

STANDARD CONTRACT COVER SHEET

Contract Number: 68-00401 Date: 9-23-68

Title or Purpose of Contract: Millrace Agreement

Amount: \$ \_\_\_\_\_ Account Code: \_\_\_\_\_ Federal Funds:  Yes  No

Contractor's Name: University of Oregon

Address: \_\_\_\_\_ Phone: \_\_\_\_\_

Responsible Department: Public Works Contract Administrator: \_\_\_\_\_ Phone: 687-5261

Other Departments Involved: \_\_\_\_\_

Signatures (Check):  City Manager  Finance Officer  Contractor

Manner of Award:  Formal Bid  Formal Quotation  Professional Service

*In File Required*

**General Requirements**

- 1. Eugene's standard contract provisions
- 2. Hold harmless clause and proof of insurance coverage refer to Appendix "A" CEPCPM
- 3. Independent contractor's declaration of "A" CEPCPM
- 4. Performance bond
- 5. Bid tabulation and record of bid invitation or quotations or proposals and requests for proposals
- 6. Affidavit of contractor's compliance
- 7. Agency approval for final payment on federal or state projects
- 8. Review and approval - City Atty.
- 9. Council approval  
Date: \_\_\_\_\_
- 10. Resolution No.: \_\_\_\_\_
- 11. Other \_\_\_\_\_

**If Contract is for Right-of-Way Property Appraisal**

- 1. Appraisal specifications, drawings and maps
- 2. Agreement for appraisal form (with HUD or DOT funds)
- 3. Appraisal review agreement (with HUD or DOT funds)

**If Contract is for Professional Services**

- 1. List of consultants contacted
- 2. Selection committee recommendations

**If Contract is for Capital Improvement**

- 1. Contractor's notice of award
- 2. Project work schedule
- 3. Inspection reports
- 4. Wage certifications
- 5. Final release certificate
- 6. Contract estimate report (CA-18 & 19-progress payments)
- 7. Notice of proposed call for bids and assessments (public works capital improvement assessed)

*In File Required*

**If Contract is for Community Development Project**

- 1. Certification of contractor's eligibility
- 2. Notice of preconstruction conference
- 3. Notice of Section 3 contract award
- 4. Preconstruction conference summary
- 5. Minority standards form
- 6. Neighborhood group recommendation (over \$10,000 only)
- 7. Certification of non-segregated facilities
- 8. Certification of equal employment opportunity
- 9. Contractor's notification of sub-contract awarded
- 10. Contracting activity report
- 11. Preconstruction conference summary checklist

**If Contract is for HCC Rehabilitation Loan**

- 1. Promissory note
- 2. Mortgage
- 3. Mortgage title insurance policy
- 4. Borrower's loan application
- 5. Credit Report
- 6. Advice to borrower
- 7. Order to proceed
- 8. Loan disbursement record
- 9. Contract completion affidavit

**If Contract is for Sale of Land and Private Development**

- 1. Development documents and offering schedule
- 2. Land sale notice and development proposal solicitation
- 3. Invoice and affidavit of publication of sale notice and proposal solicitation
- 4. Public notice of intention to execute contract
- 5. Invoice and affidavit of publication of intent
- 6. Authorized Renewal Agency signatures
- 7. Evidence of recording contract with County Department of Records and Elections
- 8. Evidence of equity capital and mortgage financing commitment
- 9. Deed copy
- 10. Title Insurance copy
- 11. Record of purchase price
- 12. Documentation of EEO conference with developer
- 13. Certificate of completion

DEPARTMENT OF FINANCE  
DATE RECEIVED FOR FILING

SEP 1 1981

FILE NO. OR REF. \_\_\_\_\_

THIS CONTRACT TERMINATES ON \_\_\_\_\_ IT SHOULD BE REVIEWED BY Perpetual ON \_\_\_\_\_

*per Julia Duval P-W Dept.*

## MILLRACE AGREEMENT

This agreement is entered into this 23<sup>rd</sup> day of Sept. 1968 by and among the City of Eugene, acting by and through its Common Council, hereinafter referred to as the City; and the State of Oregon, acting by and through the State Board of Higher Education for and on behalf of the University of Oregon, hereinafter referred to as the University.

## MILLRACE HISTORY

The millrace was built by Hilyard Shaw around 1851, utilizing in part the bed of a tributary slough branching off the Willamette River just below Judkins Point and travelling in approximately the present course of the millrace. Water power from the stream was utilized by sawmills, a grist mill, a woolen mill and other early industries. By the start of the present century, recurring floods had cut the bed of the Willamette River considerably deeper, thus lowering the level of the river below the millrace level. Around 1910, a new intake channel was dug and a diversion dam was constructed in the river to divert water into the millrace. Because of the expensive upkeep of the race, there was talk of abandoning the stream at this time, and in 1913 the first Millrace Protective Association was formed with about 100 members.

By the end of World War I, the millrace was being used less and less for industrial power but its recreational uses were increasing, especially by students of the University, and the scenic beauty of the stream made it a source of pride to the community.

A series of floods in 1941 and 1943 caused breaks in the walls separating the upper millrace from the river, and a section of this wall was replaced. When the railway tracks were relocated in the early 1940's a culvert with control structure was built under the railroad at its crossing a short distance west of the present location of the University Physical Plant, which served to by-pass excess water back into the Willamette; and a h-barrel culvert with headgate was constructed where the railroad crosses the millrace near Judkins Point. The latter is the principal inflow control structure on the millrace. In 1945-46 floods caused further breaks in the upper millrace walls, and this area was dammed off, leaving the stream bed dry.

In 1946 the City of Eugene obtained title to a portion of the millrace in connection with its acquisition of the right-of-way for the new highway. When the highway was built the following year, the Franklin Boulevard bridge

over the millrace was replaced by a concrete box culvert, 128 feet long with sufficient headroom for canoe passage. At this time the downstream portion of the millrace lying North of east Broadway was filled and a 30" diameter culvert having a capacity of approximately 20 cu.ft./second was installed to carry the millrace to its outlet into the Willamette River near the present Eugene Water and Electric Board offices. This culvert has proved inadequate. In 1949 the dammed upper millrace was by-passed with a 31" x 50" elliptical pipe and water again flowed in the stream.

In the spring of 1954, a committee consisting of citizens of Eugene, City Officials, and officials and students of the University of Oregon was formed to discuss the problems attendant upon the abandonment or restoration of the millrace. This committee, aided by reports made by the City Engineer's Office, and relying upon an engineering study embodied in a report by Cornell, Howland, Hayes and Merryfield, Consulting Engineers, Corvallis, Oregon, which report bears record number 896 and is dated October, 1955, recommended certain capital improvements, including pumping equipment to increase the velocity of flow, as being a feasible method of restoring the millrace. This work was completed in May, 1959. Other recommendations by the Committee included a fund for maintenance costs.

The first agreement existed between the City and the University from December 16, 1957, through December 15, 1967.

#### AGREEMENT

Based upon the foregoing facts, the parties hereto agree as follows:

1. Purposes. The purposes of this agreement are:
  - (A) To maintain to the extent economically feasible the recreational use and scenic appeal of the millrace;
  - (B) To maintain the functional use of the millrace as an integrated part of the storm sewer system of the City of Eugene; and
  - (C) To provide cooling water for the University's heating and power plant.

The University at its expense agrees to:

1. The University will have the full responsibility for filling the millrace with water, operating the pumps, gates, and any other necessary

control equipment, and for the normal maintenance of the pumps, and other control equipment, including replacement of component parts thereof in order to maintain the channel within its banks and to the capacity of the two existing pumps.

2. The University will pay for power for the pumps according to the Eugene Water and Electric Board C-3 Schedule, a copy of which is attached to this agreement.

3. The maintenance of the millrace channel as to cleaning of the brush and debris in order to maintain proper flow will be the responsibility of the University where the channel borders University owned land.

4. The University will maintain its own bridges (those not serving a public street).

5. The University is not obligated to maintain a standby pump, and if a pump breaks down it will be repaired as quickly as possible by the University.

6. No penalty will be assessed for the University failing to maintain flow level if pumps are inoperative and are being repaired as agreed in one and five above.

7. The University assumes no responsibility for the cleaning of the upper channel that does not border University land and further does not guarantee proper flow if impeded by obstructions in this part of the channel. However, the University will take reasonable steps to obtain permission from bordering property owners to allow the University to clear this upper part of the channel.

8. The University may at any time withdraw water from the Upper Millrace for any purpose, provided that such withdrawal shall not materially interfere with the flow in the channel.

9. This agreement is subject at all times to the availability of state funds as budgeted for the University.

The City at its expense agrees to:

1. The City will maintain and clean out the lower channel as required to maintain a level flow, the lower channel being that part from the east end of the Franklin Boulevard culvert nearest the north end of Kincaid Street to the channel exit at the Willamette River.

2. The City will be responsible for the maintenance of all City owned bridges over the millrace channel.

General Provisions:

1. It is agreed that either party may ask that this agreement be reconsidered after five years have elapsed from date of signing.
2. It is understood by both parties that if the portion of the millrace needs to be drained, the City Engineer's Office will notify the Director of the University of Oregon Physical Plant if the drainage is for the lower millrace and the Physical Plant Director will notify the City Engineer if it involves drainage of the upper millrace; and in either case, every attempt should be made to give at least one week's notice. The cost involved in drainage will become the responsibility of the agency or party which desires the millrace drained.
3. Nothing herein shall be construed as a grant of water rights by the City to the University except insofar as such a grant shall be within the power of the City. The parties recognize that the use of the millrace water is subject to control by the appropriate authorities of the State of Oregon.

This agreement executed this 12<sup>th</sup> day of March 1968, pursuant to order and authority of Common Council of the City of Eugene; made on the 11<sup>th</sup> day of March 1968.

E. E. Bone  
Mayor

[Signature]  
City Manager

[Signature]  
City Recorder

Approved:

[Signature]  
Arthur S. Fleming, President  
University of Oregon

This agreement executed this 23<sup>rd</sup> day of Sept. 1968, pursuant to a resolution of the State Board of Higher Education made on the 9<sup>th</sup> day of Sept. 1968.

[Signature]  
H. A. Berk, Vice Chancellor for  
Business Affairs

[Signature]  
R. L. Collins, Secretary

Prepared And Approved As To Legal Form

Robert Y. Thornton  
Attorney General

By [Signature]  
Wolf von Otterstedt 8-1-68 Date  
Assistant Attorney General

SCHEDULE C-3  
GENERAL POWER SERVICE

APPLICATION

This schedule applies to all commercial, industrial or non-residential customers, including schools, clubs, public buildings, rooming houses, fraternities, sororities, apartment houses if the apartments are not individually metered, and apartment house halls and basements if for the common use of all apartments. Businesses combined with residences will be metered under this schedule.

All of the customer's lighting, heating and power requirements will be served under this schedule through a single meter at one point of delivery under one phase and voltage classification. Customers may obtain additional service under another voltage classification where required, but such service will be separately metered and billed.

Service will be supplied only at the phase and voltage as the Board may have available at the customer's premises.

Not applicable to standby or breakdown service although this schedule may be a part of that contract.

MONTHLY RATE

Demand Charge

First 200 kw of demand per month.....\$0.95 per kw  
All over 200 kw of demand per month ..... 0.70 per kw

Energy Charge

First 140 kwh per kw of demand .....\$0.0066 per kwh  
All over 140 kwh per kw of demand..... 0.0033 per kwh

Minimum Charge

The minimum charge per months shall be 75 per cent of the highest demand charge established during the preceding eleven months, but in no case less than \$1.00 for single phase service or \$3.00 for three phase service.

DEMAND

The demand shall be the maximum average kilowatt load used by the customer for any period of 15 consecutive minutes during the month. The demand may be determined at the option of the Board by one of the following methods.

1. By installation of a demand meter.
2. By assessment of periodic measurement.
3. In single motor installations by allowing 1 kw per horsepower of name plate rating.

MILLRACE AGREEMENT

THIS AGREEMENT MADE AND ENTERED INTO THIS 18 DAY OF December, 1957, BY AND AMONG THE CITY OF EUGENE, ACTING BY AND THROUGH ITS COMMON COUNCIL, HEREINAFTER REFERRED TO AS THE CITY; THE CITY OF EUGENE, ACTING BY AND THROUGH THE EUGENE WATER AND ELECTRIC BOARD, HEREINAFTER REFERRED TO AS THE WATER BOARD; AND THE STATE OF OREGON, ACTING BY AND THROUGH ITS STATE BOARD OF HIGHER EDUCATION FOR AND ON BEHALF OF THE UNIVERSITY OF OREGON, HEREINAFTER REFERRED TO AS THE UNIVERSITY,

WITNESSETH:

MILLRACE HISTORY

THE MILLRACE WAS BUILT BY HILYARD SHAW AROUND 1851, UTILIZING IN PART THE BED OF A TRIBUTARY SLOUGH BRANCHING OFF THE WILLAMETTE RIVER JUST BELOW JUDKINS POINT AND TRAVELING IN APPROXIMATELY THE PRESENT COURSE OF THE MILLRACE. WATER POWER FROM THE STREAM WAS UTILIZED BY SAWMILLS, A GRIST MILL, A WOOLEN MILL AND OTHER EARLY INDUSTRIES. . BY THE START OF THE PRESENT CENTURY, RECURRING FLOODS HAD CUT THE BED OF THE WILLAMETTE RIVER CONSIDERABLY DEEPER, THUS LOWERING THE LEVEL OF THE RIVER BELOW THE MILLRACE LEVEL. AROUND 1910, A NEW INTAKE CHANNEL WAS DUG AND A DIVERSION DAM WAS CONSTRUCTED IN THE RIVER TO DIVERT WATER INTO THE MILLRACE. BECAUSE OF THE EXPENSIVE UPKEEP OF THE RACE, THERE WAS TALK OF ABANDONING THE STREAM AT THIS TIME, AND IN 1913 THE FIRST MILLRACE PROTECTIVE ASSOCIATION WAS FORMED WITH ABOUT 100 MEMBERS.

BY THE END OF WORLD WAR I, THE MILLRACE WAS BEING USED LESS AND LESS FOR INDUSTRIAL POWER BUT ITS RECREATIONAL USES WERE INCREASING, ESPECIALLY BY STUDENTS OF THE UNIVERSITY, AND THE SCENIC BEAUTY OF THE STREAM MADE IT A SOURCE OF PRIDE TO THE COMMUNITY.

A SERIES OF FLOODS IN 1941 AND 1943 CAUSED BREAKS IN THE WALLS SEPARATING THE UPPER MILLRACE FROM THE RIVER, AND A SECTION OF THIS WALL WAS REPLACED. WHEN THE RAILWAY TRACKS WERE RELOCATED IN THE EARLY 1940'S A CULVERT WITH CONTROL STRUCTURE WAS BUILT UNDER THE RAILROAD AT ITS CROSSING A SHORT DISTANCE WEST OF THE PRESENT LOCATION OF THE UNIVERSITY PHYSICAL PLANT, WHICH SERVED TO BY-PASS EXCESS WATER BACK INTO THE WILLAMETTE; AND A 4-BARREL CULVERT WITH HEADGATE WAS CONSTRUCTED WHERE THE RAILROAD CROSSES THE MILLRACE NEAR JUDKINS POINT. THE LATTER IS THE PRINCIPAL INFLOW CONTROL STRUCTURE ON THE MILLRACE. IN 1945-46 FLOODS CAUSED FURTHER BREAKS IN THE UPPER MILLRACE WALLS, AND THIS AREA WAS DAMMED OFF, LEAVING THE STREAM BED DRY.

IN 1946 THE CITY OF EUGENE OBTAINED TITLE TO A PORTION OF THE MILLRACE IN CONNECTION

*For Original - See City Engineer's file # 12-8 - Public Works Dept  
Millrace*

WITH ITS ACQUISITION OF THE RIGHT-OF-WAY FOR THE NEW HIGHWAY. WHEN THE HIGHWAY WAS BUILT THE FOLLOWING YEAR, THE FRANKLIN BOULEVARD BRIDGE OVER THE MILLRACE WAS REPLACED BY A CONCRETE BOX CULVERT, 128 FEET LONG WITH SUFFICIENT HEADROOM FOR CANOE PASSAGE. AT THIS TIME THE DOWNSTREAM PORTION OF THE MILLRACE LYING NORTH OF EAST BROADWAY WAS FILLED AND A 30" DIAMETER CULVERT HAVING A CAPACITY OF APPROXIMATELY 20 CU.FT./SECOND WAS INSTALLED TO CARRY THE MILLRACE TO ITS OUTLET INTO THE WILLAMETTE RIVER NEAR THE PRESENT EUGENE WATER AND ELECTRIC BOARD OFFICES. THIS CULVERT HAS PROVED INADEQUATE. IN 1949 THE DAMMED UPPER MILLRACE WAS BY-PASSED WITH A 31" X 50" ELLIPTICAL PIPE AND WATER AGAIN FLOWED IN THE STREAM.

JOINT COMMITTEE RECOMMENDATION  
BASED UPON  
ENGINEERING STUDY

IN THE SPRING OF 1954, A COMMITTEE CONSISTING OF CITIZENS OF EUGENE, CITY OFFICIALS, AND OFFICIALS AND STUDENTS OF THE UNIVERSITY OF OREGON WAS FORMED TO DISCUSS THE PROBLEMS ATTENDANT UPON THE ABANDONMENT OR RESTORATION OF THE MILLRACE. THIS COMMITTEE, AIDED BY REPORTS MADE BY THE CITY ENGINEER'S OFFICE, AND RELYING UPON AN ENGINEERING STUDY EMBODIED IN A REPORT BY CORNELL, HOWLAND, HAYES AND MERRYFIELD, CONSULTING ENGINEERS, CORVALLIS, OREGON, WHICH REPORT BEARS RECORD NUMBER 898 AND IS DATED OCTOBER, 1955, RECOMMENDED CERTAIN CAPITAL IMPROVEMENTS, INCLUDING PUMPING EQUIPMENT TO INCREASE THE VELOCITY OF FLOW, AS BEING A FEASIBLE METHOD OF RESTORING THE MILLRACE. OTHER RECOMMENDATIONS BY THE COMMITTEE INCLUDED A FUND FOR MAINTENANCE AND A SHARING BY THE CITY AND THE UNIVERSITY OF BOTH CAPITAL AND MAINTENANCE COSTS. THE FOLLOWING CONCEPTS FROM THE OCTOBER, 1955, ENGINEERING REPORT WERE OF PARTICULAR INTEREST IN THE COMMITTEE DISCUSSIONS:

1. WASH-OUT PROBLEMS. "•• IN 1945 • A WASH-OUT 70 FEET WIDE EXISTED AROUND THE NORTH END OF THE DIVERSION DAM ACROSS THE WILLAMETTE RIVER. THIS BREAK HAS WIDENED TO SOMETHING OVER 150 FEET IN WIDTH, AND CONSIDERABLE MONEY HAS BEEN EXPENDED BY THE CITY OF EUGENE IN THE CONSTRUCTION OF A ROCK JETTY EXTENDING OUT FROM THE NORTH SHORE ABOVE THE DAM TO REDUCE WASHING OF THE NORTH BANK AND TO DIVERT WATER INTO THE MILLRACE. APPROXIMATELY FOUR ACRES OF CITY OF EUGENE PARK LAND HAVE BEEN WASHED AWAY AT THIS POINT." (PAGE 3)
2. FLOW MAINTENANCE PROBLEM. "DUE TO THE WASH OUT AT THE NORTH END OF THE WILLAMETTE RIVER DIVERSION DAM AND THE CONDITION OF THE CANAL WALL BETWEEN THE DIVERSION DAM AND THE RAILROAD CULVERT AND HEADGATE THE PRESENT FLOW IN THE MILLRACE CANNOT BE ASSURED WITHOUT EXTENSIVE REPAIRS AND ADDITIONS TO THE STRUCTURES." (PAGE 4)
3. PUMPING STATION POSSIBILITY. "AS AN ALTERNATIVE TO MAKING THE EXPENSIVE REPAIRS AND ADDITIONS TO THE DIVERSION DAM AND THE CANAL WALL ABOVE THE RAILROAD CULVERT AND HEADGATE, THE POSSIBILITY EXISTS OF PROVIDING A PUMPING STATION IN THE VICINITY OF THE RAILROAD CULVERT AND HEADGATE AND PUMPING THE REQUIRED WATER INTO THE MILLRACE." (PAGE 5)
4. RESULTS IF MILLRACE ABANDONED. "PREVIOUS STUDIES ALSO DEVELOPED THE COST OF ABANDONING THE MILLRACE. THE MILLRACE IS USED AS A STORM

SEWER FOR A PORTION OF THE CITY OF EUGENE AND IF THE MILLRACE IS ABANDONED, ADDITIONAL STORM SEWERS WILL NEED TO BE CONSTRUCTED AND THE CHANNEL THROUGH THE CITY WILL NEED TO BE FILLED. THERE IS A QUESTION AS TO THE LEGAL POSITION OF THE CITY REGARDING THE FILLING OF THE MILLRACE SINCE THE CITY DOES NOT OWN THE RIGHT-OF-WAY. IT IS UNDERSTOOD THAT THE LAND IS GRANTED TO THE OPERATOR OF THE MILLRACE FOR MILLRACE USE ONLY. WHETHER PRIVATE INDIVIDUALS FILL THE MILLRACE OR THE CITY FILLS THE MILLRACE, THE FILLING REPRESENTS A COST." (PAGES 7 AND 8)

THE ENGINEERING REPORT OF OCTOBER, 1955, OUTLINED THREE ALTERNATE SOLUTIONS DESIGNATED AS PLAN A, PLAN B AND PLAN C BASED ON VARYING VOLUMES OF FLOW IN THE MILLRACE CURRENT. PLAN C COMBINED FEATURES OF BOTH PLANS AND CALLED FOR PER SECOND FLOW OF 100 CUBIC FEET IN THE UPPER MILLRACE AND 20 CUBIC FEET IN THE LOWER MILLRACE. A MODIFICATION OF PLAN C WAS SUGGESTED AT A MEETING OF THE MILLRACE COMMITTEE OF THE ASSOCIATED STUDENTS OF THE UNIVERSITY OF OREGON ON OCTOBER 19, 1955. PURSUANT THERETO THE OCTOBER, 1955, REPORT WAS SUPPLEMENTED BY A LETTER DATED JULY 3, 1956 FROM CORNELL, HOWLAND, HAYES AND MERRYFIELD OUTLINING A PROPOSED MODIFIED PLAN C. THE OCTOBER 1955 ENGINEERING REPORT AS SUPPLEMENTED BY SAID LETTER OF JULY 3, 1956, WILL BE HEREINAFTER REFERRED TO AS THE C-H-M REPORT AND THE MODIFICATION OF "PLAN C" SET FORTH IN THE SUPPLEMENTAL LETTER WILL BE HEREINAFTER REFERRED TO AS "PLAN C - MODIFIED".

PLAN C - MODIFIED AS EXPRESSED IN THE C-H-M REPORT IS BASED UPON A FLOW OF 50 CU.FT./SECOND IN THE UPPER CHANNEL AND 20 CU.FT./SECOND IN THE LOWER CHANNEL AND EXPRESSED WITH COST ESTIMATES IN EXHIBIT A ATTACHED HERETO AND MADE A PART HEREOF.

#### AGREEMENT

BASED UPON THE FOREGOING FACTS THE PARTIES HERETO AGREE AS FOLLOWS:

1. PURPOSES. THE PURPOSES OF THIS AGREEMENT ARE: (A) TO RESTORE TO THE EXTENT ECONOMICALLY FEASIBLE THE RECREATIONAL USE AND SCENIC APPEAL OF THE MILLRACE; (B) TO MAINTAIN THE FUNCTIONAL USE OF THE MILLRACE AS AN INTEGRATED PART OF THE STORM SEWER SYSTEM OF THE CITY OF EUGENE; AND (C) TO PROVIDE COOLING WATER FOR THE UNIVERSITY'S HEATING AND POWER PLANT AND A POSSIBLE WATER SUPPLY FOR IRRIGATION. TO ACCOMPLISH THESE PURPOSES THE OPERATION OF THE MILLRACE BY GRAVITY FLOW WILL BE ABANDONED AND PUMPS WILL BE INSTALLED AT THE HEAD OF THE MILLRACE TO OBTAIN THE REQUIRED WATER TO MAINTAIN THE FLOW SUGGESTED IN "PLAN C - MODIFIED" OF THE C-H-M REPORT. THE RESTORATION PLAN CALLS FOR KEEPING THE MILLRACE CHANNEL IN GOOD CONDITION AND REPAIR AND FREE AND CLEAR OF DEBRIS.

2. ADOPTION OF ENGINEERING REPORT. THE PARTIES ADOPT PLAN C - MODIFIED OF THE C-H-M REPORT AS A GUIDE FOR THE IMPROVEMENTS HEREIN AGREED TO BE MADE. ALL PARTIES ACKNOWLEDGE

THAT THEY HAVE EXAMINED THE C-H-M REPORT, THAT IT IS THE BASIS OF THIS AGREEMENT, AND THAT SAID REPORT IS BEING RELIED UPON AS ESTABLISHING THE ENGINEERING AND ECONOMIC FEASIBILITY OF THE PROPOSED IMPROVEMENTS.

3. PREPARATION OF PLANS AND SPECIFICATIONS. THE CITY SHALL HIRE THE ENGINEERING FIRM OF CORNELL, HOWLAND, HAYES AND MERRYFIELD, CORVALLIS, OREGON, WHO SHALL BE RESPONSIBLE FOR THE PREPARATION OF THE PLANS AND SPECIFICATIONS REQUIRED FOR THE PURPOSE OF PUTTING INTO EFFECT PLAN C - MODIFIED. IN THE COURSE OF THE PREPARATION OF THE SPECIFICATIONS, A REPRESENTATIVE DESIGNATED BY THE CITY AND MR. I. I. WRIGHT, DIRECTOR OF THE PHYSICAL PLANT OF THE UNIVERSITY OF OREGON, AS A REPRESENTATIVE OF THE UNIVERSITY, SHALL BE CONSULTED, AND THE FINAL PLANS AND SPECIFICATIONS SHALL BE APPROVED IN WRITING BY THEM. IN GRANTING SUCH APPROVAL SAID REPRESENTATIVES SHALL BE GOVERNED BY PLAN C - MODIFIED.

THE CITY SHALL BEAR NO RESPONSIBILITY, AS A WARRANTOR OR OTHERWISE, FOR THE SATISFACTORY PERFORMANCE OF SAID PLANS AND SPECIFICATIONS.

4. CONSTRUCTION CONTRACT. FOLLOWING THE PREPARATION AND APPROVAL OF THE SPECIFICATIONS IN THE MANNER INDICATED IN SECTION 3, THE CITY SHALL, BY PUBLIC BIDDING, CONTRACT FOR AND OBTAIN AND PROCURE THE EQUIPMENT, CONSTRUCTION AND IMPROVEMENTS INVOLVED IN AND SPECIFIED UNDER THE "CAPITAL COSTS" OUTLINED IN PLAN C - MODIFIED. ALL CONSTRUCTION SHALL BE SUPERVISED JOINTLY BY THE CITY AND THE UNIVERSITY WITH EACH PARTY TO BEAR ITS OWN COSTS OF SUPERVISION.

5. CLEARING OF CHANNEL. THE CITY, AS A PART OF THE "CAPITAL COSTS" UNDER PLAN C - MODIFIED OF SAID ENGINEERING REPORT, SHALL CLEAR THE MILLRACE CHANNEL OF ALL DEBRIS IN BOTH THE UPPER SECTION AND THE LOWER SECTION.

6. COMPLETION DATE. THE FOREGOING RESPONSIBILITIES OF THE CITY AND THE WORK TO BE PERFORMED THEREUNDER SHALL BE UNDERTAKEN AND COMPLETED AS SOON AS REASONABLY POSSIBLE.

7. REIMBURSEMENT TO CITY. THE UNIVERSITY SHALL REIMBURSE THE CITY FOR ONE-HALF (1/2) OF THE CAPITAL COSTS ABOVE OUTLINED UPON RECEIPT OF AN ITEMIZED STATEMENT SHOWING THE ACTUAL EXPENDITURE BY THE CITY FOR LABOR AND MATERIALS DIRECTLY ON ACCOUNT OF SAID CAPITAL COSTS. NO OVERHEAD COSTS OF THE CITY SHALL BE INCLUDED IN OR ATTRIBUTED TO SAID CAPITAL COSTS. IN THE EVENT ONE-HALF OF THE CAPITAL COSTS SHALL EXCEED THE SUM OF \$24,000.00 THE UNIVERSITY SHALL REIMBURSE THE CITY FOR THE ENTIRE AMOUNT OF SUCH OVERAGE. THE TOTAL COST TO THE CITY OF EUGENE SHALL IN NO EVENT EXCEED THE SUM OF \$24,000.00.

8. ELECTRIC POWER PROVISIONS.

A. THE WATER BOARD WILL PROVIDE ALL POWER AND ENERGY REQUIRED BY THE UNIVERSITY TO OPERATE THE PUMPS AND WILL METER SUCH ENERGY. THE UNIVERSITY SHALL OPERATE AND MAINTAIN

THE PUMPING FACILITIES IN ANY MANNER DESIRED BY THEM EXCEPT THAT THE PUMPS SHALL BE SHUT DOWN DURING PEAK LOAD PERIODS ON THE WATER BOARD SYSTEM ON VERBAL REQUEST FROM THE WATER BOARD. PAYMENT FOR THIS POWER AND ENERGY SHALL BE BY REPLACEMENT IN KIND BY THE UNIVERSITY FROM THEIR OWN FACILITIES.

B. THE UNIVERSITY WILL GUARANTEE TO DELIVER TO THE WATER BOARD 200 KILOWATTS OF FIRM POWER AND ENERGY FOR PERIODS OF NOT LESS THAN THREE HOURS PER DAY FOR PEAKING OR OTHER PURPOSES ON VERBAL DEMAND OF THE WATER BOARD.

C. IN ADDITION TO THE ENERGY SUPPLIED BY THE UNIVERSITY IN CONNECTION WITH THE PEAKING POWER MENTIONED IN "B" ABOVE, THE UNIVERSITY WILL SUPPLY SECONDARY ENERGY TO THE WATER BOARD IN SUFFICIENT QUANTITIES SO THAT THE AGGREGATE OF BOTH FIRM AND SECONDARY ENERGY SUPPLIED WILL EQUAL THE ENERGY SUPPLIED TO THE PUMPING FACILITY. SUCH SECONDARY ENERGY SHALL BE SUPPLIED DURING TIMES CONVENIENT TO THE UNIVERSITY AND ACCEPTABLE TO THE WATER BOARD. THE WATER BOARD SHALL SET UP AND MAINTAIN AN ENERGY EXCHANGE ACCOUNT SHOWING MONTHLY DELIVERIES TO THE PUMPING FACILITIES, RECEIPTS FROM THE UNIVERSITY, AND THE NET BALANCE IN FAVOR OF EITHER PARTY. MONTHLY SUMMARIES OF THIS ACCOUNT SHALL BE FURNISHED THE UNIVERSITY. THIS ENERGY ACCOUNT SHALL BE CLOSED AT THE END OF EACH CALENDAR YEAR EXCEPT AS AGREED OTHERWISE BETWEEN THE UNIVERSITY AND THE WATER BOARD.

D. THE WATER BOARD WILL FURNISH, INSTALL AND MAINTAIN ALL EQUIPMENT AND FACILITIES NECESSARY TO SUPPLY ENERGY TO THE PUMPING FACILITY UP TO THE UNIVERSITY'S ENTRANCE SWITCH AT ONE STANDARD VOLTAGE. THE WATER BOARD WILL ALSO FURNISH, MAINTAIN AND OWN ALL LINES AND METERING EQUIPMENT NECESSARY TO TAKE AND MEASURE POWER AND ENERGY FROM THE UNIVERSITY'S TRANSFORMER AND SWITCHING FACILITIES.

E. ANNUAL REVIEW. THE UNIVERSITY AND THE WATER BOARD AGREE AT THE REQUEST OF EITHER TO REVIEW THE FOREGOING AT THE END OF EACH CALENDAR YEAR OF THIS CONTRACT AND TO MAKE SUCH AMENDMENTS AS ARE FAIR TO BOTH PARTIES IN LIGHT OF ANY CHANGES IN THE BONNEVILLE POWER ADMINISTRATION RATES OR OTHER FACTORS AFFECTING THIS AGREEMENT AND ITS PERFORMANCE BY THE UNIVERSITY AND THE WATER BOARD.

F. OPERATION AND MAINTENANCE. THE RESPONSIBILITY FOR OPERATING AND MAINTAINING THE MILLRACE AFTER THE COMPLETION OF THE IMPROVEMENTS SPECIFIED IN PLAN C - MODIFIED AND THE COST OF SAID OPERATION AND MAINTENANCE SHALL BE SHARED AS FOLLOWS:

A. THE UNIVERSITY SHALL HAVE FULL RESPONSIBILITY FOR FILLING THE MILLRACE, OPERATING PUMPS, GATES AND ANY OTHER NECESSARY CONTROL EQUIPMENT, AND FOR THE NORMAL MAINTENANCE OF PUMPS AND OTHER CONTROL EQUIPMENT, INCLUDING REPLACEMENT OF COMPONENT PARTS THEREOF, AND

FOR THE REMOVAL OF ANY DEBRIS PLACED IN THE MILLRACE AS A RESULT OF ANY ACTIVITY SPONSORED BY THE UNIVERSITY.

D. IN THE EVENT ANY OF THE PUMPS HAVE TO BE REPLACED DURING THIS CONTRACT THE COST OF PROCURING AND INSTALLING NEW PUMPS SHALL BE PAID BY THE UNIVERSITY.

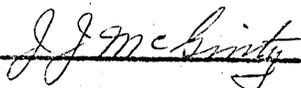
C. THE CITY SHALL BE RESPONSIBLE FOR THE MAINTENANCE OF ALL CITY OWNED BRIDGES OVER THE MILLRACE AND SHALL KEEP THE MILLRACE CHANNEL IN GOOD REPAIR AND FREE AND CLEAR OF DEBRIS AND SHALL AT LEAST ONCE A YEAR DRAIN AND MAKE A THOROUGH CLEANING OF THE MILLRACE CHANNEL. THE CITY'S ANNUAL LIABILITY FOR THESE PURPOSES OTHER THAN COSTS OF MAINTENANCE OF CITY OWNED BRIDGES, WHICH ARE CHARGED TO ANOTHER FUND, SHALL NOT EXCEED THE SUM OF \$2500.00 BASED UPON THE CURRENT PRICE LEVEL, SAID AMOUNT TO BE ADJUSTED ON THE BASIS OF ANY CHANGES IN FUTURE PRICE LEVELS.

10. USE OF WATER BY UNIVERSITY. THE UNIVERSITY MAY AT ANY TIME WITHDRAW WATER FROM THE UPPER MILLRACE FOR ANY PURPOSE, PROVIDED THAT SUCH WITHDRAWAL SHALL NOT MATERIALLY INTERFERE WITH THE FLOW IN THE MILLRACE.

11. TERM OF AGREEMENT. THE PROVISIONS OF THIS CONTRACT WITH RESPECT TO OPERATION AND MAINTENANCE OF THE MILLRACE AND THE EXCHANGE OF ELECTRICITY BETWEEN THE UNIVERSITY AND THE WATER BOARD SHALL BE BINDING UPON THE PARTIES FOR A PERIOD OF TEN (10) YEARS FROM THE DATE HEREOF. AT THE END OF SAID TEN (10) YEAR PERIOD THE CITY AND THE UNIVERSITY SHALL EACH OWN AN UNDIVIDED ONE-HALF (1/2) INTEREST IN WHATEVER PUMPS, GATES AND OTHER CONTROL EQUIPMENT ARE THEN IN EXISTENCE AND HAVE BEEN INSTALLED PURSUANT TO THIS CONTRACT. AT THE END OF TEN (10) YEARS THIS CONTRACT SHALL BE RENEWABLE FROM YEAR TO YEAR UPON THE MUTUAL CONSENT OF BOTH PARTIES.

12. WATER RIGHTS. NOTHING HEREIN SHALL BE CONSTRUED AS A GRANT OF WATER RIGHTS BY THE CITY TO THE UNIVERSITY EXCEPT INSOFAR AS SUCH A GRANT SHALL BE WITHIN THE POWER OF THE CITY. THE PARTIES RECOGNIZE THAT THE USE OF THE MILLRACE WATER IS SUBJECT TO CONTROL BY THE APPROPRIATE AUTHORITIES OF THE STATE OF OREGON.

" THIS AGREEMENT EXECUTED THIS 2 DAY OF July 1957, PURSUANT TO ORDER AND AUTHORITY OF THE COMMON COUNCIL OF THE CITY OF EUGENE, MADE ON THE 13TH DAY OF MAY, 1957. "

  
MAYOR

THIS AGREEMENT EXECUTED THIS 16 DAY OF December 1957, PURSUANT TO A RESOLUTION OF THE STATE BOARD OF HIGHER EDUCATION MADE ON THE 10 DAY OF December 1957.

UNIVERSITY OF OREGON

By *O. Meredith Wilson*  
O. Meredith Wilson, President

By *J. O. Lindstrom*  
J. O. Lindstrom, Business Manager

STATE BOARD OF HIGHER EDUCATION

By *H. G. Bork*  
H. G. Bork, Comptroller

By *Earl M. Pallett*  
Earl M. Pallett, Secretary

THIS AGREEMENT EXECUTED THIS 16<sup>TH</sup> DAY OF JULY 1957, PURSUANT TO A RESOLUTION OF THE BOARD OF DIRECTORS OF THE EUGENE WATER & ELECTRIC BOARD MADE ON THE 15<sup>TH</sup> DAY OF JULY 1957.

EUGENE WATER & ELECTRIC BOARD

By *Edmond J. ...*  
Superintendent-Secretary

PROPOSED IMPROVEMENTS PLAN C - MODIFIED

<u>CAPITAL COSTS</u>	<u>OCTOBER 1955 COSTS</u>	<u>JULY 1956 COSTS</u>
PUMPING STATION	\$ 33,290	\$ 37,300
OUTLET CONTROL STATION	450	500
SILVA CULVERT	750	850
CHANNEL, LOWER SECTION	500	500
CHANNEL, UPPER SECTION	<u>5,000</u>	<u>5,000</u>
TOTALS	\$ 39,990	\$ 44,150
<u>ANNUAL COSTS</u>		
POWER	\$ 3,300	\$ 4,350
OPERATION	1,000	1,000
MAINTENANCE (CANAL AND PUMP STATION)	2,000	2,000
BRIDGE MAINTENANCE	<u>1,000</u>	<u>1,000</u>
TOTALS	\$ 7,300	\$ 8,350

CAPITAL COST FOR THE PUMPING STATION, THE OUTLET CONTROL STATION AND THE SILVA CULVERT HAVE BEEN INCREASED BY APPROXIMATELY 15% TO COMPENSATE FOR A RISE IN CONSTRUCTION COSTS FOR WORK OF THIS TYPE SINCE THE INITIAL ESTIMATES WERE PREPARED.

ANNUAL POWER COSTS HAVE BEEN COMPUTED BASED UPON THE FOLLOWING CRITERIA. TWO PUMPS ARE CONTEMPLATED FOR INSTALLATION IN THE PUMPING STATION, WITH ONE PUMP ANTICIPATED TO OPERATE FULL TIME AND THE OTHER 50% OF THE TIME. WITH EACH PUMP PULLING 33 KILOWATTS AND AT THE EUGENE WATER AND ELECTRIC BOARD RATE OF APPROXIMATELY \$0.01 PER KILOWATT, AN ANNUAL POWER BILL OF \$4,350.00 IS PREDICTED. THE \$3,300.00 ITEM ESTIMATED AT THE CONFERENCE IN OCTOBER, 1955, IN ALL PROBABILITY WAS PREDICTED UPON PUMP OPERATION FOR PERIODS OF SHORTER DURATION. IT IS FELT THAT THE ABOVE COSTS ARE THE MAXIMUM COSTS THAT REASONABLY CAN BE ANTICIPATED AT THIS TIME.