standard Specifications and General Provisions for Highway Construction, Oregon State Highway Commission, Issued in 1964". The Special Provision which follows, supplements and modifies the foregoing "Standard Specifications". The City Engineer's instructions shall govern in case of conflict.

DESCRIPTION AND SCOPE

The work in the City of Newberg for which bids are to be received and the work to be done under this contract consists of furnishing all labor and materials necessary to:

1. Pave city equipment depot.



The work shall involve grading, leveling course construction, drainage features and hard surfacing with Asphaltic Concrete.

No claim shall be made by the contractor, for any loss of anticipated profits, because of any alteration, or by reason of any variation, between the approximate quantities and the quantities of the work as done.

DATE OF COMPLETION

All work under this contract shall be completed on or before October 15, 1968.

SPECIAL PROVISION

Preparation of Base

Grading of the base shall be performed according to the engineer. Low spots and depressions shall be filled in, so a uniform grade will result.

CITY OF NEWBERG
1968-5 IMPROVEMENT
BID SCHEDULE

Item No.	Description	Quantity	Unit Price	Total
1.	Asphaltic Concrete For <i>Eight Dollars</i>	460 tons per ton	<i>8.00</i>	<i>3680.00</i>
2.	Preparation of base For <i>Fifteen Cents</i>	4,700 s.y. per s.y.	<i>.15</i>	<i>705.00</i>
3.	Tack Coat For <i>Thirty Cents</i>	140 gals. per gal.	<i>.30</i>	<i>42.00</i>
4.	Crushed Aggregate (3/4"-0") For <i>Three Dollars</i>	260 c.y. per c.y.	<i>3.00</i>	<i>780.00</i>
5.	Sprinkling Water For <i>Three Dollars</i>	20 M Gals. per M Gal.	<i>3.00</i>	<i>60.00</i>

Total Amount of Bid: \$ *5267.00*

Name of Contractor *Romell & Anderson*

By *Sam L. Romell*
 Signature

BOND TO ACCOMPANY CONTRACT

GLEN L. ROWELL & IVAN O.

KNOW ALL MEN BY THESE PRESENTS; That we WICKERSHAM dba ROWELL & WICKERHSAM as principal, and UNITED PACIFIC INSURANCE CO., as surety, are jointly and severally held and bound unto the City of Newberg in the sum of FIVE THOUSAND TWO HUNDRED SIXTY-SEVEN and No/100 DOLLARS ----- \$ 5267.00 ----- for payment of which we jointly and severally bind ourselves, our heirs, executors, administrators and assigns, and successors and assigns, firmly by these presents.

THE CONDITION OF THIS BOND IS SUCH

That whereas, the said principal herein has made and entered into a certain contract, copy of which is hereto annexed, with the City of Newberg, which contract together with the plans, specifications, general conditions, special provision, standard specifications and all other contract documents, all of which are hereby made a part hereof, whereby the said principal agrees to furnish certain materials, to perform certain work, to assume certain obligations and to do certain other things, all of which things he agrees to do in accordance with the certain terms, conditions, requirements and specifications set out in said contract.

NOW THEREFORE, if the principal herein shall faithfully and truly observe and comply with the terms, conditions, and provisions of the said contract, in all respects, and shall well and truly and fully do and perform all matters and things by him undertaken to be performed under said contract, upon the terms proposed therein, and within the time prescribed therein, or as extended, as provided in the general conditions, and shall indemnify and save harmless the City of Newberg, its officers, agents, against any direct or indirect damages that shall be suffered or claimed, or injuries to persons or property during the construction of said work, and until the same is accepted; and shall promptly pay all laborers, mechanics, and sub-contractors furnishing materials, supplies and provisions for carrying on such work, and all just debts, dues and demands incurred in the performance of such work; and shall pay said City of Newberg, such liquidated damages, as may accrue to said city under said contract.

and shall in all respects faithfully perform said contract, according to law, then this obligation is to be void, otherwise to remain in full force and effect.

WITNESS our hands this 17th day of September, 1968.

ROWELL & WICKERHSAM (SEAL).

By Dean L. Rowell (SEAL).
PRINCIPAL Partner

COUNTERSIGNED:
HAGAN-HAMILTON INSURANCE
McMinnville, Oregon

Merrill Hagan
Resident Agent *H.O.*

UNITED PACIFIC INSURANCE COMPANY (SEAL).
Surety

By Grace Olinger (SEAL).
SURETY Attorney in fact

Approved by:

Wesley Belanger
MAYOR--CITY OF NEWBERG

CONTRACT

THIS CONTRACT made and entered into this 17 day of SEPTEMBER, 1968,
by and between the City of Newberg, a municipal corporation of the
State of Oregon, hereinafter called the City, party of the first
part, and Rowell & Wickersham, hereinafter called the
Contractor, party of the second part.

WITNESSETH:

That the said Contractor, in consideration of the sums to be paid to him by said City in the manner, and at the times hereinafter provided, and of the other covenants and agreements herein contained, hereby agrees, for himself, his heirs, administrators, successors and assigns, to perform and to complete the work described in the exhibits, hereinafter referred to, and attached to, and made a part of this contract furnishing the necessary machinery, tools, apparatus, materials, and labor, and doing all things in accordance with the plans, specifications and other contract documents attached hereto, as aforesaid, and in accordance with such modifications of the same, and other directions, as may from time to time, be made or given by the City Engineer.

It is further agreed that said plans and specifications on file with the City Recorder and also the general conditions, construction details, special provision, and schedule of contract prices, appended to this contract agreement, are hereby specifically referred to and made a part of this contract, and shall have the same force and effect as though all of the same were fully inserted herein.

That all of said improvements shall be done in strict conformity to the plans on file in the office of the City Recorder, and the specifications hereto attached, and with the Charter and the Ordinances of the City of Newberg pertaining to such work.

That work shall commence on or before the 17 day of September, and shall be prosecuted with such vigor, that all work embraced with this contract shall be entirely completed on, or before the 15th day of October, 1968.

That in view of the character of the work to be done, the party of the first part shall suffer damages to the extent of \$25.00 per day for each and every day that the completion of the work is delayed beyond the time herein specified. That in case said work is not completed on or before said last named date, the party of the second part will pay the party of the first part, as fixed and liquidated damages, resulting from such delay, the sum of \$25.00 for each and every day thereafter consumed in the completion of said work, which shall be retained out of the money due, or to become due the Contractor, under this contract; provided, however, that the party of the first part may, at its discretion, grant the party of the second part an extension of time, upon showing made by the party of the second part, that the work has been unavoidably delayed by conditions of weather, or by the acts of parties beyond the control of the party of the second part.

It is further understood and agreed, that the party of the second part, shall promptly, as due, make payments to all persons supplying to such Contractor, labor or material for the prosecution of the work provided for in this contract, and said Contractor shall not permit any lien or claim to be filed or prosecuted against the City of Newberg, on account of any material or labor furnished. The Contractor shall not employ any person, for more than 40 hours, in any one week, unless such person be paid one and one half times regular wages, for all time worked in excess of 40 hours. Also said Contractor shall insure all employees, performing work on this contract, against accident and injury, with authorized agents, who do such insurance business in Oregon.

In consideration of the faithful performance of the work herein embraced, as set forth in the contract agreement, general conditions, construction details, special provision, schedule of contract prices, and all general and detailed specifications, plans and other contract documents, which are a part hereof, in accordance with the directions of the City Engineer, and to his satisfaction, the said City agrees to pay to said contractor, the amount earned computed from the actual quantities of work performed, as shown by the estimates of the City Engineer and the unit prices named in the attached schedule of contract prices, and to make such payments in the manner and at the times provided in the general conditions hereto appended.

It is further understood and agreed that in case of willful failure or neglect on the part of the party of the second part to comply with the terms of this contract, the City of Newberg may at its own option annul and cancel this contract.

IN WITNESS WHEREOF, the aforesaid party of the first part has caused these presents to be executed in duplicate by its mayor and Recorder, and the corporate seal of said City affixed, and the said party of the second part has executed the same in duplicate this 17 day of SEPTEMBER, 1968.

CITY OF NEWBERG

By *Durell Belanger*
DURELL BELANGER, MAYOR

By *M. C. Gilbert*
M. C. GILBERT, CITY RECORDER

Ronell W. Wiersham
CONTRACTOR

By *Gene L. Rowell*
Title *Partner*

Approved as to form:

GEORGE LAYMAN, CITY ATTORNEY