

RESOLUTION NO. 1442

A RESOLUTION OF THE CITY OF WILSONVILLE EXEMPTING THE CITY FROM COMPETITIVE BIDDING REQUIREMENTS AND AUTHORIZING THE PUBLIC WORKS DIRECTOR TO SIGN A PROFESSIONAL SERVICES AGREEMENT WITH CH2MHill TO EVALUATE THE TROUTDALE AQUIFER AS A POTENTIAL FUTURE WATER SUPPLY FOR THE CITY OF WILSONVILLE.

WHEREAS, the City currently has a moratorium on planning approvals for land developments due to a lack of water system capacity; and

WHEREAS, additional technical, financial and regulatory information is needed regarding the feasibility of developing the Troutdale Aquifer as a future water supply to meet the long term needs of the City; and

WHEREAS, the results of such a study will be needed by June, 1998, in order to utilize this information as part of the City's program to correct the problem which created the moratorium on planning approvals for land developments due to lack of water system capacity; and

WHEREAS, a Request for Proposals was issued to secure consulting engineering services to analyze the Troutdale Aquifer; and

WHEREAS, seven consultant teams submitted written, competitive proposals, and four of these teams were invited for oral presentations and interviews; and

WHEREAS, a 5-member interview panel selected CH2MHill as the best qualified firm to conduct this work; and

WHEREAS, the contract for the needed work is for personal services, and the Oregon Revised Statutes 279.011(6) and Section 2.310 (1)(a) of the Wilsonville Code define public contracts as being other than agreements for personal services; and

WHEREAS, Section 2.312 of the City Code states that "The Council is hereby designated as a Local Contract Review Board and relative to contract concerns for the City, shall have all the powers granted to the State Contract Review Board"; and

WHEREAS, Section 2.314(1) states that "All contracts shall be based upon competitive bid with certain exceptions." which the City interprets to mean public

contracts, not personal service contracts, but in the event it is construed to apply to any contract, the City recites and finds as set forth below; and

WHEREAS, additionally, Section 2.314(2) states that "The Board may, by Resolution, exempt other contracts from competitive bidding if it finds (a) the lack of bids will not result in favoritism or substantially diminished competition in awarding the contract; and (b) the exemption will result in substantial cost savings. In making such a finding, the Board may consider the type, cost amount of the contract, number of persons available to bid and such other factors as the Board may deem appropriate"; and

WHEREAS, Oregon Revised Statutes 279.015 Competitive Bidding Exemptions also allows exemptions as stated in the City Code; and

WHEREAS, after reviewing the fees associated with providing the requested work to be performed, staff has determined that the fees for the services as proposed by CH2MHill have been found to be fair and reasonable; and

WHEREAS, the City's Fiscal Year 1997-98 Budget authorizes \$30,000 for capital project #317 entitled Water Supply Plan, and an additional \$70,000 for capital project #328 entitled Water Master Plan; and

WHEREAS, due to the interrelated nature of projects # 317 and #328 it is now preferable to consolidate the budgets for these projects in order to cover the full cost of consultant services plus costs associated City staff time and any other analyses necessary to finalize the staff's recommendations to the Council.

NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

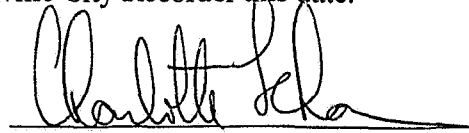
1. That the City Council, serving in its role as Local Contract Review Board, does hereby find the contract and its award for Professional Services for evaluation of the Troutdale Aquifer is not a public contract, is based on competitive proposals, and is exempt from competitive bidding and further concludes this award will not result in favoritism or substantially diminish competition in awarding the contract.

2. The City Council, serving as a Local Contract Review Board, does hereby approve and authorize the Public Works Director to sign a Professional Services

Agreement between the City of Wilsonville and CH2MHill substantially in the form of Exhibit "A", attached hereto and incorporated herein, to provide the Professional Services recited above for the referenced project.

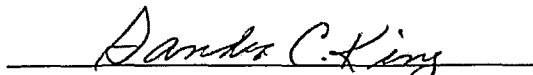
3. Authorize the expenditures for this contract in an amount not to exceed \$50,000 and further authorizes the transfer of \$70,000 from water capital project #328 to project #317 for this purpose.

ADOPTED by the City Council of the City of Wilsonville at a regular meeting thereof of March 2, 1998, and filed with the Wilsonville City Recorder this date.



CHARLOTTE LEHAN, Mayor

ATTEST:


Sandra C. King, CMC, City Recorder

SUMMARY of Votes:

Mayor Lehan	Yes
Councilor Barton	Yes
Councilor Helser	Yes
Councilor Kirk	Yes
Councilor Luper	Absent

**CITY OF WILSONVILLE
PROFESSIONAL SERVICES AGREEMENT**

THIS AGREEMENT is made and entered into as of the date first indicated on the signature page, by and between the City of Wilsonville, Wilsonville, Oregon, (hereinafter referred to as the "City"), and CH2MHill, hereinafter referred to as "Consultant").

WHEREAS, City requires services which Consultant is capable of providing, under terms and conditions hereinafter described; and

WHEREAS, Consultant represents that it is qualified on the basis of specialized experience and technical competence and prepared to provide such services as City does hereinafter require;

NOW, THEREFORE, in consideration of those mutual promises and the terms and conditions set forth hereafter, the parties agreed as follows:

A. Term

The term of this Agreement shall be from the date of execution by both parties until tasks required hereunder are complete and accepted, unless earlier terminated in accordance herewith.

B. Consultant's Services

- B.1 The scope of Consultant's services and time of performance under this Agreement are set forth in Exhibit A. All provisions and covenants contained in Exhibit A are hereby incorporated by reference and shall become a part of this Agreement as if fully set forth herein.
- B.2 All written documents, drawings, and plans submitted by Consultant and intended to be relied on for the project shall bear the signature, stamp or initials of Consultant or Consultant's authorized Project Manager. Any documents submitted by Consultant which do not bear Consultant's signature, stamp or initials or those of the Consultant's authorized Project Manger shall not be relied upon by City. Interpretation of plans and answers to questions covering Plans given by Consultant or Consultant's Project Manager need not be put in writing unless requested by the City and may be relied upon by City.
- B.3 All agreements on the Consultant's part are contingent upon, and the Consultant shall not be responsible for damages or be in default or be deemed to be in default by reason of delays in performance due to third party: strikes, lockouts, accidents; acts of God; other delays unavoidable or beyond the Consultant's reasonable control, or due to shortages or unavailability of labor at established area wage rates or delays caused by failure of the City or City's agents to furnish information or to approve or disapprove the Consultant's work promptly, or due to late or slow, or faulty performance by the City, other contractors, other consultants not under Consultant's control or governmental agencies, the performance of whose work is precedent to or concurrent with the performance of the Consultant's work. In the case of the happening of any such cause of delay, the time of completion shall be extended accordingly.

- B.4 The existence of this Agreement between City and Consultant shall not be construed as City's promise or assurance that Consultant will be retained for future services unrelated to this public works project.
- B.5 Consultant shall maintain confidentiality of any private confidential information and any public information which is exempt from disclosure under state or federal law to which the Consultant may have access by reason of this Agreement. Consultant warrants that its employees assigned to work on services provided in this Agreement shall maintain confidentiality. All agreements with respect to confidentiality shall survive the termination or expiration of this Agreement.
- C. **City's Responsibilities**
- C.1 The scope of City's responsibilities, including those of its Project Manager, are set forth in Exhibit B, which is attached hereto and incorporated herein.
- C.2 City certifies that sufficient funds are available and authorized for expenditure to finance costs of this Agreement.
- D. **Compensation**
- D.1 Except as otherwise set forth in this subsection D, City agrees to pay Consultant not more than \$40,000 for performance of those services provided hereunder. However, compensation may be less than such maximum amount and shall be actually determined on an hourly basis as shown on the Rate Schedule attached as Exhibit C which is attached hereto and incorporated herein. Compensation shall be only for actual hours worked on this project and related direct expenses. Consultant shall furnish with each bill for services an itemized statement showing the amount of hours devoted to the project by Consultant as well as any agents or employees of Consultant and any direct expenses.
- D.2 During the course of Consultant's performance, if City or its Project Manager specifically requests Consultant to provide additional services which are beyond the scope of the services described on Exhibit A, Consultant shall provide such additional services and bill the City at the hourly rates outlined on the attached Standard Hourly Rate Schedule, provided the parties comply with the requirements of Section R. No compensation for additional services shall be paid or owing unless both parties specifically agree to such additional compensation and services.
- D.3 Unless expressly set forth on Exhibit A as a reimbursable expense item, Consultant shall only be entitled to the compensation amount specified in subsections D.1 and D.2. Only those reimbursable expenses which are set forth on Exhibit A and itemized on Consultant's bills for services shall be the basis for which payment of those expenses by City shall be owing.
- D.4 Except for amounts withheld by City pursuant to this agreement, Consultant will be paid for services for which an itemized bill is received by City within 30 days.
- D.5 City shall be responsible for payment of required fees, payable to governmental agencies including, but not limited to plan checking, land use, zoning and all other similar fees resulting from this project, and not specifically covered by Exhibit A.
- D.6 Consultant's compensation rate includes but is not limited to salaries or wages plus fringe benefits and contributions including payroll taxes, workers' compensation

insurance, liability insurance, pension benefits and similar contributions and benefits.
D.7 In the event Consultant's responsibilities as described on Exhibit A have been separated into two or more phases, then Consultant shall not be entitled to any compensation for work performed directly on a later category of responsibilities unless and until City specifically directs that Consultant proceed with such work.

E. City's Project Manager

City's Project Manager is Jeff Bauman. City shall give Consultant prompt written notice of any redesignation of its Project Manager.

F. Consultant's Project Manager

Consultant's Project Manager is Jeff Barry. In the event that Consultant's designated Project Manager is changed, Consultant shall give City prompt written notification of such redesignation. In the event that City receives any communication from Consultant of whatsoever nature which is not executed by Consultant's designated Project Manager, City may request clarification by Consultant's Project Manager, which shall be promptly furnished.

G. Project Information

City shall provide full information regarding its requirements for the Project. Consultant agrees to share all project information, to fully cooperate with all corporations, firms, contractors, public utilities, governmental entities, and persons involved in or associated with the Project. No information, news or press releases related to the Project, whether made to representatives of newspaper, magazines or television and radio stations, shall be made without the authorization of City's Project Manager.

H. Duty to Inform

If at any time during the performance of this Agreement, or any future phase of this Agreement for which Consultant has been retained, Consultant becomes aware of actual or potential problems, faults or defects in the project or any portion thereof, any nonconformance with the federal, state or local law, rule, or regulation, or has any objection to any decision or order made by City with respect to such laws, rules or regulations, Consultant shall give prompt written notice thereof to City's Project Manager. Any delay or failure on the part of City to provide a written response to Consultant shall neither constitute agreement with nor acquiescence to Consultant's statement or claim, nor constitute a waiver of any of City's rights.

I. Consultant is Independent Contractor

I.1 Consultant shall be and herein declares that it is an independent contractor for all purposes and shall be entitled to no compensation other than compensation provided for under paragraph D of this Agreement. Consultant binds itself, its partners, officers, successors, assigns and legal representatives to the City. Consultant shall be completely independent and solely determine the manner and means of accomplishing the end result of this Agreement, and City does not have the right to control or interfere with the manner or method of accomplishing said results. City, however, has the right to specify and control the results of the Consultant's responsibilities.

I.2 Subcontracting: City understands and agrees that only those special consulting services identified on Exhibit A may be performed by those persons identified on

Exhibit A and not by Consultant. Consultant acknowledges such services are provided to City pursuant to a subcontract(s) between Consultant and those who provide such services. Consultant may not utilize any subcontractors or in any way assign its responsibility under the Agreement without first obtaining the express written consent of the City.

- I.3 Consultant shall be responsible for and indemnify and defend City against any liability, cost or damage arising out of Consultant's use of such subcontractor(s) and subcontractor's negligent acts, omissions, or errors. Subcontractors will be required to meet the same insurance requirements of Consultant under this Agreement. Unless otherwise specifically agreed to by City, Consultant shall require that subcontractors also comply with and be subject to the provisions of this Section I.
- I.4 Consultant shall make prompt payment of any claim for labor, materials or services furnished to the Consultant by any person in connection with this Agreement as such claim becomes due. Consultant shall not permit any lien or claim to be filed or prosecuted against the City on account of any labor or material furnished to or on behalf of the Consultant. If the Consultant fails, neglects or refuses to make prompt payment of any such claim, the City may pay such claim to the person furnishing the labor, materials or services and charge the amount of the payment against funds due or to become due the Consultant under this Agreement.
- I.5 No person shall be employed under the terms of this agreement as described herein in violation of all wage and hour laws.
- I.6 Consultant shall make prompt payment as due to any person, co-partnership, association or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to the employees of such Consultant of all sums which the Consultant agrees to pay for such services and all monies and sums which the Consultant collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service.
- I.7 Should Consultant elect to utilize employees on any aspect of this Agreement, Consultant shall be fully responsible for payment of all withholding required by law, including but not limited to taxes, including payroll, income, Social Security (FICA) and Medicaid. Consultant shall also be fully responsible for payment of salaries, benefits, taxes, Industrial Accident Fund contributions and all other charges on account of any employees. Consultant shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. All costs incident to the hiring of assistants or employees shall be Consultant's responsibility. Consultant shall indemnify, defend and hold City harmless from claims for payment of all such expenses. Unless otherwise expressly set forth on Exhibit A as a reimbursable expense item, specific costs associated with items set forth in this paragraph shall be deemed as fully and conclusively included in the rate upon which consultants compensation is based.
- I.8 No person shall be denied or subjected to discrimination in receipt of the benefits of any services or activities made possible by or resulting from this Agreement on the grounds of sex, race, color, creed, marital status, age, disability or national origin. Any violation of this provision shall be grounds for cancellation, termination or suspension of the Agreement in whole or in part by the City.

J. Indemnity and Insurance

- J.1 Consultant acknowledges responsibility for liability arising out of the performance of this Agreement and the attachments thereto only and shall hold City harmless from and indemnify City of any and all liability, settlements, loss, costs and expenses in connection with any action, suit, or claim resulting or allegedly resulting from Consultant's negligent acts, omissions, errors or willful misconduct provided pursuant to this Agreement or from Consultant's failure to perform its responsibilities as set forth in this agreement. The review, approval or acceptance by City, its Project manager or City of Wilsonville employees of documents or other work prepared or submitted by Consultant shall not relieve Consultant of its responsibility to provide such materials in full conformity with City's requirements as set forth in this Agreement and to indemnify City from any and all costs and damages resulting from Consultant's failure to adhere to the standard of performance described in Section J.2.3. The provisions of this section shall survive termination of this Agreement. City agrees to indemnify and hold Consultant harmless from liability, settlements, losses, costs, and expenses in connection with any action, suit or claim resulting or allegedly resulting from City's negligent acts, omissions or from its willful misconduct as governed by ORS Chapter 30.
- J.2 Insurance Requirements and Consultant's Standard of Care.
- J.2.1 Consultant shall provide City with evidence of the following insurance coverages prior to the commencement of the work. A copy of each insurance policy, issued by a company currently licensed in the State of Oregon, and certified as a true copy by an authorized representative of the issuing company or at the discretion of the City, in lieu thereof, a certificate in a form satisfactory to City certifying to the issuance of such insurance shall be furnished to City. Unless specifically set forth on Exhibit A, expenses relating to the cost of insurance shall not be the basis for additional reimbursement to Consultant.
- J.2.2 The City agrees that in accordance with generally accepted construction practices, the construction contractor will be required to assume sole and complete responsibility for job site conditions during the course of construction of the project, including safety of all persons and property.
- J.2.3 In the performance of its professional services, the Consultant shall use that degree of care and skill ordinarily exercised under similar circumstances by reputable members of its profession practicing in the Portland Metropolitan Area. The Consultant will reperform any services not meeting this standard without additional compensation. Consultant's reperformance of any services, even if done at City's request, shall not be considered as a limitation or waiver by City of any other remedies or claims it may have arising out of consultant's failure to perform in accordance with the applicable standard of care or this Agreement.
- J.2.4 Consultant shall furnish the City a certificate evidencing the date, amount and type of insurance that has been procured pursuant to this Agreement. All policies shall be written on an "occurrence basis," except for Consultant's Professional Liability Insurance which may be written on a "claims made" basis, provided it shall endeavor to be maintained in full force for not less than four (4) years following Consultant's performance under this Agreement. All policies shall provide for not less than 30 days' written notice to the City

before they may be revised, non-renewed, or canceled. The Consultant shall endeavor to provide for not less than 30 days' written notice to the City before the policy coverage may be reduced. Excepting professional liability and worker's compensation coverage, all policies shall provide an endorsement naming the City, its officers, employees and agents as additional insureds. In the event the policy lapses during performance, the City may: treat said lapse as a breach; terminate this Agreement and seek damages; withhold progress payments without impairing obligations of Consultant to proceed with work; pay an insurance carrier (either Consultants' or a substitute) the premium amount and withhold that amount from payments; and, use any other remedy provided by this Agreement or by law.

- J.2.5 Insurance Requirements. The Consultant, its subcontractors, if any, and all employers working under this Agreement are subject employers under the Oregon Worker's Compensation Law and shall comply with ORS 656.017 which requires them to provide workers' compensation coverage for all their subject workers. The Consultant will maintain throughout this Agreement the following insurance:
- J.2.5.1 Workers' compensation and employers liability insurance as required by the State where the work is performed.
 - J.2.5.2 Comprehensive automobile and vehicle liability insurance covering claims for injuries to members of the public and/or damages to property of others arising from the use of motor vehicles, including on-site and off-site operations, and owned, non-owned, or hired vehicles, with \$500,000 combined single limits.
 - J.2.5.3 Commercial general liability insurance covering claims for injuries to members of the public or damage to property of others arising out of any covered negligent act or omission of the Consultant or of any of its employees, agents or subcontractors, with \$1,000,000 per occurrence and in the aggregate.
 - J.2.5.4 Professional liability insurance of \$500,000 per occurrence and in the aggregate, including contractual liability coverage. If Consultant proposes using subcontractors, in addition to any other requirements of this Agreement, City may require subcontractors to provide Professional Liability Insurance, provided the amount and form of coverage complies with the requirements of paragraphs J.2.1, J.2.2, J.2.3, J.2.4 and J.2.5.4.
 - J.2.5.5 City will be named as an additional insured with respect to Consultant's liabilities hereunder in insurance coverages identified in items J.2.5.2 and J.2.5.3.
- J.2.6 The coverage provided by these policies shall be primary and any other insurance carried by City is excess. Consultant shall be responsible for any deductible amounts payable under all policies of insurance. In the event a dispute arises between City and Consultant for which Consultant has obtained insurance, the maximum amount which may be withheld by City for all such claims shall be no more than the amount of the applicable insurance deductible.

K. Early Termination

- K.1 This Agreement may be terminated prior to the expiration of the agreed upon terms:
- K.1.1 By mutual written consent of the parties;
 - K.1.2 By City for any reason within its sole discretion, effective upon delivery of written notice to Consultant by mail or in person; and
 - K.1.3 By Consultant, effective upon seven days prior written notice in the event of substantial failure by the City to perform in accordance with the terms through no fault of the Consultant.
- K.2 If City terminates the Agreement in whole or in part due to default or failure of Consultant to perform services in accordance with this Agreement, City may procure, upon reasonable terms and in a reasonable manner, services similar to those so terminated. In addition to any other remedies the City may have, Consultant shall be liable for all costs and damages incurred by City in procuring such similar service, and the Contract shall be in full force to the extent not terminated.
- K.3 If City terminates the Agreement for its own convenience, payment of Consultant shall be prorated to and include the day of termination and shall be in full satisfaction of all claims by Consultant against City under this Agreement.
- K.4 Termination under any provision of this paragraph shall not affect any right, obligation or liability of Consultant or City which accrued prior to such termination. Consultant shall surrender to City items of work or portions thereof, referred to in Paragraph O for which Consultant has received payment, or City has made payment. City retains the right to elect whether or not to proceed with actual construction of the project.

L. Suspension of Work

City may suspend, delay or interrupt all or any part of the work for such time as the City deems appropriate for its own convenience by giving written notice thereof to Consultant. An adjustment in the time of performance or method of compensation shall be allowed as a result of such delay or suspension unless the reason for the delay is within the Consultant's control. City shall not be responsible for work performed by any subcontractors after notice of suspension is given by City to Consultant. Should the City suspend, delay or interrupt the work and the suspension is not within the Consultant's control, then the City shall extend the time of completion by the length of the delay and the method of compensation shall be adjusted to reflect the Consultant's increase or decrease in its standard hourly rates.

M. Subconsultants and Assignments

- M.1 Unless expressly authorized in Exhibit A or Paragraph I of this Agreement, Consultant shall neither subcontract with others for any of the work prescribed herein, nor assign any of Consultant's rights acquired hereunder without obtaining prior written approval from City. Work may be performed by persons other than Consultant, provided Consultant advises City of the names of such subcontractors and the work which they intend to perform and the City specifically agrees thereto. Consultant acknowledges such services are provided to City pursuant to a subcontract(s) between Consultant and subcontractor(s). Except as otherwise provided

by this Agreement, City incurs no liability to third persons for payment of any compensation provided herein to Consultant. Any attempted assignment of this contract without the written consent of City shall be void. Except as otherwise specifically agreed, all costs for services performed by others on behalf of Consultant shall not be subject to additional reimbursement by City.

M.2 City shall have the right to let other agreements be coordinated with this Agreement. Consultant shall cooperate with other firms, engineers or subconsultants on the project and the City so that all portions of the project may be completed in the least possible time within normal working hours. Consultant shall furnish other engineers and subconsultants and affected public utilities, whose designs are fitted into Consultant's design, detail drawings giving full information so that conflicts can be avoided.

N. Access to Records

City shall have access upon request to such books, documents, receipts, papers and records of Consultant as are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of four (4) years unless within that time City specifically requests an extension. This clause shall survive the expiration, completion or termination of this Agreement.

O. Work is Property of City

A. Originals or Certified copies of the original work forms, including but not limited to documents, drawings, tracings, surveying records, mylars, papers, diaries, inspection reports and photographs, performed or produced by Consultant under this Agreement shall be the exclusive property of City and shall be delivered to City prior to final payment. Any statutory or common law rights to such property held by Consultant as creator of such work shall be conveyed to City upon request without additional compensation. Upon City's approval and provided City is identified in connection therewith Consultant may include Consultant's work in its promotional materials. Drawings may bear a disclaimer releasing the Consultant from any liability for changes made on the original drawings and for reuse of the drawings subsequent to the date they are turned over to the City.

B. Consultant shall not be held liable for any damage, loss, increased expenses or otherwise caused by or attributed to the reuse, by City or their designees, of all work performed by Consultant pursuant to this contract without the express written permission of the Consultant.

C. City agrees it will indemnify and hold Consultant harmless for all losses or damages that may arise out of the reuse of specific engineering designs incorporated into extensions, enlargements or other projects, without the express written permission of the Consultant.

P. Law of Oregon

The Agreement shall be governed by the laws of the State of Oregon. The Agreement provisions required by ORS Chapter 279 to be included in public agreements are hereby incorporated by reference and shall become a part of this Agreement as if fully set forth herein.

Consultant shall adhere to all applicable federal and state laws, including but not limited to laws, rules, regulations, and policies concerning employer and employee relationships, workers' compensation, and minimum and prevailing wage requirements. Any certificates, licenses or permits which Consultant is required by law to obtain or maintain in order to perform work described on Exhibit A, shall be obtained and maintained throughout the term of this Agreement.

Q. Adherence to Law

Consultant shall adhere to all applicable federal and state laws, including but not limited to laws, rules, regulations, and policies concerning employer and employee relationships, workers' compensation, and minimum and prevailing wage requirements. Any certificates, licenses or permits which Consultant is required by law to obtain or maintain in order to perform work described on Exhibit A, shall be obtained and maintained throughout the term of this Agreement.

R. Modification

Any modification of the provisions of this Agreement shall not be enforceable unless reduced to writing and signed by both parties. A modification is a written document, contemporaneously executed by City and Consultant, which increases or decreases the cost to City over the agreed sum or changes or modifies the scope of service or time of performance. No modification shall be binding unless executed in writing by Consultant and City. In the event that Consultant receives any communication of whatsoever nature from City, which communication Consultant contends to give rise to any modification of this Agreement, Consultant shall, within thirty (30) days after receipt, make a written request for modification to City's Project Manager. Consultant's failure to submit such written request for modification in the manner outlined herein may be the basis for refusal by the City to treat said communication as a basis for modification. In connection with any modification to the contract affecting any change in price, Consultant shall submit a complete breakdown of labor, material, equipment and other costs. If Consultant incurs additional costs or devotes additional time on project tasks which were reasonably expected as part of the original agreement or any mutually approved modifications, then City shall be responsible for payment of only those costs for which it has agreed to pay.

S. Other Conditions

S.1 Except as otherwise provided in paragraphs S.1.1, S.1.2, and S.1.3 Consultant represents and agrees that the contract specifications and plans, if any, prepared by the Consultant will be adequate and sufficient to accomplish the purposes of the project; and further, that any review or approval by the owner of the plans and specifications shall not be deemed to diminish the adequacy of Consultant's work.

S.1.1 Subsurface Investigations. In soils, foundation, ground water, and other subsurface investigations, the actual characteristics may vary significantly between successive test points and sample intervals and at locations other than where observations, exploration, and investigations have been made. Because of the inherent uncertainties in subsurface evaluations, changed or unanticipated underground conditions may occur that could affect total Project cost and/or execution. These conditions and cost/execution effects are not the responsibility of the Consultant.

S.1.2 Opinions of Cost, Financial Considerations, and Schedules. In providing opinions of cost, financial analyses, economic feasibility projections, and schedules for the Project, Consultant has no control over cost or price of labor and materials; unknown or latent conditions of existing equipment or structures that may affect operation or maintenance costs; competitive bidding procedures and market conditions; time or quality of performance by third parties; quality, type, management, or direction of operating personnel; and other economic and operational factors that may materially affect the ultimate Project cost or schedule. Therefore, Consultant makes no warranty that Owner's actual Project costs, financial aspects, economic feasibility, or schedules will not vary from Engineer's opinions, analyses, projections, or estimates.

S.1.3 Record Drawings. Record drawings, if required, will be prepared, in part, on the basis of information compiled and furnished by others, and may not always represent the exact location, type of various components, or exact manner in which the Project was finally constructed. Consultant is responsible for any errors or omissions about which the Consultant knew or should have known in the information from those employees or firms employed by the Consultant under the terms of the contract as stated therein that is incorporated into the record drawings.

S.2 Notwithstanding any acceptance or payments, City shall not be precluded or stopped from recovering from Consultant, or its insurer or surety, such damages as may be sustained by reason of Consultant's failure to comply with the terms of this Agreement. A waiver by City of any breach by Consultant shall not be deemed to be a waiver of any subsequent breach by Consultant.

T. Integration

This Agreement, including but not limited to Exhibits and Consultant's proposal submitted to City contains the entire and integrated agreement between the parties and supersedes all prior written or oral discussions, representations or agreements. In case of conflict among these documents the provisions of this Agreement shall control.

U. Miscellaneous / General

Consultant binds itself, its partners, officers, successors, assigns and legal representatives to the City under the terms and conditions of this agreement as described herein.

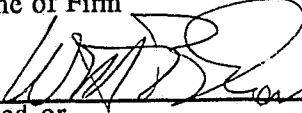
The CONSULTANT and the CITY hereby agree to all provisions of this AGREEMENT.

IN WITNESS WHEREOF, the parties by their signatures below enter into this Agreement this 3 day of March, 1998

CONSULTANT:

CH2M HILL

Name of Firm _____

By  _____

Printed Name: **William R. Blosser**


Title: **Vice President**

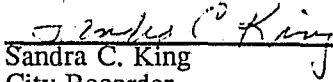
Mailing Address: **825 NE Multnomah, Suite 1300**

Portland, OR 97232

Employer I.D. No. **59-0918189**
(Federal Tax I.D.)

CITY OF WILSONVILLE:

By  _____
Jeff Bauman
Public Works Director

Attest:
 _____
Sandra C. King
City Recorder

Mailing Address: **30000 SW Town Center Loop East**
Wilsonville, OR 97070

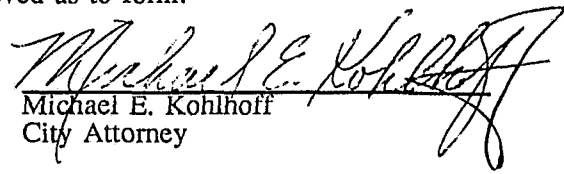
Approved as to form:
 _____
Michael E. Kohlhoff
City Attorney

EXHIBIT "A"

TASK ORDER NO. 1 Scope of Work for the Troutdale Aquifer Study

Included herein is TASK ORDER NO.1 to the Professional Services Agreement dated March 3, 1998, between the City of Wilsonville and CH2M HILL, INC. This TASK ORDER presents the following scope of work, compensation, and time of performance requirements:

SCOPE OF WORK

Task 1— Review Troutdale Aquifer Data

We will review available engineering, groundwater, and/or geologic documentation from the City, WRD, U.S. Geological Survey (USGS), local drillers, Oregon State University Extension Service, county planning departments, and Oregon Health Division (OHD) for the Troutdale Aquifer. The study area will focus on the area within a 5 mile radius from Wilsonville, south of the Willamette River. We will:

- Review available water well logs.
- Compile groundwater rights information (location and quantity).
- Plot existing well locations from the water rights information on a base map. Field verification will not be conducted.
- Draw cross sections to depict subsurface stratigraphy.
- Identify significant water-bearing units containing permeable sand and gravel deposits.
- Identify wells having the highest yields from drillers' logs and discussions with local drillers.
- Review the possibility of purchasing existing water rights.
- Compile available water quality data.

Task 2 – Assess Aquifer Capacity and Water Quality

We will assess available data obtained under Task 1 to determine if the Troutdale Aquifer can meet the future City maximum day demand of 20 mgd and the increment of groundwater development that is possible. The assessment will include:

- Identifying possible wellfield sites.
- Estimating potential well yields.
- Assessing long term aquifer capacity at up to two specific wellfield locations.
- Estimating probable groundwater quality.

- If directed by the City, conduct field quantity tests and obtain/analyze water quality samples. A budget for these activities is not included in this TASK ORDER.

Task 3—Assess Wellfield Development Limitations

Using information gathered under Tasks 1 and 2, we will review issues that may be a constraint to wellfield development, including:

- Land use compatibility. We will work with the City to contact Marion and Clackamas Counties and County Soil and Water Conservation District to identify land use issues that may come up during the water right application and design review process.
- Interference with senior water right holders.
- Willamette Basin Rule Plan restrictions.
- Vulnerability to contamination. Are there any urban, industrial or agricultural activities that could pose a risk to groundwater quality near potential well sites? We will query the DEQ confirmed release list. A detailed contaminant source inventory will not be performed.
- Impact of wellhead protection on local landuse. Recommend a process for implementing a wellhead protection program.
- Groundwater quality and treatment needs. Provide input on likely public acceptance of water quality (aesthetics) and water treatment requirements (to meet OHD standards).
- Water transmission system distance, location, and capacity.
- River crossings.
- Cost to develop wells and install pipeline(s) and treatment. (developed under Task 5).
- Time frame for obtaining necessary approvals.

Task 4—Wellfield Development Strategy and Timeline

The purpose of this task is to delineate a strategy for developing the Troutdale Aquifer for municipal water supply considering the information gathered under previous tasks. The strategy will include discussion of possible locations and depths of production wells, water rights acquisition and land use approval requirements, preliminary pipeline layout, treatment requirements (if needed), and phasing recommendations. We will discuss opportunities, if they exist, for purchasing existing rights. A strategy for implementing wellhead protection without alienating local farmers also will be discussed, including how to facilitate involvement from other jurisdictions. We will provide an overall project schedule for bringing the first 5-mgd increment into production.

Task 5—Preliminary Cost Analysis

We will prepare a cost estimate for the full project, including capital and operation and maintenance costs. For comparative purposes, cost will also be expressed in terms of present worth and cost per 100 cubic feet of water delivered. The ultimate size of the project (number of wells, pipeline lengths, treatment) will be developed under Task 4. If the

volumes are available, we will develop cost estimates for project build-out increments of 2 to 4 mgd, 10 mgd, 15 mgd, and 20 mgd. The cost estimates will include the cost for acquiring easements for project facilities, water rights, and land use approval. We will compare the costs for acquiring existing wells and water rights with costs for drilling new wells and acquiring new water rights as well as combinations of both approaches.

Task 6—Report

We will prepare a report that presents the findings from each task including conclusions regarding estimated yield from the Troutdale Aquifer and number of wells needed to produce that volume, pertinent issues and constraints governing continuation of the project, and the cost analysis for constructing the project. We will prepare a draft report for review and one final report after receiving comments.

Task 7—Meetings

We will attend up to four staff meetings and two council meetings to discuss the project. We will prepare presentation graphics developed from the project tasks for the council meetings to help facilitate communication of information.

Task 8 — Project Management

This task includes directing and monitoring all project activities, coordination with the project team, communicating with the City on project status, and monitoring the project budget and expenditures.

Compensation

Compensation will be on a time and expense basis in accordance with Exhibit C (CH2M HILL 1998 rate schedule) of the Professional Services Agreement. The total budget for this scope of work is \$40,000. This amount will not be exceeded without written authorization from the City.

Time of Performance

CH2M HILL will complete the work and submit the first draft of the report by May 8, 1998, with the final report being submitted by May 22, 1998. Time extensions for completing this work or additional authorized tasks may be granted if approved by the City.

EXHIBIT "B"

ITEMS TO BE PROVIDED BY THE CITY OF WILSONVILLE

1. Overall management of the project including decision making regarding interpretation of and/or changes to scope, schedule, budget.
2. Water system as-builts and other engineering data regarding to the City's existing supply facilities.
3. Maps and supporting documents regarding comprehensive plans, zoning, and urban reserve designations associated with the City's current and future water service area.
4. Other pertinent information upon request by the consultant. This includes support and/or background information on matters regarding legal, financial, planning, policy, operations, and public information aspects of securing water from the Troutdale aquifer.
5. Formal coordination as needed with public agencies, private organizations, individual businesses or citizens, and the City's other consultants working on related projects.
6. Development and conduct of a public involvement effort associated with this project.

EXHIBIT "C"

CH2M HILL 1998 Rate Schedule

Role/Classification	Hourly Rate ^(a)
Labor	
Senior Engineer (Bob Fuller)	\$130
Project Manager/Senior Hydrogeologist (Jeff Barry)	\$110
Project Hydrogeologist (Bob Long)	\$80
Project Engineer (Kan Hwee)	\$80
Staff Engineer/Hydrogeologist	\$65
CADD Operator	\$60
Senior Technician	\$65
Staff Technician	\$55
Editing/Word Processing	\$50
Office Support	\$45
Expenses	
	Rate
Communications	\$1.30/labor hour
Mileage	\$0.42/mile, \$26/day
Computers	\$4.20/labor hour
Direct expenses	Cost
Markup on expenses	10%

^(a) Except for the specific individuals shown, these are average hourly rates for staff that will be working on this project. Actual rates will vary based on specific personnel involved. These rates will remain effective through December 31, 1998.