

AGENDA
CITY COUNCIL - CITY OF ONTARIO, OREGON
Monday, March 5, 2012, 7:00 p.m., M.T.

1) Call to order

Roll Call: Norm Crume _____ Jackson Fox _____ Charlotte Fugate _____ Dan Jones _____
David Sullivan _____ Ron Verini _____ Mayor Joe Dominick _____

2) Pledge of Allegiance

This Agenda was posted on Wednesday, February 29, 2012, and a study session was held on Thursday, March 1, 2012. Copies of the Agenda are available at the City Hall Customer Service Counter and on the city's website at www.ontariooregon.org.

3) Motion to adopt the entire agenda

4) Consent Agenda: Motion Action Approving Consent Agenda Items

- A) Approval of Minutes of Regular Meeting of 02/21/2012 1-6
- B) Approval of the Bills

5) Public Comments: Citizens may address the Council on items not on the Agenda. Council may not be able to provide an immediate answer or response, but will direct staff to follow up within three days on any question raised. Out of respect to the Council and others in attendance, please limit your comment to three (3) minutes. Please state your name and city of residence for the record.

6) Presentation: Dan Norris, Malheur County District Attorney

7) New Business:

- A) Request for Special Permission to Connect to Sanitary Sewer - Robertson 7-9
- B) Bid Award: Cleaning & Inspection Water System Reservoirs 10-44
- C) Resolution #2012-103: ADA Lift at Aquatic Center 45-47

8) Discussion Items:

- A) Request to Move Forward: Ontario Fire Department New Pumper (*See Hand-out*)
- B) Golf Course Update (*See Hand-out*)
- C) Proposed Water and Sewer Connection Ordinance (*See Hand-out*)
- D) SBE Thermal Project (*See Hand-out*)
- E) Diagonal Parking

9) Correspondence, Comments and Ex-Officio Reports

10) Executive Sessions:

- A) ORS 192.660(2)(d) - Negotiations
- B) ORS 192.660(2)(h) - Litigation

11) Introduction of Upcoming Agenda Items:

- A) Audit Review
- B) Snake River Transit Update

12) Adjourn

MISSION STATEMENT: TO PROVIDE A SAFE, HEALTHFUL AND SOUND ECONOMIC ENVIRONMENT, PROGRESSIVELY ENHANCING OUR QUALITY OF LIFE

**COUNCIL MEETING MINUTES
February 21, 2012**

The regular meeting of the Ontario City Council was called to order by Mayor Joe Dominick at 7:00 p.m. on Tuesday, February 21, 2012, in the Council Chambers of City Hall. Council members present were Norm Crume, Joe Dominick, Jackson Fox, Charlotte Fugate, Dan Jones, David Sullivan and Ronald Verini.

Members of staff present were Henry Lawrence, Tori Barnett, Al Higinbotham, Larry Sullivan, Mark Alexander, Justin Allison, Bret Leavitt, Henry Filipponi, Lisa Hansen, Dan Shepard and Anita Zink. The meeting was recorded on tape, and the tapes are available at City Hall.

Guests present: Larry Meyer, Argus Observer; John Breidenbach, Ontario Chamber of Commerce; and Steven Schuback and Dan Rowan, LGPI.

Norm Crume led everyone in the Pledge of Allegiance.

AGENDA

Charlotte Fugate moved, seconded by Ronald Verini, to adopt the Agenda as presented. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

CONSENT AGENDA

David Sullivan moved, seconded by Norm Crume, to approve Consent Agenda Item A: Approval of the Regular Minutes of 02/06/2012; and Item B: Approval of the Bills. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

PUBLIC COMMENTS

John Breidenbach, President/CEO Ontario Chamber of Commerce, stated he was there due to a member of the Chamber whose business was across the river in Fruitland. That business was under the impression her business was left out of bid process from the Recreation Department. He did not know of any City policy that indicated a business had to be within the Ontario city limits to be involved in a bidding process. While he did approve of the shop local first campaign, anyone who knew him also knew he believed the Snake River was just a river, not a wall. He would like to see that any policies that came from the city indicate that chamber members be considered for any bid process. He had had a few conversations since, and believed the bid came in late. Please, as they moved forward, in working for the citizens of Ontario, keep in mind those across the river who worked and shopped here.

Mayor Dominick stated he was unaware of any policy that outlined that bids were for Ontario only.

Mr. Breidenbach stated he wasn't talking about going over to Boise; he was talking about those within the SREDA area.

Councilor Fox asked if the person Mr. Breidenbach was speaking about had actually asked to be in on the bid.

Mr. Breidenbach stated he believed that business had been for several years, and had actually received the winning bid on several occasions. The business was Big Sky Sportswear. The city was obligated to request three bids, and there were three received from within Ontario. Also, according to Mayor Dominick and Kathy Daly,

Ontario Aquatic Director, the bid from Big Sky came in late, something he had not been aware of when initially speaking with Big Sky.

Councilor Sullivan asked if she had been notified, and told it was because the bid had been submitted late?

Mr. Breidenbach stated he didn't know, but he would contact her tomorrow. His main goal was to ensure that those businesses that were just across the river in our vicinity were included. As the city moved forward on policies, perhaps that issue could be addressed.

Justin Allison, Ontario, stated on behalf of the Ontario Volunteer Firefighters, he wanted to give an invitation and update on the 33rd Annual Volunteer Firefighter's Benefit Dinner and Dance. It was scheduled for March 3rd. They would be serving tri-tip and chicken, with a live band and dance after dinner. There would be both a silent and live auction and many items to be raffled. The money raised covered programs such as the annual smoke detector program, testing and installing up to 250 households every year; it paid into the burn-out fund to assist families who had lost things due to fire; and they had purchased the vehicles to carry cascade system for both city and rural, used for refilling their bottles when on a fire, both city and rural. Each vehicle replacement was funded by the benefit dance money. They had also purchased ice machines for both Station One and Station Two, and they had purchased hand-tools and to work on the equipment. They thanked the generosity of their fellow citizens for the tremendous support already in the community. The Department wanted to provide a free ticket for two to the event. They hoped to see everyone there.

Mayor Dominick thanked the department for what they did for the community.

OLD BUSINESS

Ordinance #2666-2012: Consenting to the Assignment of the Malheur Home Telephone Company Franchise to CenturyLink QC (Second and Final Reading by Title Only)

Larry Sullivan, City Attorney, stated there had been no changes since first reading.

Ron Verini moved, seconded by David Sullivan, that the Mayor and City Council approve Ordinance No. 2666-2012, AN ORDINANCE CONSENTING TO THE ASSIGNMENT OF THE MALHEUR HOME TELEPHONE COMPANY FRANCHISE TO CENTURYLINK QC on Second and Final Reading by Title Only. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

NEW BUSINESS

Request for Special Permission to Connect to Sanitary Sewer

Dan Shepard, Engineering Technician III, stated Dale Ayers and his wife Marguerite, who owned property located at 1436 Horning Way, were requesting special permission from the City Council to connect to the sanitary sewer main near their property. Their septic system was failing and Malheur County Environmental would not issue a permit to repair the system because they were located within 300 feet of a municipal sewer main.

The property on Horning Way was located within 300 feet of the City of Ontario's sanitary sewer main. Oregon Department of Environmental Quality regulations did not allow Malheur County Environmental to issue a permit to fix or construct a septic system if the lot was within 300 feet of a public sewer system. Ontario Municipal Code, Title 8, Chapter 7, Section 8-7-4(M) stated "No Sewer Connection Outside City. There shall be no properties outside the City connected to the City sewer lines, except by special permission of the Council." Previous requests to connect from properties outside the city limits had been required by City Council to annex if their property was contiguous to city limits. The property was not contiguous to city limits and therefore not able to annex. This property was under an agreement to annex but was not annexed at this time.

The Council had asked that the property owners sign a consent to annex. He had spoken with the Ayers' about that request, and they were amenable to signing the document.

Mr. Sullivan stated the consent form was recordable with the county, so it would remain with the property.

Councilor Jones asked if they were going to move forward with the rest of the annexation, including the two streets next to it?

Mayor Dominick stated he believed it was in the hands of the engineering company.

Councilor Jones disagreed. It was up to city to move forward.

Mr. Sullivan stated that was correct; a city could officially begin the annexation process, directing the Public Works Director to obtain signatures.

Mayor Dominick stated he thought they were looking for more information.

Councilor Sullivan stated he thought they were waiting for information from Dan Cummings.

Councilor Jones asked if the city was in contact with Dan Cummings? He wanted to move forward to wrap this up. By next work session, have comments or Dan Cummings in attendance, as this needed to move forward. Can that be a time line?

Mayor Dominick stated the upcoming agenda was already pretty full.

Councilor Fox asked what the history of the area was. Why didn't that whole area annex?

Mr. Shepard stated Mr. Cummings was actually the project manager, and he helped get the financing. But what kept it from proceeding was that there were several changes of property. Mr. Cummings had wanted to bring this forward as one group, but he was having some difficulty with the people.

Councilor Fox verified they hadn't signed a Developmental Agreement before receiving water or sewer?

Mr. Shepard indicated he did not know.

Mayor Dominick stated those were good questions for staff at the study session. Please get your questions to either him or Henry, so answers would be available. The main issue before them was getting the Ayers' hooked up to sewer and a signature for the annexation.

Ron Verini moved, seconded by Charlotte Fugate, that the City Council approve the application to request connection to the City of Ontario sanitary sewer main for the property at 1436 Horning Way with the condition that the applicants sign a consent to annex. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

Approval of Hollingsworth Well Easement Settlement

Larry Sullivan, City Attorney, stated the purpose of this agenda item was to seek Council approval of the Hollingsworth well easement settlement for payment of annual easement fees from 1973 to 2011. In 1973, Hollingsworths', Inc., an Oregon corporation, recorded an easement granting to the City the right to use a well on Hollingsworths' real property. Since that time, that well had been used continuously by the City to water the golf course. Apparently as a result of a recent title search done by Hollingsworths', Inc., it was discovered that the easement required the City to pay an annual fee of \$250 for the granting of the easement. In November, 2011, the attorney for Hollingsworths', Inc., sent a demand letter to the City for the payment of \$26,867.26, for the unpaid annual well payments plus interest. As a result of negotiations between the parties, the outstanding balance was

reduced to \$10,281.56. This represented six years of annual payments plus interest in the amount of \$2,031.56, plus the remaining years of annual fees from 1973 to 2005 at no interest, in the amount of \$8,250. The City had already paid the sum of \$2,031.56, leaving a settlement balance of \$8,250. The City Attorney prepared a settlement and release agreement, and, as stated in the release, the City would have to pay the annual fee of \$250 beginning on March 20, 2012.

David Sullivan moved, seconded by Jackson Fox, that the Mayor and City Council authorize the payment of \$8,250 to settle the well easement claim made by Hollingsworths', Inc., of Ontario, an Oregon corporation. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

CORRESPONDENCE, COMMENTS, AND EX-OFFICIO REPORTS

- Mayor Dominick stated with regard to the Council Goals, he wanted to continue moving forward, by having step one and two filled out and ready for the March 1st study session.
- Mark Alexander gave an update on the new program regarding panhandling issues.
- Lisa Hansen stated she had been talking with the auditors and she would be finalizing the MDA. She believed they would be ready to do their presentation at the study session of March 5th. Had one hold-up with ODOT, due to a change in personnel, but everything moving forward.
- Tori Barnett reminded them that the study session on March 1st would begin at 1:30, as opposed to the regular time of 12:00. Also, there were still positions open on both the Planning Commission and the Recreation Board.
- Ron Verini stated since he had been a resident of Ontario, the city had never looked this good. We were financially solvent, the streets were cleaner, and there was a tremendous contingency in the bank. With the comments and calls he had received, there was an enormous amount of support for Henry Lawrence, and there was a lot of feeling that he was probably one of the best in the industry. He should be complimented for the job he's done for Ontario, as he was doing a hell of a job!
- Dan Jones asked about the transfer station. Could they please have an update on that at next work session? He was curious as to why it wasn't open yet.

Joe Dominick stated there had been a change in the access layout and the gentleman who had done the plans had gone out of business. They were looking to get those files from him. That would be up for discussion at the Thursday study session.

- Dan Jones asked when they would receive the details on last year's Golf Course numbers.

Henry Lawrence stated it would be ready by the next study session

- Joe Dominick stated he had been waffling with this all day, and he wanted to talk to them – his six Councilors. One part of being a team leader or as mayor was to let the council know when it was time for change. It was time for change, now, not tomorrow, now. They were seven ambassadors for this entire city. Not sections of the city, the entire city. They were not elected from a district or prescient. They were leaders for the entire community. The community expected them to lead and that's why they were elected. When community members saw Councilors disrespect city staff, it trickled throughout the entire community. That's why the change had to be today. Some attitudes and disrespect from many of them had gone too far. He truly could understand and respect if a Councilor could not respect any employee of the city; he had been in the same position. That was a personal option to do that; however, they were an elected official at all times, 24-hours a day. Therefore, he expected his Council to be professional, cordial,

and to use proper decorum at all meetings. The gavel would no longer be quiet. He would no longer tolerate attacks on department heads that were unwarranted. The questions needed to be strictly towards the issue, within the facts presented, and not personal. He made a very serious error a few weeks ago, and it would not happen again. He encouraged every member of the Council to remember they were elected officials 24-hours a day, not just when they were in that room. Any and all statements made, whether in that room or in the community, were that of an elected Councilor, or Mayor. When he stopped at his favorite store to buy beer, and he wasn't going to mention any names as he said last week they shouldn't name specific business, he was not in there as Joe, the print shop owner, but as the Mayor, and he needed to know that and present himself accordingly. No matter how much they wanted to be private citizens, they gave that up when they were elected. They were elected because the taxpayers demanded efficient use of their tax dollars, and productive workers who didn't waste time or money. Because of City Manager Henry Lawrence, they had the best budget for the city in 10 years. They had the most productive staff in history. Because of the disrespect shown by this Council, that productivity was in jeopardy. So he was asking that he, and the Council, to remember to act professional, cordial, and to use proper decorum at all meetings. When in the community, one last time, remember, they were Councilors and he was the Mayor, 24-hours a day. Show the community and the employees the respect they deserved. There was no response needed, because they all knew what they needed to do to move this city forward as elected officials. Thank you.

- Norm Crume stated he wanted to add to what the Mayor had said, and to be a little more specific, and the first thing he wanted to say was Henry, he was sorry. He was sorry that he didn't act on the feelers that he put out, letting them know what was going on. He felt at the time it was just a Councilor, or Councilors, way of doing business. He didn't think much more of that. Obviously, he was naïve to think that. To go along with that, he wanted to state that he believed a particular Councilor had an agenda. He didn't know that as fact, it was just his own personal feeling, that the said Councilor wants the City Manager to leave. It really bothered him to hear, out in the community, the half-truths or three-quarter truths, that he had been hearing from people that he respected and admired. And to know that the information given to those people was given by a Councilor that knew the same information that he knew. He didn't understand why that entire information wasn't given, and it had been hard to get that information straightened out once their minds had been poisoned by thinking that Henry had screwed up on everything that this city had done over the last three years. Case in point: Councilor Fugate brought up two weeks ago a case about a road that was chip-sealed. The information around town was that it cost \$70K to repair it. Councilor Fugate went to the Public Works Director and found out the hard cost was \$10K and change. He didn't know what the deal was, but he heard that they hadn't added labor into that. So he went and checked himself. He went to John Bishop and asked what kind of time was taken, and what the process was, and it boiled down to this job was done at the end of a few other days, and the crews had been out doing other streets as assigned. They had come back after lunch, before doing clean-up, and before the end of the day, over three or four different days. Mr. Bishop guesstimated 40 man-hours to get the job done. At approximately \$30 per man hours spent, it was around \$1,200. So if the hard costs that Councilor Fugate got was \$10K and change, and adding in another \$1,200, that was a far cry from \$70K, Jack. He didn't understand his goal other than to have the City Manager leave.

Another one was that Councilor Fox believed there was a nepotism problem here within the city. For somebody that was on the outside, when they saw numerous people of a certain family, or families, working in one place, one could say nepotism could happen. He had been there three years as a Councilor, and he hadn't heard of any instance yet. He didn't understand. To him, every time Councilor Fox turned around, he had to look for the negative in the issues. He saw that they had some very fine employees, and he had never heard of any problems with that situation.

Another one that bothered him greatly, was that everyone on the Council had been given a draft copy of the audit. It said in big, bold letters across the front *DRAFT*, and that very day, it was spread all over town how bad a job Henry had done on the budget. In fact, he had heard that it had been given to the newspaper to print, and thank God they checked to see what the background was, and didn't. Correct him

if he was wrong, Lisa, but last time he heard, they were somewhere around \$10 off for the two-year budget.

Ms. Hansen stated it was just one year.

Councilor Crume stated it was a far cry from what the draft said. He could only think that with that type of action, Jack had only one thing in mind, and that was to ruin a man's life and his reputation. He was just not going to take it anymore. He sat there and respected his opinions and views, and he still did, but his actions, the way that he had held his position, had crossed the line, and it was just time for him to stand up and say so.

Another thing was the Fireman's Ball...on the advice of the Mayor, he was going to stop. He thought he had said enough, and he thought they got the idea. He just hoped that it could stop. All of their jobs were to be leaders throughout the community, and if they trying to tear down a person, or tear down departments, he didn't see that happening. He wanted to say to Henry, thank you, from the bottom of his heart, and he stood behind him all the way.

Mayor Dominick thanked Councilor Crume for his comments, and reiterated that was why he would be enforcing Council rules and Council decorum. He hoped the Council would respect that.

EXECUTIVE SESSION

Executive Session: ORS 192.660(2)(d)

An executive session was called at 7:50 p.m. under provisions of ORS 192.660(1)(d) to discuss labor negotiations. The Council convened into regular session at 9:05 p.m.

ADJOURN

David Sullivan moved, seconded by Ronald Verini, that the meeting be adjourned. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-yes. Motion carried 7/0/0.

APPROVED:

ATTEST:

Joe Dominick, Mayor

Tori Barnett, MMC, City Recorder

AGENDA REPORT

March 5, 2012

TO: Mayor and City Council

FROM: Dan Shepard, Engineering Technician III

THROUGH: Chuck Mickelson, Public Works Director

**SUBJECT: REQUEST FOR SPECIAL PERMISSION TO CONNECT TO SANITARY SEWER
45 NORTH DORIAN DRIVE – JOHN AND CAROL ROBERTSON**

DATE: February 27, 2012

SUMMARY:

- Exhibit “A” – Subject Property
- Exhibit “B” - Request for connection to sanitary sewer

John W. Robertson and his wife Carol, who own the property at 45 North Dorian Drive, are requesting special permission from the City Council to connect to the sanitary sewer main near their property. Their septic system is failing and Malheur County Environmental will not issue a permit to repair the system because they are located within 300 feet of a municipal sewer main.

PROBLEM DISCUSSION:

The property on Dorian Drive is located within 300 feet of the City of Ontario’s sanitary sewer main. Oregon Department of Environmental Quality regulations do not allow Malheur County Environmental to issue a permit to fix or construct a septic system if the lot is within 300 feet of a public sewer system. Ontario Municipal Code, Title 8, Chapter 7, Section 8-7-4(M) states “No Sewer Connection Outside City. There shall be no properties outside the City connected to the City sewer lines, except by special permission of the Council.” Previous requests to connect from properties outside the city limits have been required by City Council to annex if their property is contiguous to city limits. The property is contiguous to city limits and therefore able to annex.

FINANCIAL IMPLICATIONS:

There are no financial obligations for the City of Ontario.

STAFF RECOMMENDATION:

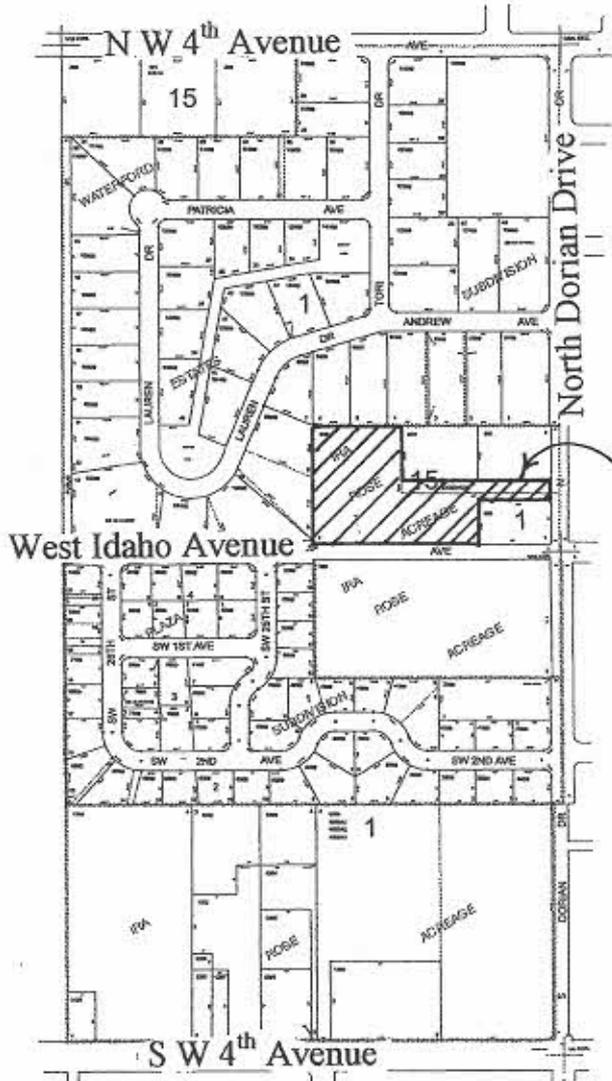
Staff recommends granting permission for Mr. Robertson to connect to the City’s municipal sewer system.

PROPOSED MOTION:

I move that the City Council grant permission to John W. Robertson to connect to the City’s municipal sewer system.

Exhibit "A"

Request to Connect to Sewer
45 North Dorian Drive (Robertson)
03-05-2012



John & Carol Robertson Property
45 North Dorian Drive
Ontario Oregon, 97914



Request to Connect to City of Ontario Sanitary Sewer from Outside City Limits

LOCATION MAP

Application for Sanitary Sewer Service Outside City Limits



Date: Feb 27, 2012

Name of Applicant(s): John Robertson
Carol Robertson

Location of Service: 45 North Dorian Drive

Date service needed: _____

Billing address: 45 North Dorian Drive
Ontario Oregon 97914

Is applicant (mark one): Owner Tenant Agent

If applicant is not owner, name and address of owner: _____

For Business
Business Name: _____
Address: _____
Employer/Tax ID #: _____

Connection to sanitary sewer outside city limits is by special permission of the City Council. Annexation to the city may be a requirement.

Applicant agrees to abide by all rules, regulations and ordinances of the City Of Ontairo, as now in effect or as changed or amended. Service installation cost to be paid for in advance by work order at the City of Ontario Permit Application Center, 458 SW 3rd Street, Ontario, Oregon, 97914. Before service can be activated, a Water Application must be submitted at City Hall, 444, SW 4th Street, Ontario, Oregon, 97914. Sewer rates for services outside city limits are 175% of those inside city limits. A deposit may be required.

Signature of Applicant(s): John W. Robertson
Date: 2-27- 2012
Carol Robertson
Date: 2-27- 2012

Approved:
Public Works Director _____
Chuck Mickelson Date _____ 2012

City Manager _____
Henry Lawrence Date _____ 2012

Attested: _____
City Clerk: Tori Barnett

AGENDA REPORT

March 5th, 2012

TO: Mayor and City Council

FROM: Bob Walker, Deputy Public Works Director

THROUGH: Henry Lawrence, City Manager

SUBJECT: BID AWARD CAPITAL IMPROVEMENT PROJECT: H2O Solutions, LLC; Cleaning & Inspection Water System Reservoirs and Water Plant Clear Wells

DATE: February 24, 2012

SUMMARY:

Construction bids were opened on January 31st, 2012 for the Cleaning & Inspection of Water System Reservoirs and Water Plant Clear Wells Project. H2O Solutions, LLC., of Bellevue, WA is the apparent lowest responsive and responsible bidder with a total Project Bid of \$14,950.00.

CLEANING & INSPECTION OF WATER SYSTEM RESERVOIRS AND WTP CLEAR WELLS	
Contractor	Bid
H2O Solutions, LLC., Bellevue, WA	\$14,950
Liquivision Technology Diving Services, Klamath Falls, OR	\$20,250
Clear Water Robotics, LLC., Nampa ID	\$43,800
Associated Underwater Services, Inc., Spokane, WA	\$92,840
Idaho Extreme Dive Team, Kuna, ID	\$149,100

PREVIOUS COUNCIL ACTION:

2011 Council adopted the 2011-2013 biennial budget that included project 13WAT-05 "Reservoir Cleaning".

BACKGROUND:

The Budget amount approved for the projects in 2011-2013 is \$25,000, CIP# 13-WAT-05. Bids from contractors were received on January 31st, 2012; the apparent lowest responsive and responsible bidder was H2O Solutions LLC., Bellevue Washington with a bid amount of \$14,950. The Public Works department would like to award the contract to H2O Solutions LLC.

RECOMMENDATION:

Staff recommends the City Council authorize the City Manager to sign the Contract with H2O Solutions for the Reservoir Cleaning Project.

PROPOSED MOTION:

I move the City Council authorize the City Manager to sign the Contract with H2O Solutions for the Reservoir Cleaning Project.



CITY OF ONTARIO
PUBLIC WORKS DEPARTMENT
444 SW 4TH STREET
ONTARIO, OR 97914

Invitation to Bid

**Cleaning & Inspection of
Water System Reservoirs and Water
Plant Clear Wells**

2012

Issue Date: January 10th, 2012
Due Date: January 31st, 2012 – 2:00 P.M. MST

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**PUBLIC NOTICE
INVITATION TO BID
CLEANING & INSPECTION OF WATER SYSTEM RESERVOIRS AND WATER PLANT
CLEAR WELLS**

The City of Ontario is seeking bids from qualified firms to provide Cleaning and Inspection of four potable water storage reservoirs: three (3) concrete, and one (1) steel reservoir plus Cleaning and Inspection of the Water Treatment Plant Clear Wells: Two (2) concrete clear wells, One ~87,000 gallons & One ~55,000 gallons. This work shall include: Professional Certified Divers to clean and provide narrated video inspection of each tank and the clear well. Tank Floors shall be cleaned by an underwater vacuum process (all debris/sediment/material shall be discharged outside tank). All necessary equipment & materials shall be supplied by the selected service contractor. Documentation of corrosion, pitting, de-lamination & sediment accumulations shall be provided to the City. Wall Cleaning/additional epoxy repair will be subject to a separate cost/rate. Concrete Ground Level Reservoirs: 1= 5 MG, 1= 1.76 MG, 1 = 1.0 MG, Steel Ground Level Reservoir = 3 MG; Concrete Clear Wells: - One ~87,000 gallons & One ~55,000 gallons . Qualified firms are invited to submit a bid for the services outlined in the City's Invitation to Bid.

The complete Invitation to Bid packet will be available on Tuesday, January 10th, 2012 and may be obtained at the City of Ontario – Reception Counter, 444 SW 4th Street, Ontario, Oregon 97914 or by calling Suzanne Skerjanec at (541) 881-3274.

Sealed bids will be received by the City of Ontario at Ontario City Hall, 444 SW 4th Street, Ontario, Oregon 97914 until 2:00 p.m. Mountain Standard Time, Tuesday, January 31st, 2012. There will be no formal opening. Facsimile and electronic bids will not be accepted. Bids will not be accepted after the stated opening date and time. Late bids will be returned to the vendor unopened.

Bidders are required to certify non-discrimination in employment practices, and identify resident status as defined in ORS 279.029. Pre-qualification of bidders is not required. All bidders are required to comply with the provisions of Oregon Revised Statutes and Local Contract Review Board (LCRB) Policy.

The City of Ontario reserves the right to:

1. Reject any or all bids not in compliance with public bidding procedures;
2. Postpone award of the contract for a period not to exceed sixty (60) days from date of bid opening;
3. Waive informalities in the bids; and
4. Select the bid which appears to be in the best interest of the City.

END OF ADVERTISEMENT FOR BID

Publish one time only in the Argus Observer under LEGAL on Tuesday, January 10th, 2012.

**SECTION A
INSTRUCTIONS BIDDERS**

1. ANNOUNCEMENT OF CALL FOR BIDS

The City of Ontario's Public Works Department is requesting bids from qualified firms for services related to Cleaning and Inspection of four potable water storage reservoirs and the water treatment plant clear wells using Certified Divers to clean and provide narrated video and documentation of inspection of each facility. .

2. TERM OF CONTRACT

The term of the service contract shall not exceed a period of Six (6) months with mutual options to extend for one (1) additional month period. An extension shall be by written notice sent by either party and written acceptance by the other. All other terms and conditions of the contract shall remain the same as set forth herein, and may be amended only by written instrument signed by both the City and Contractor and attached hereto as an amendment.

3. FORM OF CONTRACT

A copy of the City's standard general services contract, which the City expects the successful firm to execute, is included as "Attachment A". The contract will incorporate the terms and conditions from this ITB document and the successful Bidder's response documents. **Firms taking exception to any of the contract terms shall submit a protest or request for change in accordance with Section A, Item 14 "Protest of Scope of Work or Terms" or their exceptions will be deemed waived.**

4. TERMINATION

The contract may be terminated by mutual consent of both parties or by the City at its discretion with a 30 days' written notice. If the agreement is so terminated, Contractor shall be paid in accordance with the terms of the agreement.

5. BIDDER QUALIFICATIONS

Bidder(s) shall be a registered corporation, partnership, joint venture or individual licensed to do work in the State of Oregon at the time of submission of bid and during the work cycle. All Bidders and their sub-contractors shall be registered with the State of Oregon Construction Contractors Board (ORS 701.005 – 701.055). A contractor must not be listed on the *List of Parties Excluded from Federal Procurement and Non-Procurement Programs*, Oregon's list of *Contractors Not Qualified to Hold or Bid Upon Public Contracts or Public Improvement Projects*, or Oregon's *List of Contractors Ineligible to Receive Public Works Contracts*.

6. REFERENCES

All bidders must provide the City of Ontario with a list of references that contain the name, organization and telephone number of a person to be contacted who has a working knowledge of the bidder's experience and proficiency in performing services similar to those described in this Invitation to Bid. Provide a minimum of five (5) references for tank inspection and cleaning services on the form provided in Section D.

7. BID SUBMITTAL

- A. Sealed bids will be received by the City of Ontario Public Works Department at City Hall located at 444 SW 4th Street, Ontario Oregon, 97914 until 2:00 p.m., Mountain Standard Time on January 31, 2012 for materials and services as described in the accompanying specifications.
- B. **The bid and all amendments must be signed.** Each bid must be submitted in a sealed envelope and designated with proposal title. To assure that your bid receives priority treatment, please mark as follows:

BID ENCLOSED FOR:

City of Ontario
Cleaning & Inspection of Water System Reservoirs
and Water Plant Clear Wells
Attn: Delhie Block
444 SW 4th Street
Ontario, OR 97914

- C. **Bidder shall put their name and address on the outside of the envelope.** It is the Bidders' responsibility to ensure the bids are received prior to the stated closing time. The City shall not be responsible for the proper identification and handling of any bids submitted incorrectly. Late bids, late modifications or late withdrawals shall not be considered accepted after the stated bid opening date and time, and shall be returned unopened. Facsimile and electronic (email) bids will not be accepted.

8. BID FORMAT

- A. Bidder must use and fully complete the bid forms provided. **All requested forms (Rate Form, Signature Page, Subcontractor Information Sheet, Reference Sheet, Bid Certifications, etc.) must be submitted with the bid.** Bids will be considered incomplete unless accompanied by all submittals required of this bid document.
- B. The bid sheet of these specifications shall be signed with ink, as follows:
- 1) In the case of an individual bidder, by such individual bidder;
 - 2) In the case of a partnership, the name of the partnership must appear on such proposal and it shall be signed in the name of such partnership by at least one partner. In addition to such signature, the names of all partners shall be stated in such proposal;
 - 3) In the case of a corporation, the corporate name shall be subscribed by the president or other managing officer, and there shall be set forth under the signature of such officer the name of the office he holds or the capacity on which he acts for such corporation.

IMPORTANT NOTICE: Oregon State statutes require that City of Ontario go through a prescribed bid/quote/proposal process. A Bid is allowed under O.A.R. for certain goods or services. This Bid allows bidders the opportunity to submit to the City of Ontario the bid or bids that they feel will best serve the interests of the City of Ontario. The City of Ontario takes the bid/quote/proposal process seriously, and it is its intent to solicit bids/quotes/proposals that are accurate and that each bidder intends to honor. Bidders are expected to submit bids/quotes/proposals that are accurate, complete and contain all terms and conditions that they feel are necessary. If after submitting a bid/quote/proposal, the bidder finds changes are necessary, the bidder may change or withdraw their bid ANY TIME UP TO the time of the bid/quote/proposal closing time. However, after the closing time, the bid/quote/proposal *MAY NOT* be changed or altered in any way. If accepted, a bid/quote/proposal is considered a binding contract and non-cancelable that the bidder will be expected to honor. If for any reason the bidder does not perform, the City of Ontario can be expected to take whatever action it believes appropriate, including but not limited to, the removal of that bidder's name from future bid lists.

9. ACCEPTANCE OF CONDITIONS

Each bidder, by the submission of a bid, assents to each and every term, condition and specification set forth anywhere in this document and agrees to be bound thereby.

10. REJECTION OF BIDS

It is City of Ontario's intent to select the "lowest responsible bid" (ORS 279.031(6)(a)) based upon our evaluation of the responses to this Invitation to Bid. However, City of Ontario reserves the right to reject any and all bids deemed not in the best interest of City of Ontario or its patrons prior to the execution of an acceptable contract.

11. PROHIBITION OF ALTERATIONS

Bids which are incomplete or conditioned, or which contain any erasures, alterations, addition of items not called for in the *Scope of Services*, or that contain irregularities of any kind, or which are not in conformity with the law *may be rejected*, as well as bids that take exception to specifications or those that place conditions on the purchase, unless specifically indicated as acceptable.

12. INQUIRIES

If you have questions regarding technical specifications in this invitation to bid, please contact City of Ontario's designated representative for this contract: Delhie Block, telephone (541) 889-8011, email delhie.block@ontariooregon.org. All inquiries regarding bid procedures or documentation should be directed to the Public Works Department office at the number as listed above.

13. PROTEST OF SCOPE OF WORK OR TERMS

- A. Any protest to the scope of work or terms herein contained must be in writing and must indicate in detail the reason(s) for the protest, and a suggested change in wording or specifications that would remedy the cause for protest. A protest may be submitted via facsimile or electronically (email). All protests must be received by 2:00 P.M. SEVEN (7) calendar days prior to the official bid due date. All protest should be directed to the office of the City's designated representative Delhie Block, Water & Wastewater Superintendent and marked as follows:

City of Ontario – RFP Specifications/Term Protest
Cleaning & Inspection of Water System Reservoirs and Water Plant Clear Wells. Attn: Delhie Block
444 SW 4th Street
Ontario, OR 97914
(541) 889-8011 – office tel
delhie.block@ontariooregon.org

- B. All protests received prior to said time will be reviewed and acknowledged. Failure to do so shall be construed as the willingness of the Proposer to supply all necessary material and labor required for the proper completion of the work in a manner approved by the City of Ontario. If a protest is received in accordance with section above, the bid opening date may be extended if necessary to allow consideration of the protest and issuance of any necessary addenda to the bid documents.

14. INTERPRETATIONS AND ADDENDA

- A. If necessary, interpretations or clarifications in response to questions regarding this invitation to bid will be made by issuance of an "Addendum" to all prospective Bidders within a reasonable time prior to bid closing, but in no case less than 72 hours before the bid closing. If an addendum is necessary after that time, the City, at its discretion, can extend the closing date.
- B. Any Addendum issued that results in a change in the ITB must be acknowledged by submitting the "Acknowledgment of Addendum" with bid. **Only questions answered by formal written addenda will be binding.** Oral and other interpretations or clarifications will be without legal effect.

15. COST OF PREPARING A BID

The ITB does not commit the City to paying any costs incurred by bidders in the submission or presentation of a bid, or in making the necessary studies for the preparation thereof.

16. BID VALIDITY PERIOD

No bidder may withdraw his bid after the hour set for the opening thereof or before award of the Contract. An award of the contract to any bidder shall not constitute a rejection of any other bid. Each bid shall be irrevocable for a period of sixty (60) days from the bid opening date.

17. CONTRACTOR'S RESPONSIBILITY

It is understood that the specifications and other contract documents do not purport to control the method of performing the work, but only the requirements as to the nature of the completed work. The Contractor assumes the entire responsibility for the method of performing and installing the work. Suggestions as to the methods included in the contract documents shall be deemed advisory only and the feasibility of such methods, or the lack thereof, shall not affect the Contractor's liability, or status as an independent Contractor under this contract.

18. CITY FURNISHED PROPERTY

No Material, labor or facilities will be furnished by the City unless otherwise provided for in the Specifications.

19. EQUAL EMPLOYMENT COMPLIANCE REQUIREMENT

By submitting this bid, the bidder certifies conformance to the applicable Federal Acts, Executive Orders and Oregon Statutes and Regulations concerning Affirmative Action toward equal employment opportunities. All information and reports required by the Federal or Oregon Governments, having responsibilities for the enforcement of such laws, shall be supplied to the City of Ontario upon request, for purposes of investigation to ascertain compliance with such acts, regulations and orders.

20. NON-COLLUSION

By submitting a proposal, the Bidder certifies that the Bid has been arrived at independently and has been submitted without any collusion designed to limit competition.

21. PUBLIC RECORD

All materials submitted by bidders shall become property of the City and is public record unless otherwise specified. A bid that contains any information that is considered trade secret under ORS 192.501(2) should be segregated and clearly identified as such. This information will be kept confidential and shall not be disclosed except in accordance with the Oregon Public Records Law, ORS 192. The above restrictions may not include cost or price information, which must be open to the public.

**SECTION B
GENERAL CONDITIONS**

1. DEFINITIONS

As used in the Contract Documents, unless the context requires otherwise:

- A. "Owner" means City of Ontario
- B. "Contractor" means the person or persons with whom a contract is entered into by City of Ontario for the performance of the work.
- C. "Subcontractor" means a contractor to whom the contractor has subcontracted a portion of the work, and includes material suppliers who furnish fabricated items or materials to be incorporated into the work which are not of standard design but rather are fabricated or otherwise specially processed to a particular design required for the performance of some portion of the work. The subcontract may be directly with the contractor or with another subcontractor.
- D. "Contract Administrator" means the person or persons employed by City of Ontario to assure that the contract is successfully executed. This person means Delhie Block or her duly appointed successor.
- E. "Person" means either a natural or an artificial person which includes individuals, partnerships, corporations, and other associations.
- F. "Contract" or "Contract Documents" include the Agreement, Instructions to Bidders (Section A), General Conditions (Section B), Scope of Services (Section C), Bid Forms (Section D), Reservoir Locations (Exhibit A), and Addenda, if any, incorporated in the documents before their execution, and all agreements of work, whether by change order or otherwise, modifying or supplementing any of the documents.
- G. "Specification" means the directions, requirements, explanations, terms and provisions pertaining to the various features of the work, the manner and method of bidding for the work, the manner and method of performance of the work, and the manner and method of payment, all as they appear in the Contract Documents.
- H. "Directed", "required", "permitted", "selected", "ordered", "designated", "prescribed", or words of like import, mean the direction, requirement, permission, selection, order, designation, or prescription of the City of Ontario.

2. COMPLIANCE WITH LAWS AND REGULATIONS

The Contractor agrees to comply and to cause all of its subcontractors to comply with all applicable federal, state, or local laws and regulations, and any and all standards and regulations which may be promulgated during the contract term.

3. CONTRACTUAL RELATIONS WITH MATERIAL SUPPLIERS AND LABOR

A. The Contractor shall:

- i. Make payment promptly, as due, to all persons supplying to the Contractor labor, services, material, supplies or provisions for the prosecution of the work provided for in the current contract. If a contractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with this contract within 30 days after receipt of payment from

Owner, the contractor or subcontractor shall owe the person the amount due plus interest charges commencing at the end of the 10-day period that payment is due and ending upon final payment, see ORS 279.445 for exceptions. If the contractor or subcontractor fails, neglects or refused to make payment to a person furnishing labor or materials in connection with this contract, the person may file a complaint with the Construction Contractors Board, unless ORS 279.445 applies. See ORS 279.314.

- ii. Not permit any lien or claim to be filed or prosecuted against Owner on account of any labor or material furnished.
 - iii. Pay to the State Tax Commission all sums withheld from employees pursuant to ORS 316.711.
 - iv. Demonstrate that an employee drug testing program is in place per ORS 279.312(2).
- B. The Contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to the employees of the Contractor, of all sums which the Contractor agrees to pay for such services and all moneys and sums which the Contractor collected or deducted from the wages of his employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service.
- C. The Contractor, and every subcontractor or other person doing work or contracting to do the whole or any part of the work contemplated by the Contract, shall comply with all conditions and requirements of:
- i. Every law, regulation, order and decree promulgated by governmental authority and in effect at any time during the performance of the work to the extent applicable to the employment, discharge, wages, hours, working conditions, or other terms or conditions of employment of labor employed in connection with the work, or to employment and payment practices with respect thereto.
 - ii. Every agreement between any labor organization and the Contractor or subcontractor or other person doing or contracting to do the whole or any part of the work, as the case may be, in effect at any time during the performance of the work to the extent applicable to the employment, discharge, wages, hours, working conditions, or other terms or conditions of employment of labor employed in connection with the work, or to employment and payment practices with respect thereto.
 - iii. Contractor's personnel are to abide by all rules and regulations of the Owner, especially those relating to conduct, smoking, consumption of alcoholic beverages and safety.

4. PAYMENT OF CLAIMS BY OWNER

- A. If the Contractor fails, neglects or refuses to make prompt payment of any claim for labor, services, material, supplies or provisions furnished to the Contractor or a subcontractor by any person in connection with the Contract as such claim becomes due, the proper officer or officers representing Owner may pay such claim to the person furnishing the labor, services, material, supplies or provisions, and charge the amount of the payment against the funds due or to become due the Contractor by reason of the Contract.
- B. The payment of any claim in the manner herein authorized shall not relieve the Contractor or the Contractor's surety from liability with respect to any unpaid claims.

5. PROTECTION TO PERSONS AND PROPERTY

- A. During the execution of the work the Contractor shall provide and maintain all guards, railings, lights, warnings, and other protective devices which are required by law or which are reasonably necessary for the protection of persons and property from injury or damage.
- B. The Contractor shall protect and indemnify Owner from every claim or demand which may be made by reason of:
 - (i) Any injury to person or property sustained by the Contractor or by any subcontractor or other person employed directly or indirectly by the Contractor upon or in connection with the work, however caused.
 - (ii) Any injury to person or property sustained by any person caused by an act, neglect, default or omission of the Contractor or any subcontractor or other person employed directly or indirectly by the Contractor upon or in connection with the work.
- C. The Contractor, at the Contractor's own expense and risk, shall defend any and all actions, suits, or other legal proceeding that may be brought or instituted against Owner on any such claim or demand and pay or satisfy any order, judgment or decree that may be rendered against Owner in any such action, suit or legal proceeding.
- D. The Contractor shall assume full control of the site of the Contractor's operations and, until the completion of the work and its acceptance by Owner, shall be responsible for the premises and for the work and shall bear the risk of loss for all damage thereto, however caused, except loss covered by fire insurance carried by Owner.
- E. The Contractor shall exercise every possible care and precaution to protect the structure, its contents and site from damage from the weather or other causes, and shall bear the risk of loss for all damage thereto related however remotely to the Contractor's operations except loss covered by fire insurance carried by Owner.
- F. Contractor shall designate a responsible member of his organization at the site whose duty shall be the prevention of accidents. This person shall be Contractor's superintendent unless otherwise designated in writing by Contractor to Owner.
- G. In emergencies affecting the safety or protection of persons or the Work or property at the site or adjacent thereto, Contractor, without special instruction or authorization from Project Manager or Owner, is obligated to act to prevent threatened damage, injury or loss. Contractor shall give Project Manager prompt written notice of any significant changes in the Work or deviations from the Contract Documents caused thereby.

6. ASSIGNMENT

Neither this contract nor any interest therein shall be transferred to any other party or parties, and in case of such transfer, Owner may refuse to carry out this contract, either with the transferor or the transferee, but all rights of action for any breach of this contract by Contractor are reserved to Owner, and no officer of said Owner, nor any person employed in its service, is, or shall be, permitted any share or part of this contract or to any benefit which may arise herefrom; that the Contractor further agrees promptly as due, to make payment to all persons supplying labor or material for the prosecution of the work provided for herein, and the Contractor shall not permit any lien or claim to be filed or prosecuted against Owner for or on account of any labor or material furnished aforesaid.

7. SUBCONTRACTING

- A. All subcontracting shall be subject to the approval of Owner. No list of subcontractors approved by Owner may be changed or departed from except as consented to by Owner in writing. Prior to Owner approval of any subcontractor change all pertinent information must be submitted to the Project Manager, including Construction Contractor's Board Number, insurance, and etc. Whenever Owner consents to the substitution of one subcontractor for another, if any reduction in cost to the Contractor results therefrom, the amount thereof shall be passed on to Owner as a reduction in the amount to be paid to the Contractor for the performance of the work.
- B. The Contractor shall be wholly responsible for the performance of all subcontractors and for their acts and omissions, and those of persons either directly or indirectly employed by them, to the same extent as for the acts and omissions of persons directly employed by the Contractor, and the fact that subcontractors are subject to the approval of Owner shall not affect the Contractor's responsibility in this regard.
- C. The Contractor shall bind every subcontractor to all terms and conditions anywhere contained in the contract documents as far as applicable to the work of such subcontractor so that the subcontractor assumes toward the Contractor and toward the work all the obligations and responsibilities that the Contractor assumes toward Owner as to the performance of the subcontractor's portion of the work.
- D. Nothing contained in the contract documents shall be construed to create any contract between Owner and any subcontractor.

8. ROYALTIES AND PATENTS

The Contractor shall pay all royalties and other charges for the use of any patented article, device, method, process or invention in the performance of the work. The Contractor shall fully indemnify Owner and hold it harmless from any and all loss, damage, cost and expense in connection with any alleged infringement or patent rights in the performance of the work. The Contractor shall defend all claims, actions, suits or other legal proceeding with reference thereto and satisfy the requirements of any adverse judgment, decree or order resulting there from.

9. AUDIT OF BOOKS AND RECORDS

Owner, through its representatives, shall have access at all reasonable time to the books and records of the Contractor and subcontractors so far as they relate to the contract and the performance of the work.

10. BUILDING CODES AND REGULATIONS

The Contractor shall comply with all applicable regulations and requirements of governmental bodies with regulatory jurisdiction over the work. Where code requirements exceed the requirements of the specifications, the installation in conflict shall be made to comply with the code requirements and at no additional cost to the Owner.

11. MATERIALS AND WORKMANSHIP

- A. Unless otherwise specified, all materials and equipment shall be new and in production at time of bidding, and both materials and workmanship shall be of best quality of the type involved. Unless otherwise specified, manufacturer's directions for all manufactured articles shall be followed meticulously.
- B. No one shall be employed in connection with the work that is unskilled or unlicensed in the work he is given to do. Should the Contract Administrator deem anyone on the work incompetent or unfit for his duties, the Contractor or subcontractor employing him upon,

notification thereof, shall dismiss him immediately and shall not again employ him on any work for Owner.

- C. The Contractor must meet highest standards prevalent in the industry.
- D. Services performed, product application and equipment installed shall be in full compliance with the manufacturer's instructions.

12. OPERATIONS AND STORAGE OF MATERIALS

- A. The Contractor shall confine all operations and the storage of materials at the job site to the limits indicated by law and permits and as further directed by the Contract Administrator. Neither the Contractor nor any subcontractor nor any servant of the Contractor or of any subcontractor shall make any use of an existing Owner structure or any facility therein unless specifically authorized by the Contract Administrator.
- B. All materials/equipment must be delivered in original containers as packaged by the manufacturer, with the label intact. Empty containers must be stored at a designated area, and must remain on premises until satisfactory completion of all work or permission is received from Owner to dispose of packaging.

13. SUPERVISION

The Contractor at all times during the execution of work under this agreement shall have a competent superintendent or foreman on the job who shall be accessible at all times and have full authority to receive and execute orders or directions from Owner.

14. INSPECTIONS

- A. Owner's representatives shall be allowed access to all parts of the work at all times wherever it is in preparation or progress and shall be furnished every reasonable facility for ascertaining whether or not the work as performed is in accordance with the requirements and intent of the Contract Documents.
- B. If any work is covered up without the approval of the Contract Administrator or code officials, it shall be uncovered for examination, and after examination the Contractor shall perform all rework involved in correcting defective work and/or in restoring the same to the condition called for by the Contract Documents. In such case, the cost of uncovering the work and of all rework involved shall be borne by the Contractor.
- C. Owner shall have the right at any and all times to re-examine any part or parts of the work previously passed upon inspection. If at any time Owner desires to re-examine a part of the work previously passed upon inspection and thereafter covered up, Owner may order the same to be uncovered for reexamination. Such order shall be issued in writing over the signature of an authorized representative of Owner, and shall be strictly observed and complied with by the Contractor and all subcontractors involved. After reexamination, the Contractor shall perform all rework involved in correcting defective work and/or in restoring the same to the condition called for by the Contract Documents. If the work thus exposed and reexamined complies in all respects with the requirements of the Contract Documents, the order to uncover the same shall be deemed to be an order for an addition to or change in the work subject to the provisions of the Contract Documents. If such work does not comply in all respects with the requirements of the Contract Documents, the cost of uncovering the same and of all rework involved shall be borne by the Contractor.

D. Within TEN (10) days after notice of completion, Owner shall inspect the work and deliver to the Contractor a written statement of defects, if any, to be corrected prior to acceptance of the work. The Contractor shall correct such defects immediately.

15. REMOVAL OF EQUIPMENT, ETC.

The Contractor and subcontractor shall clear the site and surrounding areas of their equipment, apparatus, appliances, tools, unused material, etc., as rapidly as such items cease to be needed for the production of the work.

16. SEPARATE CONTRACTS

Owner shall have the right to let separate contracts for other work to be performed at or adjacent to the site of the Contractor's operations, in which event the Contractor shall cooperate in all reasonable ways to facilitate the operations of other contractors and shall avoid unnecessary interference therewith. Also, Owner reserves the right to perform work with its own crews at or adjacent to the site of the Contractor's operations and receive full cooperation.

17. INTENT OF CONTRACT

The Contract Documents shall be considered as a whole, and whatever is specified in any one of the documents shall have the same effect as if specified in all. Minor details of both labor and material that are necessary to complete each branch of the work shall be provided by the Contractor whether or not specifically mentioned in the specifications or on the drawings. Unless otherwise specified in the Contract Documents, it is the intent and meaning of the Contract that the Contractor shall take the site in the condition existing at the time of bidding for the work and provide and pay for all labor, materials, equipment, apparatus, appliances, tools, transportation, and other facilities and services necessary to complete the work to the fullest extent inferable from the Contract Documents. It shall be conclusively presumed that all conditions to be encountered in executing the work were known to and accepted by the Contractor at the time of bidding for the accepted work, except conditions concealed and not discoverable from information reasonably available to the Contractor.

18. INCONSISTENCIES

Inconsistencies, if any, shall be resolved as follows:

- A. The specifications control over code requirements where the requirements of the former exceed the latter.
- B. The Scope of Services control over the General Conditions.

19. FEDERAL, STATE, AND LOCAL STATUTES OR REGULATIONS

All structures, contract work, materials and/or equipment shall conform to applicable requirements of Federal, State or Local Statutes or Regulations. This includes, but is not limited to OSHA, fire regulations, noise abatement requirements, and EPA and DEQ requirements. All electrical equipment shall bear a UL or other approved label, and all rules pertaining to hazardous material shall be adhered to.

20. M.S.D.S. HAZARD COMMUNICATION

Any products used by contractor must be labeled in conformance with Federal and OSHA requirements, and with OAR Chapter 437, Division 155. M.S.D.S. (Material Safety Data Sheet) MUST be supplied on products, as used.

**SECTION C
SCOPE OF SERVICES**

1. SCOPE

Services for Cleaning and Inspection of four potable water storage reservoirs: three (3) concrete, and one (1) steel reservoir and two (2) clear wells. Concrete Ground Level Reservoirs: 1= 5 MG, 1= 1.76 MG, 1 = 1.0 MG, and One Steel Ground Level Reservoir = 3 MG; Concrete Clear Wells: One ~87,000 gallons & One ~55,000 gallons .

2. DESCRIPTION OF WORK

The work for Cleaning and Inspection of said water storage reservoirs and water plant clear wells shall include, but will not be limited to the following:

- A. Professional Certified Divers clean and inspect all reservoirs and the water plant clear wells.
- B. Provide narrated video inspection of each facility .
- C. Reservoir and Clear Well Floors shall be cleaned by underwater vacuum process. (all debris/sediment/material shall be discharged outside facility)
- D. All necessary equipment & materials shall be supplied by the selected service contractor.
- E. Documentation shall be provided to the City of corrosion, pitting, de-lamination & sediment accumulations.
- F. Wall Cleaning/additional epoxy repair will be subject to a separate cost/rate.

3. OTHER CONSIDERATIONS

- A. Contractor shall obtain and maintain in current status all applicable permits and licenses for inspections, tests and other services required for completion of work.
- B. If during the course of work the contractor experiences a conflict with the plans/scope of work, the contractor shall notify the Contract Administrator before proceeding with said work.
- C. Contractor shall keep the premises free from debris and accumulation of waste and shall remove construction smears and stains from finished surfaces. Contractor shall remove all surplus materials and tools from site at completion of job.
- D. City makes no guarantee as to any minimum amount of work that will be given the Contractor.
- E. Total cost for services under this contract, including any renewals, is subject to availability of funds.
- F. Subcontractors may be used by Contractor subject to City's approval. The Contractor must submit the full name, address, phone, fax, email and a copy of the subcontractor's Oregon Construction Contractor's license with each work order.
- G. Contractor may be required to provide a detailed description of any subcontractor's work and copies of agreements between the subcontractor and Contractor in the response to a work order.

- H. City reserves the right to contract with other contractors for similar services that may be provided under this contract during the period of the term agreement and any subsequent renewals if City believes it is in its best interest to do so.

4. INVOICING INFORMATION

- A. Each invoice shall include adequate detail to identify each service as it relates to each individual reservoir or the clear wells.. At a minimum the invoice shall detail and include the following:
- 1) The date of the service
 - 2) The reservoir/service location
 - 3) Copies of material invoices
 - 4) The job classification of the employees performing the work
 - 5) The applicable hourly rate
 - 6) The total time on-site
 - 7) The total charge for the service
- B. Invoices shall be sent to City of Ontario, Attn: Accounts Payable, 444 SW 4th St., Ontario, OR 97914.

5. MATERIAL SAFETY DATA SHEETS

Contractor shall not use any materials, products, or chemical which may be hazardous to an employee's health, unless a Material Safety Data Sheet is submitted to City for approval before use of product.

6. IDENTIFICATION

Contractor employees shall be easily identifiable while providing service through this contract. This identification shall be clearly visible and will include the company name and the name of the employee.

7. DISPATCHING

Contractor shall furnish a single point of contact to City for the placement of faxed or phone service requests to Contractor. This contact shall be furnished as a part of the contract and at no additional cost to City. The dispatch service shall be available from 8:00 AM to 5:00 PM (local time). Contractor shall make provisions for after hours dispatching and provide phone numbers for this purpose to the City Contract Administrator.

8. WORK ORDERS

- A. The Contract Administrator or the Designated Representative will place all requests for service directly to Contractor electronically (email) or by phone call. The Contract Administrator reserves the right to request from Contractor a written cost estimate before authorizing the work. Contractor shall respond with a cost estimate within 24 hours, excluding weekend and holiday, if the job/cost estimate is simple and small enough that it does not require site verification or site visit. If the job/cost estimate is more complicated or requires site verification or visit, the response time will be adjusted accordingly, up to 48 hours excluding weekends and holidays.
- B. Failure of Contractor to respond as required will constitute non-performance and City may take steps to secure compliance as stated elsewhere in the contract.

9. RESPONSE TIME AND PROCESS

- A. All maintenance services shall be completed within a reasonable and expedient manner, based on the severity of the request.
- B. If discrepancies occur in labor hours, the current edition of the National Electrical Contractors Associations (NECA) manual for labor units will be consulted and used as a guide to determine the reasonableness of labor charges.
- C. Contractor shall provide all necessary transportation to and from work sites. Transportation shall be fully insured by Contractor.
- D. Only upon request and authorization by the Contract Administrator or designee shall Contractor perform work after hours.
- E. Contractor will notify the Contract Administrator or Designated Representative upon completion of work. Notification shall be within thirty-six (36) hours of completion of assigned task.
- F. Failure to comply with response times shall be considered as non-compliance. Repeated failure to comply may result in contract termination.

10. MATERIALS PROVIDED BY CITY

All materials shall be provided by the contractor.

11. MATERIALS PROVIDED BY CONTRACTOR

All materials to be used shall be new.

12. WARRANTY & GUARANTEES

Unless otherwise specified herein, all goods shall be guaranteed and warranted for a period of twelve (12) months from the date of delivery, including parts and labor except damage caused by misuse, vandalism or act(s) of God.

13. OWNERSHIP OF DOCUMENTS

All work Contractor performs under this contract shall be considered work made for hire and shall be property of City. City shall own any and all data, documents, plans, copyrights, specifications, working papers and any other materials Contractor produces in connection with this contract. On completion or termination of this contract, Contractor shall deliver these materials to the Contract Administrator or his designee.

14. COST OF MATERIALS PROVIDED BY CONTRACT

Contractor shall supply all materials.

15. EQUIPMENT

Contractor shall furnish all equipment to provide Cleaning and Inspection of the four potable water storage reservoirs and the two water plant clear wells under the scope of this contract. If work to be performed requires special equipment, which is outside the scope of services described herein, Contractor with prior approval of the City's Contract Administrator or delegated representative may bill for rental equipment or use of their own special equipment at cost, with no additional charges to the City.

16. CITY-OWNED EQUIPMENT

Contractor shall not use City owned equipment, tools etc. in the performance of work under this contract.

17. CONTRACTOR'S PERFORMANCE

- A. Contractor shall perform all services required within these Specifications. All services shall be performed in the highest professional manner, and in accordance with all applicable, current industry standards, regulations, codes and statutes. Unless the means or methods of performing a task are specified elsewhere in this contract, Contractor shall employ methods that are generally accepted and used by the industry.
- B. Contractor will seek to be efficient with regard to time expended and costs incurred. For example, Contractor should inform City of opportunities to minimize travel costs by coordinating work done on behalf of City with other non-City related work Contractor may be performing.
- C. All work shall comply with applicable Oregon Statutes and applicable Health & Safety Laws and any other local, state, federal and industry regulations or standards applicable to the type of work being performed under the scope of the contract.
- D. City reserves the right to have any Contractor employee removed if the employee fails to perform within the requirements of this contract. The Contractor shall replace the excluded employee at the earliest possible date following the removal.
- E. Once an employee is removed for failure to perform, that employee shall not be used to service this contract at anytime during the term of the contract without written permission of the Contract Administrator or their Designated Representative.
- F. The rights and remedies of City provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

18. JOB CLASSIFICATIONS

The classifications required for the performance of the work under this contract and used in bid evaluation will be professional licensed diving experts. The use of apprentices by themselves will not be allowed in the performance of work under this contract. However, an apprentice may be allowed as a helper to the professional licensed diving expert.

**SECTION D
BID FORMS**

The following forms must be submitted with your bid in order to be considered responsive:

- Rate Form (page 19)
- Signature Page (page 20)
- Subcontractor Information Sheet (page 21)
- Reference Sheet (page 22)
- Bid Certifications (pages 23 & 24)

RATE FORM
Cleaning & Inspection of Water System Reservoirs and Water Plant Clear Wells

BID MUST BE SUBMITTED ON THIS FORM OR IT WILL BE CONSIDERED NON-RESPONSIVE

The Bidder, whose legal signature binds the Bidder to the quoted prices indicated on these pages, hereby proposes as follows:

Documentation shall be provided to the City of corrosion, pitting, de-lamination & sediment accumulations.

Wall Cleaning/additional epoxy repair will be subject to a separate cost/rate.

ITEM	UNIT PRICE	EXTENDED PRICE
Cleaning and Inspection of one 5 MG ground level concrete water storage reservoir	\$ _____	\$ _____
Cleaning and Inspection of one 1.76 MG ground level concrete water storage reservoir	\$ _____	\$ _____
Cleaning and Inspection of one 1 MG ground level concrete water storage reservoir	\$ _____	\$ _____
Cleaning and Inspection of one 3 MG Steel ground level water storage reservoir	\$ _____	\$ _____
Cleaning and Inspection of one ~87,000 gallons concrete clear well	\$ _____	\$ _____
Cleaning and Inspection of one ~55,000 gallons concrete clear well	\$ _____	\$ _____
Provide narrated video inspection of each tank/reservoir/clear well (separately).	\$ _____	\$ _____
Reservoir and Clear Well Floors shall be cleaned by underwater vacuum process. (all debris/sediment/material shall be discharged outside facility)	\$ _____	\$ _____
Documentation shall be provided to the City of corrosion, pitting, de-lamination & sediment accumulations.	\$ _____	\$ _____
Wall Cleaning/additional epoxy repair will be subject to a separate cost/rate as noted here.	\$ _____	\$ _____

Bid total spelled out: _____

Date: _____

Bidder's Representative Signature: _____

Print Representative's Name and Title: _____

Print Corporate Name of Bidding Firm: _____

SIGNATURE PAGE
CLEANING & INSPECTION OF WATER SYSTEM RESERVOIRS AND WATER PLANT
CLEAR WELLS

The undersigned agrees to perform all work as listed in the Contract Specifications sections, for the price(s) stated; and that all articles supplied under any resultant contract will conform to the specifications herein,

The undersigned agrees to be bound by all applicable laws and regulations, the accompanying specifications and by City policies and regulations.

The undersigned, by submitting a bid, represents that:

- A) The Bidder has read and understands the specifications.
- B) Failure to comply with the specifications or any terms of the Invitation to Bid may disqualify the Bidder as being non-responsive.

The undersigned certifies that the bid has been arrived at independently and has been submitted without any collusion designed to limit competition.

The undersigned certifies that all addenda to the specifications has been received and duly considered and that all costs associated with all addenda have been included in this bid:

Addenda: No. _____ through No. _____ inclusive.

We therefore submit this bid to furnish services at the price(s) indicated herein in fulfillment of the attached requirements and specifications of the City.

Bidder (Company Name): _____

Address: _____

Telephone Number: _____ Fax Number: _____

By: _____ Date: _____

(Signature of Authorized Official. If partnership, signature of one partner.)

Typed Name/Title: _____

If corporation, attest: _____

(Corporate officer)

Corporation Partnership Individual

Federal Tax Identification Number (TIN): _____

Oregon State Construction Contractor's Board No.: _____ Exp. Date: _____

**SUBCONTRACTOR INFORMATION SHEET
CLEANING & INSPECTION OF WATER SYSTEM RESERVOIRS AND WATER PLANT CLEAR
WELLS**

All subcontracting shall be subject to the approval of Owner (see Section B, Item 7).

Name: _____ CCB#: _____

Type of work to be performed under this service agreement: _____

Licensed? (please list licenses): _____

Name: _____ CCB#: _____

Type of work to be performed under this service agreement: _____

Licensed? (please list licenses): _____

Name: _____ CCB#: _____

Type of work to be performed under this service agreement: _____

Licensed? (please list licenses): _____

Name: _____ CCB#: _____

Type of work to be performed under this service agreement: _____

Licensed? (please list licenses): _____

**REFERENCE SHEET
CLEANING & INSPECTION OF WATER SYSTEM RESERVOIRS AND WATER PLANT CLEAR
WELLS**

Provide at least five (5) references below. A contact reference may be used in cases where Bidder performed services for the individual/organization referenced.

References

Contact Name	Organization	Telephone Number
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

BID CERTIFICATIONS
CLEANING & INSPECTION OF WATER SYSTEM RESERVOIRS AND WATER PLANT CLEAR WELLS

CERTIFICATION OF NON-DISCRIMINATION

Pursuant to ORS 279A.110, discrimination in subcontracting is prohibited. Any contractor who contracts with a public contracting agency shall not discriminate against minority, women or emerging small business enterprises in the awarding of contracts.

By signature of the authorized representative of the bidder/proposer, the bidder/proposer hereby certifies to the City of Ontario, Oregon that this bidder/proposer has not discriminated against minority, women, or emerging small business enterprises in obtaining any subcontracts; and, further, that if awarded the contract for which this bid or proposal is submitted, shall not so discriminate.

Date: _____

Signature: _____

Printed Name/Title: _____

Name of Firm: _____

CERTIFICATION OF RESIDENCY

The Bidder submitting this bid shall indicate below if the Bidder is a resident or nonresident bidder as defined by ORS 279.029. A resident bidder is defined as a bidder that has paid unemployment taxes or income taxes in Oregon during the twelve (12) calendar months immediately preceding submission of this bid and has a business address in Oregon.

Resident Bidder

Non-resident Bidder

Date: _____

Signature: _____

Printed Name/Title: _____

Name of Firm: _____

CERTIFICATION OF EMPLOYEE DRUG TESTING PROGRAM

ORS 279C.505 (2) requires that bidders shall demonstrate and disclose to the City of Ontario that he/she has an employee drug testing program in place before a public contract can be awarded. Therefore, by signing this Certification, the Bidder does hereby certify and confirm that he/she has an employee drug testing program in place that is consistent with, and satisfies the intent of, the above-referenced legislation.

Date: _____

Signature: _____

Printed Name/Title: _____

Name of Firm: _____



CERTIFICATION OF COMPLIANCE WITH OREGON TAX LAWS

I, the undersigned, hereby swear or affirm under penalty of perjury: (Check one) _____ that I am, to the best of my knowledge, not in violation of any Oregon tax laws. _____ that I am authorized to act in behalf of (corporation, partnership, trust or estate), that I have authority and knowledge regarding the payment of taxes, and that (corporation, partnership, trust or estate) is, to the best of my knowledge, not in violation of any Oregon tax laws.

For purposes of this certificate, 'Oregon tax laws' means those programs listed in ORS 305.380(4).

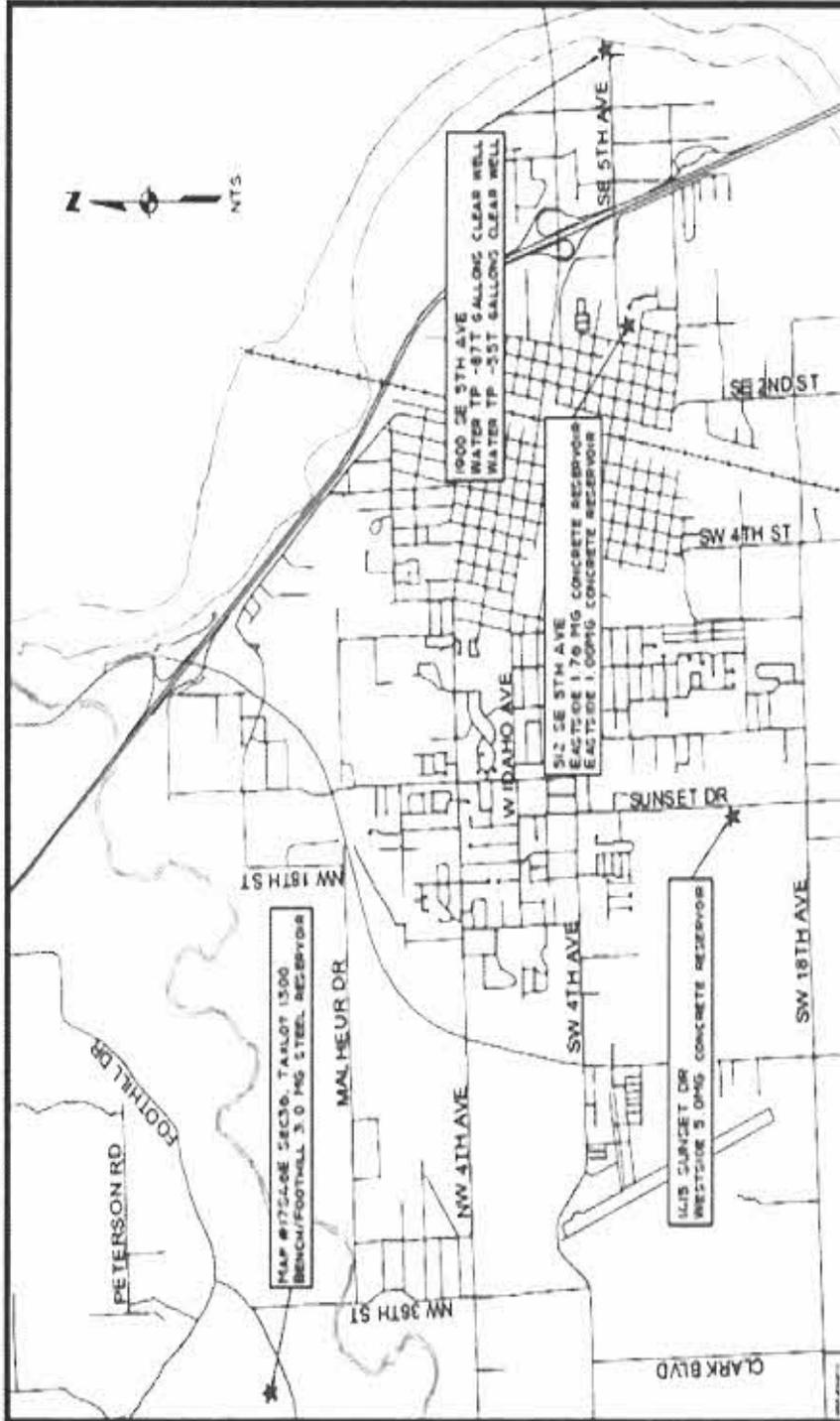
Date: _____

Signature: _____

Printed Name/Title: _____

Name of Firm: _____

**EXHIBIT A
RESERVOIR LOCATIONS**



City of Ontario Reservoir list by location (This information is meant to give the bidder a general overview of the quantity and types of reservoirs that will be subject to the service agreement. Bidder responsible for verifying the accuracy of the information provided).

NAME	ADDRESS

**** PLEASE NOTE: THE CITY RESERVES THE RIGHT TO ADD OR DELETE SERVICE LOCATIONS DURING THE TERM OF THIS AGREEMENT AS NEEDED.**

**ATTACHMENT A
SAMPLE CITY OF ONTARIO SERVICE AGREEMENT

TERM AGREEMENT FOR
(ENTER CONTRACT TITLE)**

THIS AGREEMENT made and entered into this (Day) of (Month), (Year) by and between the City of Ontario, a municipal corporation of the State of Oregon, hereinafter called City, and (Contractor's Name), hereinafter called Contractor.

RECITALS

WHEREAS, Contractor has submitted a bid or proposal to City to provide specific services; and

WHEREAS, Contractor is in the business of providing specific services and is aware of the purposes for which City requires the services; and

WHEREAS, City and Contractor wish to enter into a contract under which City shall purchase the services described in Contractor's bid or proposal;

THEREFORE, The parties agree as follows:

1. SERVICES TO BE PROVIDED

Contractor agrees to provide services related to (enter project title or brief description) as detailed in Exhibit A – Scope of Services and by this reference made a part hereof.

2. EFFECTIVE DATE AND DURATION

Contractor shall initiate services upon receipt of City's notice to proceed, together with an executed copy of this Agreement. This Agreement shall become effective upon the date of execution and shall expire, unless otherwise terminated or extended, on June 30, 2011. All services shall be completed prior to the expiration of this Agreement. The City and Contractor may agree upon executing one (1) two (2) year contract extension. The total length of this contract may not exceed four (4) years.

3. COMPENSATION

City agrees to pay Contractor an amount not exceeding (Amount in words) and (00-99)/100 dollars \$(Amount in numbers) for performance of those services described herein, which payment shall be based upon the following applicable terms:

- A. Payment will be made in installments based on Contractor's invoice, subject to the approval by the City, and not more frequently than monthly. Payment shall be made only for work actually completed as of the date of invoice.
- B. Payment by City shall release City from any further obligation for payment to Contractor, for services performed or expenses incurred as of the date of the invoice. Payment shall not be considered acceptance or approval of any work or waiver of any defects therein.
- C. Contractor shall make payments promptly, as due, to all persons supplying labor or materials for the prosecution of this work.
- D. Contractor shall not permit any lien or claim to be filed or prosecuted against the City on any account of any labor or material furnished.
- E. Contractor shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
- F. If Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to Contractor or a subcontractor by any person as such claim becomes due, City may pay such claim and charge the amount of the payment against

funds due or to become due the Contractor. The payment of the claim in this manner shall not relieve Contractor or their surety from obligation with respect to any unpaid claims.

- G. Contractor shall pay employees at least time and a half pay for all overtime worked in excess of 40 hours in any one work week except for individuals under the contract who are excluded under ORS 653.010 to 653.261 or under 29 USC sections 201 to 209 from receiving overtime.
- H. Contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation, furnishing medical, surgical, hospital care or other needed care and attention incident to sickness or injury to the employees of Contractor or all sums which Contractor agrees to pay for such services and all moneys and sums which Contractor collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service.
- I. The City certifies that sufficient funds are available and authorized for expenditure to finance costs of this contract.

4. ASSIGNMENT/DELEGATION

Neither party shall assign or transfer any interest in or duty under this Agreement without the written consent of the other and any attempted assignment or transfer without the written consent of the other party shall be invalid.

5. SUBMITTING BILLS AND MAKING PAYMENTS

All notices and bills shall be made in writing and may be given by personal delivery, mail or fax. Payments may be made by personal delivery, mail, or electronic transfer. The following addresses shall be used to transmit notices, bills, payments, and other information:

Contract Manager for City	Contract Manager for Contractor
City of Ontario	Company: (Contractor's business name)
Attn: (City's contact person's name)	Attn: (Contractor's contact person's name)
444 SW 4 th St., Ontario, Oregon 97914	Address: (Contractor's mailing address)
Phone: (541) 889-7684	Phone: (Contract person's phone number)
Fax: (Contact person's fax number)	Fax: (Contract person's fax number)
Email Address: (Contact person's email)	Email Address: (Contact person's email)

6. TERMINATION

The parties agree that any decision by either party to terminate this Agreement before (day) of (month), (year) shall be accompanied by thirty (30) days written notice to the other party prior to the date termination would take effect. There shall be no penalty for early termination. If City terminates the contract pursuant to this paragraph, it shall pay Contractor for services rendered prorated to the date of termination.

7. ACCESS TO RECORDS

City shall have access to such books, documents, papers and records of Contractor as are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts and transcripts.

8. FORCE MAJEURE

Neither City nor Contractor shall be considered in default because of any delays in completion and responsibilities hereunder due to causes beyond the control and without fault or negligence on the part of the parties so disabled, including but not restricted to, natural disaster, war, civil unrest, volcano, earthquake, fire, flood, epidemic, quarantine restriction, area-wide strike, freight embargo, unusually severe weather or delay of subcontractor or supplies due to such cause; provided that the parties so disabled shall within ten (10) days from the beginning of such delay, notify the other party in writing of the cause of delay and its probable extent. Such notification shall not be the basis for a claim for additional compensation. Each party shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligation under the Agreement.

9. NON-DISCRIMINATION

Contractor agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor also shall comply with the Americans with Disabilities Act of 1990, ORS 659.425, and all regulations and administrative rules established pursuant to those laws.

10. INDEMNITY/HOLD HARMLESS

Contractor agrees to indemnify, defend and hold harmless the City and its officers, agents and employees against all liability, loss and costs arising from actions, suits, claims or demands for the acts or omissions of Contractor, and Contractor's officers, agents and employees, in performance of this contract.

In accordance with the Oregon Tort Claims Act and the Oregon Constitution, City agrees to indemnify, defend and hold harmless the Contractor and its officers, agents and employees against all liability, loss and costs arising from actions, suits, claims or demands for the acts or omissions of City and City's officers, agents and employees, in performance of this contract.

11. INSURANCE

Contractor shall maintain insurance acceptable to City in full force and effect throughout the term of this contract. Such insurance shall cover all risks arising directly or indirectly out of Contractor's activities or work hereunder.

The policy or policies of insurance maintained by the Contractor shall provide at least the following limits and coverages:

A. Commercial General Liability Insurance

Contractor shall obtain, at contractor's expense, and keep in effect during the term of this contract, Commercial General Liability Insurance covering Bodily Injury and Property Damage on an "occurrence" form. This coverage shall include Contractual Liability insurance for the indemnity provided under this contract and Product and Completed Operations. Such insurance shall be primary and non-contributory. Coverage shall be a minimum of \$2,000,000 per occurrence, and \$2,000,000 aggregate.

B. Business Automobile Liability Insurance

Contractor shall also obtain, at contractor's expense, and keep in effect during the term of the contract, Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The Combined Single Limit per occurrence shall not be less than \$1,000,000. Said insurance shall name City as an additional insured and shall require written notice to City thirty (30) days in advance of cancellation. If Contractor hires a carrier to make delivery, Contractor shall ensure that said carrier complies with this paragraph.

C. Workers' Compensation Insurance

The Contractor and all employers providing work, labor or materials under this Contract that are either subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage that satisfies Oregon law for all their subject workers or employers that are exempt under ORS 656.126. Out-of-state employers must provide Oregon workers' compensation coverage for their workers who work at a single location within Oregon for more than 30 days in a calendar year. Contractors who perform work without the assistance or labor of any employee need not obtain such coverage. This shall include Employer's Liability Insurance with coverage limits of not less than \$500,000 each accident.

D. Insurance Carrier Rating

All coverage provided by the Contractor must be underwritten by an insurance company deemed acceptable by the City. The City reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.

E. Certificates of Insurance

As evidence of the insurance coverage required by the contract, the Contractor shall furnish a Certificate of Insurance to the City. No contract shall be effected until the required certificates have been received and approved by the City.

The procuring of such required insurance shall not be construed to limit contractor's liability hereunder. Notwithstanding said insurance, Contractor shall be obligated for the total amount of any damage, injury, or loss caused by negligence or neglect connected with this contract.

12. DRUG TESTING PROGRAM

Contractor shall, at all times, maintain and enforce an approved drug-testing program.

13. ATTORNEY'S FEES

In case suit or action is instituted to enforce the provisions of this contract, the parties agree that the losing party shall pay such sum as the court may adjudge reasonable attorney fees and court costs, including witness fees (expert and non-expert), attorney's fees and court costs on appeal.

14. COMPLIANCE WITH STATE AND FEDERAL LAWS/RULES

Contractor shall comply with all applicable federal, state and local laws, rules and regulations, including, but not limited to, the requirements concerning working hours, overtime, medical care, workers compensation insurance, health care payments, payments to employees and subcontractors and income tax withholding contained in ORS Chapter 279, the provisions of which are hereby made a part of this agreement.

15. CONFLICT BETWEEN TERMS

It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument in the proposal of the contract, this instrument shall control and nothing herein shall be considered as an acceptance of the terms of proposal conflicting herewith.

16. SEVERABILITY

In the event any provision or portion of this Agreement is held to be unenforceable or invalid by any court of competent jurisdiction, the validity of the remaining terms and provisions shall not be affected to the extent that it did not materially affect the intent of the parties when they entered into the agreement.

17. COMPLETE AGREEMENT

This Agreement, including the exhibits, is intended both as a final expression of the Agreement between the parties and as a complete and exclusive statement of the terms. In the event of an inconsistency between a provision in the main body of the Agreement and a provision in the Exhibit, the provision in the main body of the Agreement shall control. In the event of an inconsistency between Exhibit A and Exhibit B, Exhibit A shall control. No modification of this Agreement shall be effective unless and until it is made in writing and signed by both parties. No waiver, consent, modification, or change of terms of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change if made, shall be effective only in specific instances and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. Contractor, by the signature of its authorized representative, hereby acknowledges that Contractor has read this Agreement, understands it and agrees to be bound by its terms and conditions.

IN WITNESS WHEREOF, City has caused this Agreement to be executed by its duly authorized undersigned officer and Contractor has executed this Agreement on the date hereinabove first written.

CITY OF ONTARIO

CONTRACTOR

City Manager

Signature of Authorized Representative

Date

Date

ATTEST:

City Recorder

AGENDA REPORT

March 2, 2012

TO: Mayor and City Council

FROM: Yorick de Tassigny, Facilities Manager
Kathy Daly, Aquatics/Recreation/Parks/Cemetery Director

THROUGH: Henry Lawrence, City Manager

SUBJECT: RESOLUTION #2012-103: A RESOLUTION TO AUTHORIZE THE PURCHASE OF AN ADA COMPLIANT POOL LIFT FOR INSTALLATION AT THE ONTARIO AQUATIC CENTER

DATE: February 27, 2012

SUMMARY:

Attached is the following document:

- Resolution #2012-103

The revised 2010 Department of Justice Americans with Disabilities Act (ADA) regulates the means of entry and exit of public pools. Under the new requirements, the City is obligated to install a pool lift for the main swimming pool at the Ontario Aquatic Center (OAC) to render it accessible. The deadline for compliance is March 15, 2012. Compliance with this and all other applicable ADA regulations were to be part of the OAC renovation project.

BACKGROUND:

ADA requires public accommodations to provide goods and services to people with disabilities on an equal basis with the rest of the general public. The goal is to afford every individual the opportunity to benefit from our country's businesses and services, and to afford our businesses and services the opportunity to benefit from their patronage. As this relates to public pool facilities, the goal is to provide access to every swimming pool so that people with disabilities will have a greater opportunity to enjoy water-based activities.

The main swimming pool at the OAC is the programming priority and falls under ADA requirements for smaller pools (those under 300 linear feet of pool wall). Only one primary means of access is required, and it must be either a swimming pool lift or a sloped entry. The purchase and installation of the pool lift will meet the requirement.

As an added service, Staff will also be ordering an additional anchor base to be installed at the training pool, as well as a caddie for transporting the lift between pools. This will provide access to the second pool in the facility. It has been determined that access to the hot tub is not readily achievable because of its elevated deck. Providing access to the hot tub would create undue burden on the City at this time. This will be addressed in any future plans for the OAC.

Staff requested three informal bids for the purchase of a pool lift, additional anchor, arm rest assembly, caddie and cover. The results were as follows:

Vendor	Bid Price
Ontario Floors To Go	\$6,595.81
Lincoln Equipment, Inc.	\$5,682.70
Gem Gunite Pools	\$5,836.00

ALTERNATIVE:

The Council could elect to not move forward with the purchase of the ADA-compliant lift at this time, and decide to make other provisions to comply with the new regulations. The City would be subject to penalties for non-compliance after the March 15, 2012 deadline.

FINANCIAL IMPLICATIONS:

Financial implications are outlined in the attached Resolution No. 2012-103.

RECOMMENDATION:

Staff recommends the Council to pass and adopt resolution #2012-103.

PROPOSED MOTION:

I move the City Council pass Resolution No. 2012-103, A resolution to authorize the purchase of and ADA compliant pool lift for installation at the Ontario Aquatic Center.

RESOLUTION NO. 2012-103
A RESOLUTION TO AUTHORIZE THE PURCHASE OF AN ADA COMPLIANT POOL LIFT
FOR INSTALLATION AT THE ONTARIO AQUATIC CENTER

WHEREAS, the revised 2010 Department of Justice Americans with Disabilities Act (ADA) regulates the means of entry and exit of public pools; and

WHEREAS, under the new requirements, the City of Ontario is obligated to install a pool lift for the main swimming pool at the Ontario Aquatic Center (OAC) to render it accessible; and

WHEREAS, the deadline for compliance is March 15, 2012;

NOW THEREFORE, BE IT RESOLVED by the Ontario City Council to approve the following adjustments to the 2011-2013 Biennial Budget:

Line Item	Item Description	FY 11-13 Budget	Amount of Change	Adjusted Budget
GENERAL FUND				
Expense				
001-004-871000	Operating Contingency	\$1,538,401.00	(\$5,700.00)	\$1,532,701.00
Expense				
001-008-610600	Aquatic Building Maintenance & Repair	\$2,875.00	\$5,700.00	\$8,575.00

Effective Date: Upon adoption

Passed and adopted by the Ontario City Council this ____ day of _____ 2012.

Ayes:

Nays:

Absent:

Approved by the Mayor this _____ day of _____ 2012.

ATTEST

 Joe Dominick, Mayor

 Tori Barnett, MMC, City Recorder