

BOARD OF THE METROPOLITAN SEWERAGE DISTRICT
September 17, 1991

1. Call to Order and Roll Call:

The regular monthly meeting of the Board of the Metropolitan Sewerage District was held in the Boardroom of MSD's Administration Building at 2:00 p.m. on Tuesday, September 17, 1991. Vice Chairman Ivey called the meeting to order at 2:00 p.m. with the following members present: Aceto, Bryson, Maas, McDonald, Penny, Waddey, and Wallace.

Others present were: W. H. Mull, Engineer-Manager, William Clarke, Legal Counsel, Dean Huber, Bob Holbrook and Bill Morris of Hendon Engineering Associates, Inc., Gary Davis of McGill Associates, Debra Price representing CIBO, Bob Tinkler representing the League of Women Voters, Clarke Morrison representing the Citizen-Times, Ann LaVeck and Stan Boyd, MSD.

2. Minutes of the August 20, 1991 Board Meeting:

Mr. Waddey moved that the minutes of the August 20, 1991 meeting be adopted as written. Ms. Wallace seconded. Voice vote was unanimous in favor of the motion.

3. Report of Engineer-Manager:

a. Status of Construction Projects - Plant Expansion/Sludge Handling/Sewer Line Construction:

Mr. Mull reported that the status of construction projects is as follows: Phase I, all work is complete and accepted; Phase II-RBC Procurement, 98.9% complete; Phase III, 97% complete and Phase IV-Sludge Handling Facility, currently 17 weeks behind schedule with final completion expected January, 1993. Mr. Mull further reported that all work on the Montford Area Sewer Rehabilitation project is complete. With regard to the intermediate clarifiers, Mr. Mull asked Mr. Holbrook of Hendon Engineering to give a report on the status of this project. Mr. Holbrook reported that the sludge pumps (scheduled for full operation on September 1, 1991) encountered a hydraulic seal failure when started but that new parts were ordered and received and the pumps would be operational by today. Mr. Holbrook further reported that when in full operation a letter will be sent to the State of North Carolina certifying that the plant is in operation along with a check (to be reimbursed to the MSD by Envirex) for stipulated penalties for failure to complete construction by September 1, 1991. The State may waive a portion of the penalties for weather delays. Mr. Holbrook stated that it will take approximately one week to determine full operation capability and that Envirex and Hendon Engineering would be monitoring the performance of the clarifiers.

b. Agreement for On Call Contractor for Sewer Maintenance:

Mr. Mull presented an Agreement for an On Call Contractor for Sewer Maintenance, reviewed by the Sewer System Consolidation Committee on September 3, 1991. Mr. Mull stated that following a lengthy discussion regarding the hourly rate of \$150.00 for the track excavator and its frequency of use, the committee recommended that the Board authorize the District to enter into a contract with Mr. Charles Smith in order to have an emergency on-call contractor for after hours and on weekends. Mr. Aceto stated that this agreement will insure that necessary equipment is available on an as needed basis and moved that the Board approve the agreement. Mr. Penny seconded. Roll call vote was as follows: 8 Ayes; 0 Nays

c. Consideration of Approval of Bids for Mini-Van - Industrial Waste Monitoring:

Mr. Mull reported that the District opened bids on September 16, 1991 for one (1) Mini Cargo Van and stated that in review of a letter from Mr. Walter Currie,

Attorney for the District, that the bids of Matthews Ford and Parkway Chevrolet-GEO were in acceptable form. However, the Matthews Ford alternate bid for an Aerostar van is not acceptable since the engine does not meet the minimum specifications. The results of the September 16, 1991 bid opening are as follows: Matthews Ford, Inc. with a total base bid of \$15,792.97 and Parkway Chevrolet-GEO (Apparent Low Bidder) with a total base bid of \$13,433.05. Mr. Penny moved that the Board accept the low bid of Parkway Chevrolet-GEO for one (1) Mini-Van for a total base bid of \$13,433.05. Mr. Waddey seconded. A discussion followed regarding the van and its use. Mr. Clarke reported that there has been a push by the State for staff assistance in doing industrial inspections as a part of pre-treatment. Roll call vote was as follows: 8 Ayes; 0 Nays

d. Consideration of Approval of Bids for Sludge Lagoon Dredging:

Mr. Mull reported that the District opened bids on August 27, 1991 for Sludge Lagoon Dredging. Mr. Mull stated that of the \$1,000,000.00 budgeted in 1987 for interim sludge treatment that a total of \$325,451.00 has been spent leaving a balance of \$674,000.00. A discussion followed with regard to the cost of sludge lagoon dredging last spring, the process used and the reason for performing this work twice in one year. Mr. Mull reviewed a letter from William Clarke, Attorney for the District stating that all bids, with the exception of Bio-Gro Systems are acceptable. The results of the August 27, 1991 bid opening are as follows: Marcol Dredging Company (Apparent Low Bidder) with a total base bid of \$23,990.00; Underwater Construction Corporation with a total base bid of \$39,300.00; Crisafulli Pump Company, Inc. with a total base bid of \$41,320.00; Sludge Engineering with a total base bid of \$43,760.00; Video Pipe Services, Inc. with a total base bid of \$61,900.00 and Bio Gro Systems, Inc. with a total base bid of \$94,350.40. Dr. Maas moved that the Board accept the low bid of Marcol Dredging Company for sludge lagoon dredging with a total base bid of \$23,990.00. Mr. Waddey seconded. Roll call vote was as follows: 8 Ayes; 0 Nays

e. Status of Gill Branch Sewer Line Replacement - Weaverville (McGill):

Mr. Mull presented a letter from McGill Associates, P.A. regarding the status of Gill Branch Sewer Line in Weaverville. Mr. Mull reported that the project is 66% complete with 69% of the days used through September 12. Mr. Mull stated that work on this project was delayed due to an encroachment by the Department of Transportation on its right-of-way to repair the limited access fence along the interstate, but that construction is proceeding with an expected completion date of October 19, 1991.

f. Proposal for Engineering Services - Woodfin C.I.P. (McGill Associates, P.A.):

Mr. Mull presented a proposal from McGill Associates, P.A. for Engineering Services on the Woodfin Sanitary Sewer Line to replace approximately 5,280 lineal feet of line for a lump sum fee of \$1,850.00 for Preliminary Engineering Design; a lump sum fee of \$16,950.00 for Final Engineering Design and Construction Documents and a maximum not to exceed fee of \$12,675.00 for Construction Administration and Post Construction Services (based on a construction time of ninety (90) days). Mr. Mull stated that at the September 16, 1991 Sewer System Consolidation Committee meeting, the committee discussed the fees and felt they were in line with other work that has been done and recommended approval of the contract. Ms. Wallace moved that the Board approve the proposal of McGill Associates, P.A. as presented. Mr. Aceto seconded. Roll call vote was as follows: 8 Ayes; 0 Nays

g. Report on Blue Ridge Plating Hearing:

Mr. Mull stated that a hearing to show cause why Blue Ridge Plating Company's access to the District Sewerage System should not be permanently

sealed off was held on August 19, 1991. The hearing was conducted by Mr. Smith, Mrs. McDonald and Mr. Penny, Hearing Officers appointed by the Chairman of the District Board. Ms. McDonald reported that the hearing officers heard evidence from Mr. Monty Payne of the District and from Bill J. Benfield for Blue Ridge Plating. Ms. McDonald stated that the most significant testimony was a chronological summary of the District's history with Blue Ridge Plating detailing numerous violations over the years. Ms. McDonald stated that Mr. Benfield's testimony generally was that his company continued to do plating work, that he has already cut off any access to the District Sewerage System by capping discharge pipes, that employees are presently using port-a-johns and that no water is being used on the facilities. The manufacturing process gets rid of all water by using heated tanks and fans to evaporate liquids. It was the conclusion of the hearing officers that Blue Ridge Plating Company can operate without discharging to the District Sewerage System. Based on that determination, it was the hearing officers' recommendation that the District permanently seal off Blue Ridge Plating's access to the District Sewerage System. After some discussion of the evidence presented at the hearing, possible threats to the public health resulting from terminating access to the Sewerage System and concerns about where waste might be dumped if it were not dumped in the sewer, Mr. Aceto moved that the District Board adopt the recommendation of the hearing officers and permanently seal off Blue Ridge Plating's access to the District Sewerage System and that the District continue to monitor any possible discharge from Blue Ridge Plating on a regular basis. Dr. Maas seconded the motion. Voice vote was unanimous in favor of the motion. Dr. Maas then moved that the Board direct the Engineer-Manager to notify the Health Department, State Hazardous Waste Authorities and other appropriate agencies of the action taken by the Board to seal access to the Sewerage System. Ms. McDonald seconded. Voice vote was unanimous in favor of the motion. A copy of the Order adopted by the District Board is attached hereto.

h. Consider Rescheduling Board Meeting of October 15 to October 22 due to WPCF Conference:

Mr. Mull requested that the Board approve the rescheduling of the October 15, 1991 Board Meeting to October 22, 1991, due to the National WPCF Conference in Toronto scheduled for October 5-10. Ms. Bryson moved that the Board approve rescheduling the next regular meeting to October 22, 1991. Mr. Waddey seconded. Voice vote was unanimous in favor of the motion.

i. Authorization for Board Members and Staff to Attend the NCAWWA/WPCA Annual Conference in Greenville, N.C., November 10-13, 1991:

Mr. Mull presented and briefly reviewed information regarding the NC AWWA/WPCA Annual Conference in Greenville, North Carolina, November 10-13, 1991 and asked for Board authorization for members and staff to attend this conference. Ms. Wallace moved that the Board approve attendance to the conference. Ms. Bryson seconded. Roll call vote was as follows: 8 Ayes; 0 Nays

j. Additional Needs for Collection Sewer Maintenance:

1. Personnel & Equipment

Mr. Mull presented a report prepared by Ann LaVeck regarding additional needs for Collector Sewer Maintenance and stated that this report was discussed in length by the Sewer System Consolidation Committee at its September 16, 1991 meeting. Mr. Mull stated that the purpose of the request is to provide both emergency and preventative maintenance at a cost of \$200,000.00 for equipment and \$101,920.00 annually for personnel. Mr. Mull gave a breakdown of the budget set aside for both equipment and personnel and stated

that of the \$1.2 million budgeted for the maintenance facility building and furnishings, there is a balance of \$227,000.00 to fund the additional equipment without modifying the budget. Ms. LaVeck presented a chart showing the proposed changes and stated that the proposal is designed to split up the field operation crew, adding a second line supervisor, promoted from staff, along with the addition of six other personnel. Ms. LaVeck stated that equipment needs included: (1. a one ton flatbed truck for manhole repair, (2. a 3/4 ton 4WD pickup truck for the TV Emergency Crew, (3. a 3/4 Ton 4WD pick-up truck for the Tap & M.H. Repair Supervisor, (4. a hydrostatic high pressure vacuum truck for the TV Crew/P.M., (5. mobile radios for the vacuum truck & M.H. repair truck, (6. portable radios for the 2nd Line Supervisor and TV Crew, and office furnishings for the transfer of the tap fee person transferring from administration. Following a brief discussion with regard to the use of the equipment, Mr. Aceto moved that the Board adopt the committee's recommendation to add additional personnel and equipment. Dr. Maas seconded. Mr. Penny recommended that future proposals of this type be included in the budget process to avoid having to add additional equipment, etc. during the year, but felt that staff has been prudent in bringing its recommendation to the Board. Voice vote was unanimous in favor of the motion.

2. Lease of Additional Property

Mr. Mull presented a letter from Super Eight Investments addressing the cost to lease the lot at the corner of Thompson and Decatur Streets for additional parking for one year beginning September 1, 1991 to August 31, 1992. Mr. Mull stated that since construction would only last approximately four months, Super Eight Investments has agreed to lease the lot for a period of six months for a lump sum cost of \$2,700.00, which will meet the contractors need for additional space to park equipment during Phase II construction. Mr. Waddey moved that the Board approve the six-month lease for a lump sum amount of \$2,700.00. Mr. Penny seconded. Roll call vote was as follows: 8 Ayes; 0 Nays

5. Report of Officers

None

6. Report of Committees:

a. Sewer System Consolidation - Mr. Aceto:

Mr. Aceto stated that the committee met September 3, 1991 and again on September 16, 1991 to review items previously discussed in the Engineer-Manager's report. Mr. Aceto reported that the committee discussed cost overruns on CIP projects, such as the South Swannanoa Interceptor, and U.S. Hwy 25, which have been absorbed into the budgeted schedule that the municipalities requested for certain projects. However, the District is being confronted with overruns and new projects that were not reported by the municipalities. Mr. Aceto further reported that the committee is not ready to make a recommendation on how to proceed and is concerned as to how this will fit into the 25% rate increase scheduled for January, 1992. Mr. Aceto stated that the committee has asked for additional cost information before making a decision and will present its findings to the Board following the September 30, 1991 Sewer System Consolidation meeting.

b. Plant Operations Committee - Dr. Maas

Dr. Maas reported that the committee met August 28, 1991 to discuss the start-up date and use of the clarifiers in combination with the final micro screens and to address concerns about whether the District will be able to meet the final effluent limits by October 31, 1991. The committee hoped to have several days of effluent data to discuss, but due to a delay in start-up, this information is not available. Dr. Maas stated

that the Board should be aware that the MSD is the first to try this system and that the engineers felt it would work and was the best solution available to the District.

c. Capital Improvement Plan Committee - Mr. Aceto

Mr. Aceto reported that the Capital Improvement Plan Committee met on September 4, 1991 at the MSD Maintenance Facility at 81 Thompson Street. Mr. Aceto stated that the committee discussed the status of CIP projects and its concern regarding sewer lines that were being taken in by annexation with municipalities making decisions on the District's behalf by accepting certain private sewers for maintenance that do not meet current standards. Also discussed was the issue of one stop permitting, making it possible to issue water, sewer and building permits in one location.

7. Unfinished Business:

Dr. Maas stated in regard to the District's Sludge Handling project, particularly the portion regarding incineration, that the Environmental Protection Agency has put together a seven volume compilation of data on emissions from sludge incinerators throughout the U.S. The compilation is available at a cost of \$160.00. Dr. Maas felt that the District would benefit from ordering this material and volunteered his time to review the information. Mr. Mull stated that he would order the volumes and notify Dr. Maas when they are received.

Dr. Maas stated with regard to the Capacity Depletion Fee, that the Sewer Rate Committee needs to meet and review the present policy in relation to future costs of increasing plant capacity. Mr. Aceto stated that in his review of the District's Ordinance that it calls for fees to be collected based on flows, but that staff has made a practice of basing fees on meter size, which is a done by most of the utilities in North Carolina. Mr. Aceto further stated that the District has a good idea of how much money has been generated from fees and it looks like the Capacity Depletion Fee charge has been carrying approximately 8% of the rate, which is not quite what the District budgeted for it. At the request of Mr. Waddey, Vice Chairman Ivey appointed him to the committee and asked that the Engineer-Manager prepare a time and agenda for a meeting of this committee.

8. New Business

Mr. Waddey reported that the North Carolina Building Code Council has passed amendments to the plumbing code mandating use of low flow and ultra low flow devices in new structures and on present structures that are being remodeled to a point that the present building code applies and will become effective statewide January 1, 1993. Dr. Maas stated this was good news in that it removes major stumbling blocks by assuring that new development in Buncombe County are designed to be water efficient and will save the rate payers in Buncombe County alot of money. Dr. Maas further stated that the Asheville-Buncombe Water Authority has appointed a Water Efficiency Task Force for which he will serve as a member representing the MSD.

Ms. Wallace suggested that in order to conserve time and materials Board information be copied on both sides of the paper and that the Board bring their own copy of the previous month's minutes to each meeting.

Mr. Mull reported that press releases are being developed on the North Swannanoa Sewer and other projects along with maps and a display of equipment to demonstrate to the press what projects the District is working on prior to the proposed rate increase of in January, 1992.

9. Date of Next Regular Meeting: October 22, 1991

10. Adjournment:

There being no further business, Dr. Maas moved that the meeting adjourn at 3:45 p.m.. Mr. Aceto seconded. Voice vote was unanimous in favor of the motion.


Jackie W. Bryson, Secretary/Treasurer

DMA

DAVID MOORE & ASSOCIATES

49 CLAYTON STREET, ASHEVILLE, NORTH CAROLINA 28801 (704) 252-8801

September 12, 1991

Ms. Angel Morris, Right-of-Way Coordinator
Metropolitan Sewage District
P.O. Box 8969
Asheville, North Carolina 28814

Re: Market Study
Montreat, NC

Dear Ms. Morris:


Per your letter dated August 22, 1991, it is my understanding that our proposal for a market study of the Montreat area was accepted.


As discussed in our initial proposal, we will do a market study on the area affected by the proposed acquisition and provide you with a brochure with general and demographic data as well as comparable sales information to assist you in estimating the value on the individual parcels to be appraised. As indicated, the fee will be \$2,500 and the completion time is expected to be approximately 60 days after we receive written authorization to proceed.

If this remains satisfactory, please sign in the appropriate space below and return the original. The copy is for your records. I look forward to working with you regarding this matter.

Sincerely,


David Moore, MAI, SRA


David Moore, MAI, SRA


George E. Gray, Vice Chairman
Metropolitan Sewage District

DM/dh



Hendon Engineering Associates

INCORPORATED

TELEPHONE (704) 258-2123

ADDRESS REPLY TO P. O. BOX 7623

306 WEST HAYWOOD STREET • ASHEVILLE, NORTH CAROLINA 28802

HARRY H. HENDON

(1904-1973)

H. O. HUBER

F. L. BENTLEY

M. G. BUCKLEY, JR.

R. F. HOLBROOK

J. O. BREWER

W. L. MORRIS, JR.

H. E. BYAS, JR.

S. S. KANE

August 5, 1991

Mr. W. H. Mull, P. E.
Engineer-Manager
Metropolitan Sewerage District of
Buncombe County, North Carolina
P. O. Box 8969
Asheville, North Carolina 28814

Subject: Remote Pumping Station Evaluation

Dear Mr. Mull:

Per your request, we propose to perform an engineering evaluation of the following pumping stations:

Station Name

- Erwin Hills
- Mountain View
- Lake Julian #1
- Lake Julian #2
- Venable
- Ferry Road

The scope of the engineering evaluation will consist of the following:

- (1) Review and summarize existing maintenance records and inspection logs for each station.
- (2) Inspect each station and evaluate condition of existing facilities:
 - (a) Apparent structural condition of buildings, dry well, piping and supports.
 - (b) Operation of valves, pumps, motors.
 - (c) Electrical wiring, controls, switch gear.

Mr. W. H. Mull, P. E.
Manager - Engineer
Metropolitan Sewerage District of
Buncombe County, North Carolina

August 5, 1991
Page 2

- (3) Evaluate need for:
 - (a) Standby power.
 - (b) Remote telemetry to Treatment Plant Computer.
 - (c) Remote telephone dialers.
- (4) Consider if additional study is warranted to size an increase capacity of the stations.
- (5) Evaluate relocating Mountain View Pump Station.
 - (a) Evaluate elimination of Mountain View Pump Station by gravity sewer to existing sewer serving school.
- (6) Provide priority for proposed needed improvements.
- (7) Provide project cost budget.
- (8) Provide report summarizing findings and recommended improvements for each pumping station.

For the services rendered as outlined above, the District will pay the Engineers the base salary cost of each employee for time chargeable to such work, times a multiplier of 2.50, plus out-of-pocket costs incurred in connection with such work, including automobile mileage, long distance telephone, reproduction costs, etc. We recommend a budget for this work of \$20,000.

The services outlined herein does not include consideration of contributory drainage area to each station or existing and future average and peak flow rates. This information will be considered in the report if provided by the District. If it is decided by the District that Hendon should develop such data, it will be accomplished on the same compensation basis outlined above.

Respectfully submitted,

HENDON ENGINEERING ASSOCIATES, INC.

By



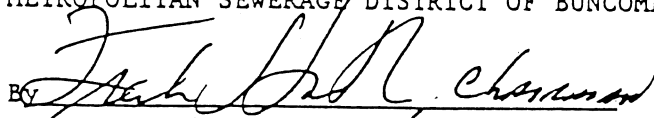
H. Dean Huber, President

C927-AUG.05F

Accepted:

METROPOLITAN SEWERAGE DISTRICT OF BUNCOMBE COUNTY, N.C.

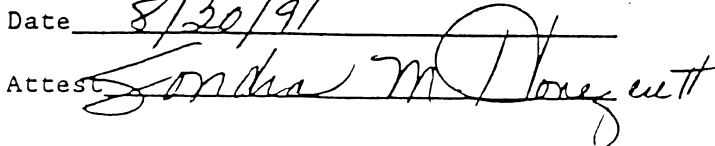
By



Date

8/20/91

Attest





Hendon Engineering Associates

I N C O R P O R A T E D

TELEPHONE (704) 258-2123

ADDRESS REPLY TO P. O. BOX 7623

306 WEST HAYWOOD STREET · ASHEVILLE, NORTH CAROLINA 28802

HARRY H. HENDON

(1904-1973)

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W. L. MORRIS, JR.

H. E. BYAS, JR.

S. S. KANE

August 8, 1991

Metropolitan Sewerage District
of Buncombe County
P. O. Box 8969
Asheville, NC 28814

Subject: North Swannanoa Interceptor, Phase 2
Engineering Services Contract Amendment

Attn: Mr. W. H. Mull, Engineer-Manager

Hendon Engineering Associates, Inc., is pleased to present the following proposal to perform engineering services in connection with the North Swannanoa Interceptor. This proposal is made with the understanding that, upon its acceptance by you, it will become an amendment to our agreement with you dated June 17, 1974, and accepted by you on June 18, 1974. Hendon Engineering Associates will hereinafter be called the "Engineer"; and the Metropolitan Sewerage District of Buncombe County, N.C. will hereinafter be called the "District".

1. Construction Plans and Specifications

- (a) Upon acceptance of this proposal, the Engineer will proceed to prepare construction drawings and specifications for Swannanoa Interceptor Sewer, Phase 2, from Grassy Branch to Ridgecrest, consisting of approximately 115,000 feet of gravity sewers (8-inch diameter to 48-inch diameter) and associated appurtenances. This engineering work will consist of making all field instrument surveys and other necessary field investigations (except geotechnical investigations), the preparation of detailed design and construction drawings and specifications, quantity estimates, opinions of cost, and other documents necessary for receiving bids from construction contractors.
- (b) The Engineer will divide the project into not more than three bid packages as mutually agreed to between the District and the Engineer.

August 8, 1991

- (c) These contract documents will cover all features of the improvements. Completed sets will be submitted to the District for approval. The Engineer will assist the District in applying for and obtaining permits and approvals normally required by law. This assistance shall not extend to the preparation of environmental impact reports, research studies, special documentation, or special tests. Such services, if required, shall be compensated for separately under the Miscellaneous Engineering Services provisions of this agreement.

2. Engineering Services During Construction

- (a) When the District decides to proceed with the construction of these improvements, the Engineer will provide engineering services for this work. Such services will consist of assistance in the solicitation of bid proposals from contractors, the evaluation of bids received, and the awarding of construction contracts, including the preparation and furnishing of all contract documents to prospective bidders; periodic review of construction work in progress, checking all shop drawings, and preparation of construction contractor's progress and final pay estimates, technical assistance in placing all new work in operation and furnishing advice to, and serving as agents of, the District in all phases of the construction program. This does not mean, however, that the Engineer is to be a guarantor of the Contractor's work, responsible for safety in, on, or about the job site, in control of the safety or adequacy of any construction equipment, building component, scaffolding, forms, or other work aids or for superintending the work.

3. Resident Project Representatives

- (a) If mutually agreed upon and requested by the District, the Engineer will furnish full-time Resident Project Representatives (RPR) during construction to assist the Engineer in observing the performance of the work of the Contractor.

4. Miscellaneous Engineering Services

- (a) The work to be done under this paragraph, when requested, shall include the following:
 - (1) Routine and Miscellaneous Services as requested;
 - (2) Studies and Reports as requested;
 - (3) Engineering Services or Surveying Related to Easements, Land Rights, or Land Acquisition;

5. Period of Performance

- (a) The Engineer will endeavor at all times to complete each element of the work in a timely manner consistent with sound planning and engineering. It is anticipated that construction plans and specifications for Phase 2, North Swannanoa Interceptor Project will be completed within 365 calendar days of acceptance of this proposal; however, segments will likely be ready for easement acquisition work as the engineering work progresses.

6. Compensation

- (b) For the faithful performance of the Engineering Services described in Paragraph 1 above, the District will pay the Engineer a lump sum amount of \$728,000.00. Credit will be given for 2/3 of the aerial photo work and ground work accomplished by the Engineer several years ago and paid for by the District on an hourly and cost basis under Project No. 927-RR, ($\$54,136 \times 2/3 = \$36,091$). Progress payments that are mutually satisfactory to the District and the Engineer may be made as the design progresses.
- (b) For providing Engineering Services During Construction and Resident Project Representatives as outlined in Paragraphs 2 and 3 above, the District will reimburse the Engineer at the actual salary costs as incurred, including payroll taxes plus overhead costs plus 15% profit, plus direct out-of-pocket expenses. The number, rate and period of employment of the Resident Project Representatives to be subject to the District's prior approval. A cost ceiling for these services shall be negotiated prior to bidding and construction.
- (c) For providing Miscellaneous Engineering Services as outlined in Paragraph 4 above, the District will pay the Engineer the base salary cost of each employee for time chargeable to such work, times a multiplier of 2.50, plus out-of-pocket expenses incurred in connection with such work, including automobile mileage, long distance telephone, reproduction costs, etc., or such other lump sum amount as may be agreed to in advance. Payment will be made monthly on bills rendered by the Engineer.

7. General Considerations

- (a) The work to be performed by the Engineer shall not include core drilling or other subsurface investigations; archeological, botanical, or similar non-engineering studies; or the inspection and testing of materials or equipment at the point of manufacture. These services are customarily performed by drilling contractors, by other professionals, or commercial testing laboratories, at the District's or Supplier's expense, under the observation of the Engineer.

August 8, 1991

- (b) The District will obtain and furnish to the Engineer such subsurface investigation data as may be necessary for the project. The Engineer shall advise and assist the District in obtaining appropriate subsurface information.
- (c) The Engineer will hold periodic design review meetings with the District at the District's offices as requested, but not more frequently than monthly, during the preparation of the construction plans and specifications.
- (d) The Engineer agrees to negotiate appropriate and equitable amendments to this Agreement if required to secure State or Federal funds to pay for portions of the project.
- (e) Since the Engineer has no control over the cost of labor, materials, equipment or services furnished by others, or over the Contractor(s)' methods of determining prices, or over competitive bidding or market conditions, his opinions of probable Project Cost and Construction Cost are to be made on the basis of his experience and qualifications and represent his best judgment as an experienced and qualified professional engineer, familiar with the construction industry; but the Engineer cannot and does not guarantee that proposals, bids or actual Project or Construction Cost will not vary from his opinions of probable cost. If the District wishes greater assurance as to Project or construction Cost the District shall employ an independent cost estimator.
- (f) In performing the work and services described herein, the Engineer will endeavor at all times to provide the District with an adequate, economical, and technically sound project that will meet all generally recognized public requirements, including those of the State and Federal authorities. The engineering work will be in conformity with modern engineering practice.

Respectfully submitted,

HENDON ENGINEERING ASSOCIATES, INC.

By

H. Dean Huber

H. Dean Huber, President

HDH:f
C100-AUG.07F

Accepted:
METROPOLITAN SEWERAGE DISTRICT OF BUNCOMBE COUNTY, N.C.

By *Frank H. ... Chairman*

Date 8/20/91

Attest *Jonda M. Donaghy*

AGREEMENT FOR PROFESSIONAL SERVICES

This AGREEMENT, made and entered into this the 1st day of September, 1991, by and between the Metropolitan Sewerage District (OWNER) and Martin/McGill, Inc. (AGENT).

WHEREAS, the OWNER proposes to do certain tasks toward the accomplishment of the Project entitled North Swannanoa Interceptor Easements Program, and

WHEREAS, the AGENT will provide professional services in accordance with this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and benefits contained herein, it is hereby mutually understood and agreed as follows:

SECTION 1 - GENERAL SERVICES

1.1 The AGENT shall seek and obtain authorization from the OWNER before proceeding with the Project, or before performing any additional services which are not included in the scope of services set forth in Addendum A hereof.

1.2 The AGENT shall, as directed by the OWNER, provide all easement acquisition services for the OWNER pertaining to some 57 parcels of property which have been identified by the OWNER as being the scope of the subject project, and shall serve as OWNER'S easement acquisition representative, throughout the term of said project.

1.3 The AGENT shall provide all personnel required in performing the Scope of Services set forth in Section 2 hereof. None of the services covered by this Agreement shall be subcontracted without the prior approval of the OWNER.

SECTION 2 - BASIC SCOPE OF SERVICES

The Agent shall perform the basic services pertaining to this project, which are outlined in Addendum A, which is attached to this Agreement.

SECTION 3 - ADDITIONAL SERVICES

If Authorized by the OWNER, the AGENT will furnish or obtain from others, additional services of the following types which are not considered Basic Services under this Agreement.

3.1 Additional services resulting from significant changes in the general scope of the Project including, but not limited to, changes in size, complexity, OWNER'S schedule, or character of work.

3.2 Revising previously approved easement reports, locations, terms, and/or documents when such revisions are due to causes beyond the control of the AGENT.

3.3 Preparing to serve or serving as a witness for the OWNER in any litigation, condemnation or other legal or administrative proceeding involving the Project.

3.4 Coordinating or acquiring any necessary appraisals, field surveys or other technical services to assist the OWNER in obtaining easements or other rights in real property from private or public bodies, entities or persons necessary for satisfactory construction of the project.

3.5 Additional services in connection with the Project, including services normally furnished by the OWNER and services not otherwise provided for in this Agreement.

SECTION 4 - OWNER'S RESPONSIBILITIES

The OWNER shall:

4.1 Provide, at Project start:

- 4.1.1 A complete listing of affected property owners;
- 4.1.2 Sewer location drawings for each easement;
- 4.1.3 A land value analysis report;
- 4.1.4 Title research information for each easement;
- 4.1.5 MAI appraisal services, as required; and
- 4.1.6 A complete set of project plans.

4.2 Assist the AGENT by placing at his disposal all available and essential elements pertinent to the Project.

4.3 Designate a person to act as OWNER'S representative with respect to the work to be performed under this Agreement.

4.4 Give the AGENT prompt notice for Additional Services.

4.5 Give prompt notice to the AGENT whenever the OWNER observes or otherwise becomes aware of any defect in the Project.

4.6 Bear all costs incident to compliance with the requirement of this Section 4.

4.7 Assist the AGENT in the timely scheduling of all meetings which may be required to coordinate with or secure approval by MSD staff, committees, policy board or other agencies or bodies, to facilitate adherence to project schedules and completion.

4.8 If at any time, any of the basic services outlined in Section 2 are deemed undesirable or unnecessary by the OWNER or the OWNER'S representatives, such written instruction shall be given to the AGENT, in a timely fashion.

SECTION 5 - PERIOD OF SERVICES

5.1 Excepting any lost time for condemnations or any unforeseen events beyond the AGENT'S control, the Project will be generally complete within 110 days after receipt of the OWNER'S written notice to proceed. The OWNER and AGENT acknowledge that not all easements will proceed on a predictable schedule due to conditions which are beyond the control of the AGENT or OWNER.

5.2 Changes in SCOPE, will affect the projected period of completion for the project. Such changes will be made with the written agreement of the OWNER and the AGENT.

5.3 If the Project is delayed significantly for reasons beyond the AGENT'S control, the various rates of compensation provided herein as ADDENDUM B shall be subject to renegotiation.

SECTION 6 - PAYMENT TO THE AGENT

6.1 The OWNER shall pay the AGENT as outlined in ADDENDUM B - FEE SCHEDULE, providing that the AGENT'S total fee for the services outlines in Addendum A shall not exceed \$25,300.00.

6.2 The OWNER shall pay the AGENT for services as outlined in ADDENDUM A herein, the amount based on actual time spent and expenses incurred by principals and employees of the AGENT assigned to the Project in accordance with ADDENDUM B - FEE SCHEDULE.

6.3 Payment for Additional Services: The OWNER will pay the AGENT for Additional services, as outlined in Section 3, an amount based on actual time spent and expenses incurred by principals and employees of the CONSULTANT assigned to the Project in accordance with Attachment B - Basic Fee Schedule, should any of these services be requested by the OWNER.

6.4 The OWNER will provide prompt monthly payments in response to the AGENT'S monthly statements for all services rendered under this Agreement.

6.5 If the OWNER fails to make any payment due the AGENT on account of his services and expenses within sixty days after receipt of the AGENT'S invoice therefore, the AGENT may, after giving seven days written notice to the OWNER, suspend services under this Agreement until he has been paid in full all amounts due him on account of his services and expenses.

6.6 If the Agreement is terminated at the completion of any phase of the Scope of Services called for under Section 2, progress payment to be made to the AGENT on account of services rendered shall constitute total payment for services rendered. If this Agreement is terminated during any phase of the Scope of Services, the AGENT shall be paid for services rendered on the basis of his reasonable estimate of the portion of such phase completed prior to termination. In the event of any termination, the AGENT will be paid for all his reasonable expenses resulting from such termination, and for any unpaid reimbursable expenses.

6.7 If, prior to termination of this Agreement, any work completed by the AGENT under Section 2, is suspended in whole or in part for more than three months or is abandoned, after written notice from the OWNER, the AGENT shall be paid for services performed prior to receipt of such notice from the OWNER as provided in Paragraph 6.4 for termination during any phase of his service.

SECTION 7 - GENERAL CONDITIONS

7.1 TERMINATION

7.1.1 In the event that the OWNER finds that it is inadvisable or impossible to continue the execution of the Project; or if the AGENT shall fail to fulfill in a timely and proper manner his obligations under this Agreement; or, if the AGENT shall violate any of the covenants, agreements, or stipulations of this Agreement; or if the AGENT becomes subject to a voluntary or involuntary adjudication of bankruptcy or makes a general assignment for the benefit of creditors; then the OWNER has the right to terminate at any time this Agreement or any task or phase of work being performed herein by providing ten (10) days written notice to the AGENT of such termination and specifying the effective date of such termination; provided, however, that during such period of ten (10) days the AGENT shall have the opportunity to remedy such failures or violations to avoid such termination.

7.1.2 In the event of termination, as provided herein, the AGENT shall be paid for all services performed and actual expenses incurred up to the date of termination pursuant to Section 6.4 herein.

7.2 SUCCESSORS AND ASSIGNS

7.2.1 The OWNER and the AGENT each binds himself and his partners, successors, executors, administrators and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement; except as above, neither the OWNER nor the AGENT will assign, sublet or transfer his interest in this Agreement without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body which may be party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the OWNER and the AGENT.

This Agreement constitutes the entire agreement between the OWNER and the AGENT and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented or modified by a duly executed written instrument.

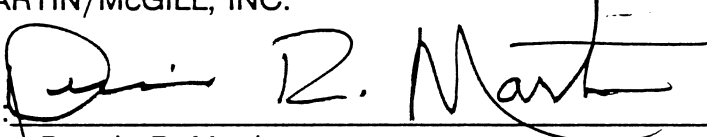
In Witness Whereof, the parties hereto have made and executed this Agreement as of the day and year first written above.

(SEAL)

MARTIN/McGILL, INC.

ATTEST:

By:


Dennie R. Martin
President



Secretary

(SEAL)

METROPOLITAN SEWERAGE DISTRICT

ATTEST:

By:


Vice Chairman, M&D Board


Secretary

91531
aps/d

ADDENDUM A
SCOPE OF SERVICES

I. PRELIMINARY.

- A. Meet with the Right of Way Coordinator to review project schedule and other important considerations.
- B. Review parcel maps, documentation, and list of property owners.
- C. Meet with Right-Of-Way Committee to review land value analysis.

II. INITIAL OWNER CONTACT.

- A. Prepare and mail a letter of interest to each owner.
- B. Initiate telephone contact to introduce the Right-Of-Way agent, and make appointment with owner(s) to review the proposed easement.
 - a. Non-local residents must be handled via Federal Express, mail and FAX (where feasible).

III. NEGOTIATION OF ACQUISITION.

- A. Review documents for each file.
- B. At first meeting, provide and discuss with each owner:
 - a. The easement survey.
 - b. The easement document.
 - c. The agent's calling card.
 - d. The Procedure for completing the easement negotiation process.
 - e. The schedule for the sewer project.
 - f. The compensation process and pertinent estimate of value.
 - g. Attempt to secure the owner signature(s) on the easement document.
 - h. Notarize signature(s) where appropriate.

- C. Update each file as required, giving special attention to the owner(s) needs, appropriate follow up, and:
 - a. The owner's place of work.
 - b. Telephone number(s) and address(es).
 - c. Exact signature(s) required for the easement document.
 - d. The agent's comments regarding the owner's responses and the apparent attitude regarding the proposed easement.
 - e. Note any and all special needs in each owner's file, with copies for the general contractor and Right-Of-Way coordinator.

- D. Arrange second meeting with the owner, where necessary:
 - a. Make telephone contact in advance to confirm meeting.
 - b. Give the owner notice of our interest to finalize negotiations.

- E. Meet with property owner (second time) to attempt to close the negotiations:
 - a. Give owner the opportunity to express objections and explain special needs.
 - b. Counter with a solution which reflects his expressed needs, where feasible.
 - c. Attempt to obtain owner's approval of easement document and/or his signature on easement.
 - d. Notarize signature, where appropriate.

- F. Final meeting (third) with owner(s).
 - a. Obtain owner's signature on Easement, or
 - b. List proposed counter terms; or
 - c. List conditions necessary to achieve agreement; or
 - d. Provide agent's conclusion that an agreement is not possible.

IV. NEGOTIATION FOLLOW-UP.

- A. Secure valid easement signature if not obtain during owner meeting.
- B. Secure MSD approval and signature.
- C. Deliver signed easement agreements to District's attorney for recording.

- D. Submit special provisions detail sheet to the following participants.
 - a. The Right-Of-Way Coordinator.
 - b. The Contractor for the project (where appropriate).
- E. Deliver copies of recorded documents to owner and to owners file.
- F. Order the owner's compensation check, to be mailed directly to the owner by MSD.
- G. Make a follow up telephone call to the owner to express appreciation and verify receipt of compensation from MSD.
- H. Complete owner file documentation and deliver closed files to MSD.

VI. PROJECT CLOSE-OUT.

- A. Meet with Right-Of-Way Coordinator to discuss each parcel for which agreement could not be reached.
- B. Coordinator will make final telephone appeal to each owner and recommend appropriate course of action to Right-Of-Way Committee.
- C. Prepare a final project report, which:
 - a. Summarizes the status of all easements.
 - b. Tabulates compensation.
 - c. Outlines any modifications in the original Scope of Services.
- D. Meet with the Coordinator to review the close-out report.

VI. PROJECT COORDINATION.

- A. Monthly status report meeting with Right-Of-Way Coordinator.

ADDENDUM B - FEE SCHEDULE

I. PROFESSIONAL FEE RATES.

CLASSIFICATION:

Principal	\$65.00
Associate	\$30.00
Research Technician	\$45.00
Clerical	\$20.00

II. EXPENSES.

A. Mileage - \$0.30/Mile

B. Telephone, cost of reproduction, postage, lodging, meals and other incidental expenses shall be reimbursed at actual cost.

III. ASSOCIATED SERVICES.

Associated Services required by the project shall be charged at actual cost plus ten (10%) percent.



Hendon Engineering Associates

INCORPORATED

TELEPHONE (704) 258-2123

ADDRESS REPLY TO P. O. BOX 7623

306 WEST HAYWOOD STREET · ASHEVILLE, NORTH CAROLINA 28802

HARRY H. HENDON

(1904-1973)

H. D. HUBER

P. L. BENTLEY

M. G. BUCKLEY, JR.

R. F. HOLBROOK

J. O. BREWER

August 20, 1991

W. L. MORRIS, JR.

H. E. BYAS, JR.

S. S. KANE

Metropolitan Sewerage District
of Buncombe County
P.O. Box 8969
Asheville, NC 28814

Attn: Mr. W. H. Mull, Engineer-Manager

Ladies and Gentlemen:

That certain contract dated January 8, 1991 and related amendment dated June 6, 1991 for providing engineering services for the Sewer Rehabilitation Evaluation including Plans and Specifications for the sewers within the limits of the City of Asheville Street and Sidewalk Project is hereby further amended as follows:

1. The not-to-exceed budget ceiling for the initial evaluation of sewer lines and preparation of plans and specifications for the needed sewer line repairs is hereby increased from \$360,000 to \$400,000.
2. Assistance with negotiations with the City of Asheville and their Engineers, any subsequent effort required to make adjustments to the plans and specifications, and activity in the preparation for and during construction will be accomplished on an hourly basis in accordance with the contract and will not be a part of the budget ceiling outlined in paragraph 1 above.

All other terms and conditions of the contract remain unchanged.

Respectfully submitted

HENDON ENGINEERING ASSOCIATES, INC.

By H. Dean Huber

H. Dean Huber, President

Accepted:

THE METROPOLITAN SEWERAGE DISTRICT OF BUNCOMBE COUNTY

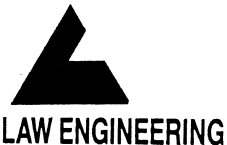
By George W. Perry, Vice Chairman

Date 8/20/91

Attest Sandra Wozniak

Acceptance Copy:
Please Return to
Law Engineering, Inc.

August 26, 1991



GEOTECHNICAL, ENVIRONMENTAL
& CONSTRUCTION MATERIALS
CONSULTANTS

Hendon Engineering Associates
Post Office Box 7623
Asheville, North Carolina 28802

Attention: Mr. William P. Conner, P.E.

Subject: Proposal for Asphalt/Concrete Cores
MSD Project No. 100
North Swannanoa Sanitary Sewer Interceptor
Metropolitan Sewerage District of Buncombe County
Law Engineering Proposal Number AV91-0256

Gentlemen:

Law Engineering is pleased to submit this proposal for providing asphalt/concrete core testing. This proposal is in response to your letter dated August 2, 1991, requesting a lump sum cost estimate for the above referenced project. This proposal includes a review of the proposed scope of services and the lump sum cost estimate. We hope that you will find this proposal satisfactory and will authorize us to perform the asphalt/concrete core testing for this project.

SCOPE OF SERVICES

Law Engineering can provide qualified engineering technicians and the necessary equipment to provide the following services:

Core drill existing streets in 10 (ten) locations to be determined by Hendon Engineering Associates. Core diameters will be 4 inches.

Determine existing asphalt and stone thicknesses or existing asphalt, concrete, and stone thicknesses. Measurements will be recorded to 1/8 inch for asphalt and 1/2 inch for stone.

Replace stone to a depth one foot below existing pavement surface and place 3000 psi concrete in top one foot of core and trowel off flush with existing pavement surface.

To accomplish this scope of services, we will assign Mr. Michael Sagedy to direct Law Engineering's work on the project. He will coordinate our activities, review the field data and prepare the report of our test results. If requested, engineering data or decisions regarding technical guidance will be reviewed by Mr. Daniel B. Bunnell, P.E.

Utility clearance will be determined by others prior to performance of the drilling. We anticipate providing a flagman for traffic control. Field work will be performed after 5:00 p.m.

COMPENSATION

The attached lump sum cost estimate itemizes the cost for services provided by Law Engineering, such as, tests performed, vehicles required and actual personnel time. We anticipate a budget of \$ 2645 to perform the above scope of services.

SCHEDULING

We will provide Law Engineering personnel and equipment for this project at the request of your representative. We should be able to mobilize our



equipment and personnel within 5 days of your authorization. The field work should be accomplished over a 2-4 day period. Our written report will be provided within 5 working days following completion of the field work.

AUTHORIZATION

To authorize us to provide the proposed services, please execute the attached Proposal Acceptance Sheet and return the copy to us. If you have any exceptions or special requirements not covered in this proposal, they should be listed on the Proposal Acceptance Sheet.

Should you elect to authorize us to provide the proposed services by issuing us a purchase order, please cross out and initial wording that does not apply to service contracts and reference this proposal in the purchase order. Please note that our general terms and conditions will apply.

We appreciate your consideration of Law Engineering for this work and look forward to assisting you on this and future projects.

Very Truly Yours,

LAW ENGINEERING

Michael K. Sagedy
Michael K. Sagedy
Construction Services Manager

Daniel B. Bunnell, P.E. / 2022
Daniel B. Bunnell, P.E.
Managing Principal

MKS:DBB:llt

Attachments: Lump Sum Cost Estimate
Proposal Acceptance Sheet
General Terms and Conditions



LUMP SUM COST ESTIMATE
LAW ENGINEERING PROPOSAL NUMBER AV91-0256
MSD PROJECT NO. 100
NORTH SWANNANOA SANITARY SEWER INTERCEPTOR

Core Drill Usage.....	\$ 250.00
Diamond Core Bit Charge.....	\$ 500.00
Stone (for replacement).....	\$ 3.00
Concrete (for replacement - 200 lbs).....	\$ 25.00
Engineering technician time, \$ 37.50 per hour (overtime rate) x 1.5 hours each core x 10 cores x 3 technicians.....	\$ 1687.00
Report Preparation, 2 hours x \$ 40.00 per hour.....	\$ 80.00
Supplies and expendable equipment charge.....	\$ 100.00
TOTAL	\$ 2645.00



LAW ENGINEERING
PROPOSAL ACCEPTANCE SHEET

Description of Services Asphalt/Concrete Cores
 Project Name MSD Project No. 100 - North Swannanoa Sanitary Sewer Interceptor
 Project Location Swannanoa, North Carolina
 Proposal No. and Date Law Engineering Proposal Number AV91-0256 August 26, 1991
 Branch Designation Asheville, North Carolina

FOR PAYMENT OF CHARGES:

Charge Invoice to the Account of:

Firm _____
 Address _____
 _____ Zip Code _____ Phone Number _____
 Attention: _____ Title _____

FOR APPROVAL OF CHARGES:

If the invoice is to be mailed for approval to someone other than the account charged, please indicate where to mail the invoice in the space below.

Firm _____
 Address _____
 _____ Zip Code _____ Phone Number _____
 Attention: _____ Title _____

PROPERTY OWNER IDENTIFICATION (If Other than Above):

Name _____
 Address _____
 _____ Zip Code _____ Phone Number _____
 Attention: _____ Title _____

SPECIAL INSTRUCTIONS: _____

PAYMENT TERMS: Net Cash upon receipt of invoice. A late payment charge of 18% per annum or the maximum amount allowed by law may be added in the event payment is not made within 30 days after invoice date.

PROPOSAL ACCEPTANCE:

The Terms and Conditions of this Proposal, including the Terms on this page and the attached General Conditions are:

Accepted this 20th day of August, 19 91

Metropolitan Sewerage District of Buncombe County North Carolina
 Print or type individual, firm or corporate body name

George E. Ivey
 Signature of authorized representative

George E. Ivey, Vice Chairman MSD Board
 Print or type name of authorized representative and title

TERMS AND CONDITIONS

1. **SERVICES TO BE PROVIDED.** Law Engineering is an independent consultant and agrees to provide Client, for its sole benefit and exclusive use, consulting services set forth in our proposal.
 2. **PAYMENT TERMS.** Client agrees to pay our invoice upon receipt. If payment is not received within 30 days from the invoice date, Client agrees to pay a service charge on the past due amount at the prevailing legal rate, including reasonable attorney's fees, if collected through an attorney. No deduction shall be made from our invoice on account of liquidated damages or other sums withheld from payments to contractors or others.
- Either party may terminate this Agreement without cause upon 30 days written notice to the other party. In the event Client requests termination prior to completion, Client agrees to pay Law Engineering for all costs incurred plus reasonable charges associated with termination of the work.
3. **STANDARD OF CARE.** Law Engineering will perform its services using that degree of care and skill ordinarily exercised under similar conditions by reputable members of our profession practicing in the same or similar locality. NO OTHER WARRANTY, EXPRESS OR IMPLIED, IS MADE OR INTENDED BY OUR PROPOSAL OR BY OUR ORAL OR WRITTEN REPORTS.
 4. **INSURANCE.** Law Engineering maintains insurance coverage as follows:
 - (a) Worker's Compensation Insurance - statutory.
 - (b) Employer's Liability Insurance - \$1,000,000.
 - (c) Comprehensive General Liability Insurance - \$1,000,000/\$2,000,000.
 - (d) Automobile Liability Insurance - \$1,000,000/\$2,000,000.
 5. **PROFESSIONAL LIABILITY.** Client agrees that Law Engineering's liability to Client or any third party due to any negligent professional acts, errors or omissions or breach of contract will be limited to an aggregate of \$50,000 or our total fee, whichever is greater. If Client prefers to have higher limits of professional liability, we agree to increase the limit up to a maximum of \$1,000,000 upon Client's written request at the time of accepting our proposal, providing that Client agrees to pay an additional consideration of ten percent of our total fee, or \$500, whichever is greater. The additional charge for the higher liability limit is because of the greater risk assumed by us and is not a charge for additional professional liability insurance.
 6. **OPERATIONS.** Client will arrange for right-of-entry to the property for the purpose of performing studies, tests and evaluations pursuant to the agreed services. Client represents that it possesses necessary permits and licenses required for its activities at the site.

Law Engineering's field personnel are trained to initiate field testing, drilling and/or sampling within a reasonable distance of each designated location. Our field personnel will avoid hazards or utilities which are visible to the site. If we are advised or given data in writing that reveal the presence or potential presence of underground or overground obstructions, such as utilities, we will give special instructions to our field personnel. Law Engineering is not responsible for any damage or losses due to undisclosed or unknown surface or subsurface conditions, owned by Client or third parties. Except as a result of our sole negligence, Client agrees to indemnify us from any such claims, suits or losses, including reasonable attorney's fees, resulting therefrom.

We will take reasonable precautions to minimize damage to the property caused by our operations. Our fee does not include any cost of restoration due to any damage which may result. If Client desires us to repair such damage, we will comply and add the cost to our fees.

Field tests or boring locations described in our report or shown on sketches are based on specific information furnished by others or estimates made in the field by our personnel. Such dimensions, depths or elevations should be considered as approximations unless otherwise stated in our proposal or report.
 7. **FIELD REPRESENTATIVE.** The presence of our field personnel, either full-time or part-time, will be for the purpose of providing observation and field testing of specific aspects of the project as authorized by Client. Should a contractor, not retained by us, be involved in the project, Client will advise contractor that our services do not include supervision or direction of the actual work of the contractor, his employees or agents. Client will also inform contractor that the presence of our field representative or observation or testing by us will not relieve the contractor of his responsibilities for performing the work in accordance with the plans and specifications.
- If a contractor (other than a subcontractor to Law) is involved in the project, Client agrees that, in accordance with generally accepted construction practices, the contractor will be solely and completely responsible for working conditions on the jobsite, including safety of all persons and property during performance of the work, and compliance with OSHA regulations, and that these requirements will apply continuously and not be limited to normal working hours. It is agreed that we will not be responsible for job or site safety on the project and that we do not have the duty or right to stop the work of the contractor.
8. **UNFORESEEN CONDITIONS OR OCCURRENCES.** It is possible that unforeseen conditions or occurrences may be encountered which could substantially alter the necessary services or the risks involved in completing our services. If this occurs, we will promptly notify and consult with Client, but will act based on our sole judgment where risk to our personnel is involved. Possible actions could include:
 - (a) Complete the original Scope of Services in accordance with the procedures originally intended in our Proposal, if practicable in our sole judgment;
 - (b) Agree with Client to modify the Scope of Services and the estimate of charges to include study of the unforeseen conditions or occurrences, with such revision agreed to in writing;
 - (c) Terminate the services effective on the date specified by us in writing.
 9. **SAMPLE DISPOSAL.** Test specimens or samples generally are consumed or substantially altered during testing and are disposed of immediately upon completion of tests. Drilling samples and other specimens are disposed of 30 days after submission of our report.
 - A. **NON-HAZARDOUS SAMPLES.** At Client's written request, we will retain preservable test specimens or the residue therefrom for 30 days after submission of our report free of storage charges. After the initial 30 days and upon written request, we will retain test specimens or samples for a mutually acceptable storage charge and period of time. Client agrees that we are not responsible or liable for any loss of test specimens or samples retained in storage.
 - B. **HAZARDOUS OR POTENTIALLY HAZARDOUS SAMPLES.** In the event that samples contain hazardous constituents, we will return such samples to Client, or using a manifest signed by Client as generator, we will have such samples transported to a location selected by Client for final disposal. Client agrees to pay all costs associated with the storage, transport, and disposal of samples. Client recognizes and agrees that we are acting as a bailee and at no time assume title to said materials.
 10. **CLIENT DISCLOSURE.** Client agrees to advise us upon execution of this Agreement of any hazardous substances or any condition, known or that should be known by Client, existing in, on, or near the site that present a potential danger to human health, the environment, or equipment. Client agrees to provide continuing information as it becomes available to the Client in the future. By virtue of entering into this Agreement or of providing services hereunder, we do not assume control of or responsibility for the site or the person in charge of the site, or undertake responsibility for reporting to any federal, state or local public agencies any conditions at the site that may present a potential danger to public health, safety or the environment. Client agrees to notify the appropriate federal, state or local public agencies as required by law, or otherwise to disclose, in a timely manner, any information that may be necessary to prevent any danger to health, safety, or the environment.
 11. **ENVIRONMENTAL INDEMNITY.** In connection with toxic or hazardous substances or constituents, Client agrees to the maximum extent permitted by law to defend, hold harmless and indemnify Law Engineering from and against any and all claims and liabilities, unless caused by our sole negligence or willful acts, resulting from:
 - (a) Client's violation of any federal, state or local statute, regulation or ordinance relating to the disposal of toxic or hazardous substances or constituents;
 - (b) Client's undertaking of or arrangement for the handling, removal, treatment, storage, transportation or disposal of toxic or hazardous substances or constituents found or identified at the site;
 - (c) Toxic or hazardous substances or constituents introduced at the site by Client or third persons before or after the completion of services herein;
 - (d) Allegations that Law Engineering is a handler, generator, operator, treater or storer, transporter, or disposer under the Resource Conservation and Recovery Act of 1976 as amended or any other similar federal, state or local regulation or law.

If a third party brings suit or claim for damages against us alleging personal injury or property damage from exposure to or release of toxic or hazardous substances or constituents at or from the project site before, during or after the services of this Agreement, Client agrees to the maximum extent permitted by law to defend us and pay on our behalf any judgment resulting against us, including interest thereon, unless such damages are caused by our sole negligence.
 12. **EQUIPMENT CONTAMINATION.** We will endeavor to clean our laboratory and field equipment which may become contaminated in the conduct of our services. Occasionally, such equipment cannot be completely decontaminated because of the type of hazardous materials encountered. If this occurs, it will be necessary to dispose of the equipment in a manner similar to that indicated for hazardous samples and to charge Client as described above. Client agrees to pay the fair market value of any such equipment.
 13. **DOCUMENTS.** Law Engineering will furnish to Client the agreed upon number of reports and supporting documents. These instruments of service are furnished for Client's use in connection with the project or work provided for in this Agreement. For any other purposes, all documents generated by us under this Agreement, shall remain the sole property of Law Engineering.

If Client desires to provide our report to a third party, we will agree provided Client obtains written acceptance from the third party to be bound by these terms and conditions.

Client agrees that all documents furnished to Client or Client's agents or designees, if not paid for, will be returned upon demand and will not be used by Client for any purpose whatsoever. Client further agrees that documents produced by Law Engineering pursuant to this Agreement will not be used at any location or for any project not expressly provided for in this Agreement without our written approval.

Client shall furnish documents or information reasonably within Client's control and deemed necessary by us for proper performance of our services. We may rely upon Client-provided documents in performing the services required under this Agreement; however, we assume no responsibility or liability for their accuracy. Client-provided documents will remain the property of Client.

The documents we furnish to Client are intended for Client's exclusive reliance and internal use and not for advertising or other type of general distribution or publication. Client agrees to obtain our written permission for any exception. Any unauthorized use or distribution shall be at Client's sole risk and without liability to Law Engineering.
 14. **CLAIMS.** The parties agree to attempt to resolve any dispute without resort to litigation. However, in the event a claim is made that results in litigation, and the claimant fails to prevail, then the claimant shall pay all costs incurred in defending the claim, including reasonable attorney's fees. The claim will be considered proven if the judgment obtained and retained through any applicable appeal is at least ten percent greater than the sum offered to resolve the matter prior to the commencement of trial.
 15. **CONFIDENTIALITY.** Law Engineering will maintain as confidential any documents or information provided by Client indicated to be confidential and will not release, distribute or publish to any third party without prior permission from Client unless compelled by order of a court or regulatory body of competent jurisdiction.
 16. **SEVERABILITY.** In the event that any provision of this Agreement is found to be unenforceable, the other provisions shall remain in full force and effect.
 17. **SURVIVAL.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating responsibility or liability between Client and Law Engineering shall survive the completion of the services and the termination of this Agreement.
 18. **INTEGRATION.** This Agreement, the attached documents and those incorporated herein constitute the entire Agreement between the parties and cannot be changed except by a written instrument signed by both the parties.
 19. **GOVERNING LAW.** This Agreement shall be governed in all respects by the laws of the State of Georgia.
- *Applies only if toxic or hazardous substances or constituents are involved or encountered.



Vaughn & Melton

Engineers-Architects
BB&T Bldg. • Suite 810
One West Pack Square
Asheville, North Carolina 28801
Tel. (704) 253-2796
Fax. (704) 253-4864

August 26, 1991

Metropolitan Sewerage District of
Buncombe County, North Carolina
P. O. Box 8969
Asheville, North Carolina 28814
ATTN: Mrs. Angel Banks Morris

RE: LAJI Sewer Line Extension

Dear Angel:

Vaughn & Melton Engineers-Architects is pleased to have the opportunity to submit a proposal to The Metropolitan Sewerage District of Buncombe County, North Carolina, (MSD), to provide the professional engineering services to complete the design for the referenced project. It is exciting to think that this project may finally be constructed, as our firm has been working on it in some capacity since 1987.

Pursuant to your request, I submit to you the estimated fee for our services to continue the preparation of Sheets 27 and 28 of 31 of "Off-Site Sewer Extension for Glens of Beaver Lake" to completion, as follows:

- | | |
|---|--------------|
| 1. Class A surveys for parcels
tied to N. C. Grid ----- | \$1,335 |
| 2. Easement Plats for approx. 10 parcels ----- | 3,500 |
| 3. Staking of proposed manholes and design
changes due to any grade changes along
sewer profile ----- | <u>2,340</u> |
| TOTAL ESTIMATED FEE | \$7,175 |

It is difficult to estimate how much time will be involved trying to determine the boundaries close enough to assign NC Grid Coordinates to the point of entry and exit of each easement. Vaughn & Melton is willing to enter either a LUMP SUM or HOURLY agreement, whichever MSD prefers. Likewise, we are willing to negotiate individual fees for additional surveying for parcels with insufficient information to make confident decisions as to boundary line locations, once these parcels are identified.

Mrs. Angel Banks Morris
July 25, 1991
Page 3

Accepted this 20th day of August, 1991.

METROPOLITAN SEWERAGE DISTRICT OF
BUNCOMBE COUNTY, NORTH CAROLINA

By George S. Gray Jonda Norgett
Witness

Title Vice Chairman, MSD Board

Mrs. Angel Banks Morris
July 25, 1991
Page 2

Additional services to those listed above shall be paid for per hour in accordance with the attached HOURLY FEE SCHEDULE FOR ADDITIONAL SERVICES.

Invoices for services rendered will be sent at the end of each month. Payment will be due within thirty(30) days from the date of the invoice. The unpaid balance will accrue interest at a rate of 1.5% per month after thirty(30) days from the date of the invoice.

Vaughn & Melton understands that the firm is responsible for obtaining right of entry to the parcels along the proposed sewer line, and the contact with the parcel owners as it relates to surveying the line. The firm further understands that any additional courthouse research will be performed by a paralegal from the MSD.

The tentative schedule received by FAX on July 19, 1991, is acceptable to Vaughn and Melton. It is as follows:

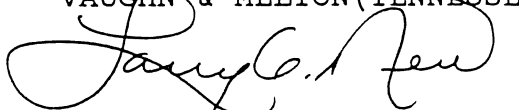
09/01/91 - 09/30/91	Final easement maps prepared and design plans finalized
10/01/91 - 10/31/91	MSD review and state certification
10/01/91 - 10/15/91	Title work by MSD
10/16/91 - 10/31/91	Easement acquisitions by MSD
11/01/91 - 11/30/91	Bid Process
12/01/91	Approximate construction date


Thank you for the opportunity to submit this proposal. If this proposal is acceptable as submitted, please have both copies properly signed and return one to this office. The signed proposal will become a LUMP SUM agreement for professional services.

If you have any questions, or wish to make any revisions, please give me call.

Sincerely,

VAUGHN & MELTON(TENNESSEE), INC.


Larry A. New, P.E., L.S.
Vice President


Witness

Enclosure: HOURLY FEE SCHEDULE FOR ADDITIONAL SERVICES

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HOURLY FEE SCHEDULE FOR ADDITIONAL SERVICES

METROPOLITAN SEWERAGE DISTRICT OF
BUNCOMBE COUNTY, NORTH CAROLINA

LAJI SEWER LINE EXTENSION

I. PROFESSIONAL FEES

Principal Engineer	\$85.00 per hour
Senior Professional Engineer	\$75.00 per hour
Professional Engineer or Surveyor	\$50.00 per hour
Engineer-in-Training	\$40.00 per hour
Technician III (Party Chief)	\$35.00 per hour
Technician II (Instrument Operator)	\$25.00 per hour
Technician I (Rodman)	\$20.00 per hour
Four Man Survey Crew	\$87.00 per hour
Three Man Survey Crew	\$75.00 per hour
Two Man Survey Crew	\$62.00 per hour
Draftsman (Technician III)	\$35.00 per hour
Draftsman (Technician II)	\$25.00 per hour
Draftsman (Technician I)	\$20.00 per hour
Construction Observer	\$35.00 per hour
Clerk/Typist	\$20.00 per hour

II. EXPENSES

- A. Mileage - Out-of-Town (Project Related) \$00.26 per mile
- B. Telephone, reproduction costs, postage, overnight lodging, meals and other incidental expenses shall be a direct charge per receipts.

III. ASSOCIATED SERVICES

Associated services required by the project such as soil analysis, materials testing, etc. shall be identified and agreed upon prior to initiating work.

7/25/91

METROPOLITAN SEWERAGE DISTRICT OF BUNCOMBE COUNTY
POLICY ON RIGHT OF WAY ACQUISITION

1.0 PURPOSE

The purpose of this Policy is to establish procedures for the Metropolitan Sewerage District (the "District") to acquire easements in real property for repair, rehabilitation and replacement of sewer lines through negotiation or by condemnation if necessary.

2.0 RESPONSIBILITY

2.1 The District Board of the Metropolitan Sewerage District (the District Board) shall be responsible for selecting and approving sewer line projects requiring the acquisition of easements. The District Board shall have final approval concerning expenditures of any funds for the acquisition of easements.

2.2 There shall be created a Right of Way Committee of the District Board (The Right of Way Committee). The Right of Way Committee shall be responsible for reviewing proposed easement acquisitions and shall make recommendations regarding easement acquisitions to the District Board. The Engineer-Manager shall serve as an ex-officio member of the Right of Way Committee.

2.3 The Right of Way Staff shall be composed of a Right of Way Coordinator, designated employees of the District and agents hired by the District pursuant to contract for easement acquisition. The Right of Way Staff shall work under the direction of the Engineering Division and the Engineer-Manager, and shall be responsible, subject to the approval of the District Board, for acquiring easements according to the procedures set forth herein.

3.0 PROCEDURE

3.1 PRE-NEGOTIATION

3.1.1 The District's Engineering Division shall notify the Right of Way Staff of upcoming Projects and provide a schedule for each Project including preliminary design completion, easement procurement period, bid date, construction start and any other important schedule considerations.

3.1.2 Upon completion of preliminary design, the Project Engineer shall provide the Right of Way Coordinator with a form indicating property owners over whose property the sewer line will cross (the Affected Property Owners) plan-profile sheets showing parcel numbers and property lines for Affected Property Owners and orthophoto maps highlighting parcel boundaries. The Project Engineer shall then prepare a proposal for preparation of easement maps to be presented to the District Board at its next scheduled meeting.

3.1.3 The Right of Way Coordinator will cause a map of the proposed route of the line and an article discussing the benefits of the line to be prepared for publication in the Asheville Citizen-Times or other appropriate newspaper.

3.1.4 The Right of Way Coordinator shall assign the Project to a member of the Right of Way Staff for easement acquisition. The member of the Right of Way Staff assigned to the Project shall hereinafter be referred to as the "Right of Way Agent."

3.1.5 The Right of Way Agent shall deliver to the District's attorneys the "Affected Property Owners" form with a request for ownership data information. An examination of the public record will be performed by the District's attorneys to determine the current owner of the property.

3.1.6 The Right of Way Agent will receive easement maps from the engineer's surveyor. Two maps should be placed in the file for use by the District and the owner and two should be sent to the District's attorney. The attorney will perform a thirty year title search for each Affected Property Owner, update the title and prepare the easement agreement.

3.1.7 In order to determine land values, representative parcels from differing zoning classifications will be studied. The Right of Way Agent will send to the District's appraiser (The Appraiser), a request for "Land Value Analysis" along with a description of the parcels chosen for study and any other information in the Right of Way Agent's possession regarding the property. The appraiser will prepare a Land Value Analysis for the chosen parcels. The Right of Way Agent will review the Land Value Analysis. A value for purposes of negotiation will be determined by using the fair market value as a base and applying other factors which impact the value.

3.1.8 The Right of Way Agent will review plans for the Project, title information for respective parcels, the land value analysis for the Project, easement maps and other relevant factors. Based on such review, the Right of Way Agent will submit to the Right of Way Committee a range of values (including values for special provisions) for compensation for easements across the respective parcels in the Project. The Right of Way Committee will review the proposed range of values and make a recommendation to the District Board. The District Board shall act on the recommendation of the Right of Way Committee as appropriate.

4.0 ACQUISITION BY NEGOTIATION

4.1 Once the title information, easement maps and land value information have been received, the Right of Way Agent will send a "Letter of Interest" to the Affected Property Owner. The Letter of Interest will present the need for an easement to the Affected Property Owner and request an appointment with the Affected Property Owner to discuss possible acquisition of an easement.

4.1.1 The Right of Way Agent will make all reasonable efforts to meet with the Affected Property Owner or his representative to discuss (1) the District's acquisition policy and procedure, (2) the easement contract and (3) to discuss possible compensation for an easement.

4.1.2 Any special provisions approved by the Engineer-Manager and the Right of Way Committee must be noted on a "Special Provisions Detail Sheet" to be filled out for each Affected Property Owner. A copy of the Special Provisions Detail Sheet should be placed in the file and a copy

provided to the Owner. A Special Provisions Summary Report should be filled out for the project and provided to the general contractor for the Project and the District's inspector.

4.1.3 If the District and the Affected Property Owner reach an agreement for acquisition of an easement, and the compensation to be paid for such easement, (including special provisions), is within the range of values approved by the District Board for the Project, the Right of Way Agent shall be authorized to obtain valid signatures on the Easement Agreement and return to the Affected Property Owner a copy of the recorded Easement. The Right of Way Agent shall also be responsible for mailing, by certified mail, or delivering to the affected Property Owner compensation for the easement.

4.1.4 Upon execution and recordation of the easement agreement, the Right of Way Agent shall complete any remaining documentation and prepare the file for closing.

5.0 ACQUISITION BY CONDEMNATION

5.1 If, after reasonable efforts by the Right of Way Agent (a minimum of three contacts, preferably in person) plus a follow-up by the Right of Way Coordinator, an agreement cannot be reached, the Right of Way Agent may request authority for condemnation from the Engineer-Manager and the Right of Way Committee. The Engineer-Manager and the Right of Way Committee will review the request and make a recommendation to the District Board to be considered at its next regularly scheduled meeting.

5.1.1 The Decision as to whether or not to proceed with condemnation shall be made by the District Board. If the District Board decides to proceed with condemnation, the Right of Way Agent will deliver to the District's attorneys a condemnation file containing copies of all correspondence with the owner, appraisal information and a "Condemnation Summary." The Right of Way Agent shall arrange for an MAI appraisal of the property.

5.1.2 Within ten days of the District Board's decision to proceed with condemnation, the District's attorneys shall send notice of the District's intentions to proceed with condemnation to the Affected Property Owner by certified mail.

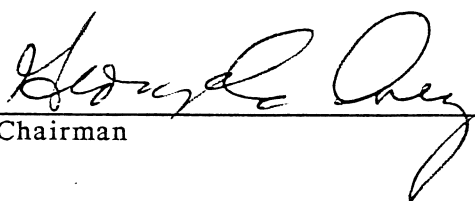
5.1.3 Thirty days after mailing to the Affected Property Owner the notice of condemnation, the District's attorneys shall file the necessary documents for condemnation with the Buncombe County Clerk of Superior Court.

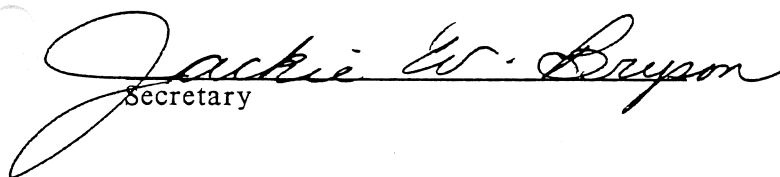
5.1.4 It is the District's policy to minimize court action and to utilize out of court settlements where possible. All settlements shall be approved by the District Board.

5.1.5 A "Condemnation Status Report" shall be provided monthly on each parcel in condemnation by the Right of Way Agent to the Engineer-Manager.

5.1.6 Upon award of condemnation, the Right of Way Agent shall complete any remaining documentation and prepare the file for closing.

Adopted by the District Board, this the 20th day of August, 1991.


Vice Chairman


Secretary

State of North Carolina
County of Buncombe

Resolution

Whereas, Myron C. Peterson was one of the original members of the Board of the Metropolitan Sewerage District of Buncombe County, North Carolina having taken office on February 16, 1962 upon the creation of the District and having served as a Board member until January 19, 1974; and

Whereas, Myron C. Peterson was elected Chairman of the original Board of the District and continued as Chairman throughout his tenure on the Board; and

Whereas, Myron C. Peterson's leadership, vision and dedication to the work of the District was instrumental in the design, construction and creation of a modern wastewater treatment facility that has added immeasurably to the quality of life for all citizens of the Buncombe community and has contributed significantly to the improvement of the water quality of the streams and rivers in the area; and

Whereas Myron C. Peterson died on August 10, 1991 and is survived by one son and one daughter and numerous grandchildren and great-grandchildren; and

Whereas, the Board of the Metropolitan Sewerage District desires to recognize and commemorate the contributions made by Myron C. Peterson to the health and well-being of the Buncombe County community by his service as a Board member and Chairman of the Metropolitan Sewerage District.

Now, Therefore, Be It Resolved:

One: That the members of the Board of the Metropolitan Sewerage District express to the family of Myron C. Peterson their deep regret at his death; and

Two: That the members of the Board of the Metropolitan Sewerage District recognize and publicly express their appreciation for the service by Myron C. Peterson to the District and his contribution to the well-being of this community; and

Three: That the original of this Resolution be placed in the permanent records of the Board and copies transmitted to the family of Myron C. Peterson and the Commissioners of Buncombe County.

Duly adopted this 20th day of August, 1991.

Frank S. Smith, Chairman
George E. Oney
Richard P. Maddox
Jackie W. Bryson
Martin E. Waldey
Carolyn N. Wallace

Stubsom Aetb
Lune K. McDonald
Charles W. Perry
Kurt Russell
M. Wayne Edwards
John A. Stearns
General Counsel

W. J. Miller
Engineer/Manager