

**CITY OF NEWBERG
PROFESSIONAL SERVICES AGREEMENT AMENDMENT NO. 2**

June 25, 2001

Project: Highway 99W Waterline Construction Staking

Consultant: Anderson Engineering, Inc.

Summary of Proposed Changes:

1. **Work Involved:** Additional surveying and consulting services for changes in design confirmation of grades and force account work for ODOT imposed changes.

2. **Cost Summary:**

Original contract amount:	\$11,860.00
Net change by previous amendments:	\$ 6,000.00
Previous total:	\$17,860.00
This amendment:	<u>\$ 2,000.00</u>
Amended contract amount:	\$19,860.00

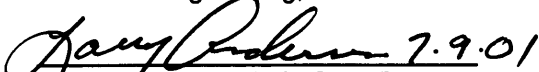
3. **Contract Time:**

This Amendment does not affect the contract schedule.

All other provisions of the professional services agreement remain in force.

ACCEPTANCE SIGNATURES:

Anderson Engineering, Inc.:


Larry Anderson, PE, PLS Date
President

City of Newberg:


Duane Cole 7/20/2001
City Manager Date

Approved as to Form:


Terrence D. Mahr 8/1/01
City Attorney Date

CITY OF NEWBERG
AGREEMENT WITH LARRY ANDERSON, P.E., P.L.S. dba
LARRY ANDERSON ENGINEERING, INC.
TO PROVIDE CONSULTING SERVICES
TO THE CITY OF NEWBERG

THIS AGREEMENT is entered into this 13th day of November, 2000 by and between the City of Newberg, a municipal corporation of the State of Oregon, hereinafter called **City**, and

Larry Anderson, P.E., P.L.S. dba
Larry Anderson Engineering, Inc.
112 N. Springbrook Road
Newberg, Oregon 97132
503-537-1110 fax: 503-537-0910
andeng@open.org

hereinafter called **Consultant**.

RECITALS:

1. **City** has need for the services of a **Consultant** with particular training, ability, knowledge, expertise and experience possessed by **Consultant** related to:

HIGHWAY 99W CONSTRUCTION STAKING SERVICES

NOW, THEREFORE, in consideration of mutual promises, covenants and agreements of the parties, it is agreed as follows.

1. **Effective Date and Duration:** This Agreement shall become effective on the date that this Agreement has been signed by every party hereto.

Unless, terminated or extended, this Agreement shall expire when the **City** accepts **Consultant's** completed performance or on-going work. This fact notwithstanding, the services of **Consultant** shall be authorized and paid on a phase-by-phase basis as described in Exhibit "A."

Expiration shall not extinguish or prejudice **City's** right to enforce this Agreement with respect to any reach of a **Consultant** warranty or any fault or defect in **Consultant's** performance that has not been cured.

2. **Termination:** This Agreement may be terminated at any time by mutual, written consent of the parties. The **City** may, at its sole discretion terminate this Agreement in whole or part upon a 30-day written notice to **Consultant**. The **City** may terminate immediately upon notice to the **Consultant** that the **City** does not have funding, appropriations, or other necessary expenditure authority to pay for **Consultant's** work. The **City** may terminate Agreement at any time for material breach.

This Agreement may be terminated by either party at the end of a project phase as defined in Exhibit "A" or at any time upon a 30-day written notice.

3. **Scope of Work:** The **Consultant** agrees to provide the services provided in the Scope of Work which is Exhibit "A" and attached hereto and incorporated by this reference. The **Consultant** represents and warrants to the **City** that the **Consultant** can perform the work outlined in the Scope of Work for the fee proposal amount.

4. **Compensation:** The **Consultant** agrees to perform the work for a not-to-exceed fee as indicated in their professional fee proposal obtained in the Scope of Work. The not-to-exceed figure is as follows:

\$11,860.00

The **Consultant** shall not exceed the fee for any task included in the fee proposal amount. If the **Consultant** sees that the fee is going to exceed the not-to-exceed figure because the task has changed or is outside the scope, the **Consultant** shall notify the **City** in writing of the circumstances with an estimated amount that the fee is to be exceeded. The **Consultant** shall obtain written

permission from the **City** before exceeding the not-to-exceed fee amount. If the **Consultant** does work that exceeds the maximum fee amount prior to obtaining the written permission, the **Consultant** waives any right to collect that fee amount.

5. Additional Work Not Shown within the Scope of Work: If **City** requests or requires work to be done not within the Scope of Work of this project, the **Consultant** shall notify the **City** of such work, provide an estimated fee amount, and obtain written instructions to proceed with work in the form of an Agreement amendment prior to proceeding with work and incurring any costs on behalf of the **City**. If **Consultant** proceeds with work prior to obtaining permission and/or Agreement amendment, the **Consultant** waives any right to collect fees for work performed.

6. Agreement Documents: This Agreement consists of the following documents which are listed in descending order of preference: Contract and Scope of Work.

This Agreement with attached Exhibits is the proposal of the **Consultant**. Work is under the sole control of **Consultant**, however, the work contemplated herein must meet the approval of the **City** and shall be subject to **City's** general right of inspection and supervision to secure the satisfactory performance thereof.

7. Benefits: **Consultant** will not be eligible for any federal social security, state workers compensation, unemployment insurance, or public employees' retirement system benefits from the Agreement payment except as a self-employed individual.

8. Federal Employment Status: In the event any payment made pursuant to this Agreement is to be charged against federal funds, **Consultant** certifies that he or she is not currently employed by the federal government and the amount charged does not exceed his or her normal charge for the type of services provided.

9. Consultant's Warranties: The work to be performed by **Consultant** includes services generally performed by **Consultant** in his/her usual line of business. The work performed by the **Consultant** under this Agreement shall be performed in a good and businesses-like manner in accordance with the highest professional standards. The **Consultant** shall, at all times, during the term of this Agreement, be qualified, be professionally competent, and duly licensed to perform the work.

10. Indemnity: **Consultant** shall defend, indemnify and hold harmless **City** from and against all liability or loss and against all claims, suits, actions, losses, damages, liabilities, costs, and expenses of any nature whatsoever resulting from, arising out, or relating to the activities of the **Consultant**, or its officers, employees, subcontractors, or agents under this Agreement.

11. Independent Contractor: **Consultant** is not

currently employed by the **City**. The parties to this Agreement intend that the **Consultant** perform all work as an Independent Contractor. No agent, employee, or servant of **Consultant** shall be or shall be deemed to be the employee, agent or servant of **City**. **City** is interested only in the results obtained under this Agreement; the manner and means of conducting the work are under the sole control of **Consultant**, however, the work contemplated herein must meet the approval of the **City** and shall be subject to **City's** general right of inspection and supervision to secure the satisfactory performance thereof.

12. Taxes: **Consultant** will be responsible for any federal or state taxes applicable to payments received under this Agreement. **City** will report the total of all payments to **Consultant**, including any expenses, in accordance with the Federal Internal Revenue Service and the State of Oregon Department of Revenue regulations.

13. Insurance:

a) **Consultant**, its subconsultants, if any, and all employers working under this agreement are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage for all their subject workers; or by signing this Agreement, **Consultant** represents that he or she is a sole proprietor and is exempt from the laws requiring workers' compensation coverage.

b) **Consultant** will, at all times, carry a Comprehensive General Liability insurance policy for at least \$1,000,000.00 combined single limits per occurrence for Bodily Injury, Property Damage, and Personal Injury. If the policy is written on the new occurrence form then the aggregate limit shall be \$2,000,000.00. The **City**, its agents, employees and officials all while acting within their official capacity as such, shall be named as an additional insured on the insurance specified in this paragraph.

c) **Consultant** will, at all times, carry a Professional Liability/Errors and Omission type policy with limits of at least \$500,000.00. If this policy is a "claims made" type policy, the policy type and company shall be approved by the City Manager prior to commencement of any work under this Agreement.

d) **Consultant** shall furnish the **City** with Certificates of Insurance upon execution of Agreement. Such Certificates of Insurance evidencing any policies required by this Agreement shall be delivered to the **City** prior to the commencement of any work. A 30-day notice of cancellation clause shall be included in said certificate. The **City** has the right to reject any certificate for unacceptable coverage and/or companies.

14. Assignment: The parties hereto each bind themselves, their partners, successors, assigns and legal representatives of such other party in respect to all terms of this Agreement. Neither party shall assign the

Agreement as a whole without written consent of the other.

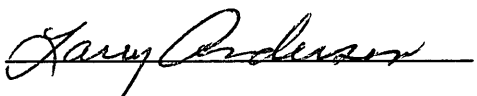
15. **Ownership of Work Product:** All original documents prepared by **Consultant** in performance of this Agreement, including but not limited to original maps, plans, drawing and specifications are the property of **City** unless otherwise agreed in writing. Quality reproducible records copies shall be provided to **City** at **City's** expense, upon request. **City** shall indemnify and hold harmless **Consultant** and **Consultant's** independent professional associates or **Subconsultants** from all

claims, damages, losses and expenses including attorney's fees arising out of any unauthorized use of any instruments of professional service.

16. **Entire Agreement:** This Agreement constitutes the entire Agreement between the parties and supersedes all prior agreements, written and oral, courses of dealing, or other understanding between the parties. No modification of this Agreement shall be binding unless in writing and signed by both parties.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above mentioned.

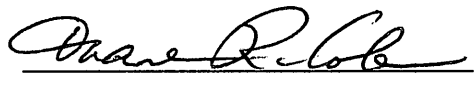
CONSULTANT

By: 
Name: Larry Anderson, P.E., P.L.S. dba
Larry Anderson Engineering, Inc.

Title: Principal

Date: Nov 7, 2000

CITY OF NEWBERG

By: 
Name: Duane R. Cole
City of Newberg

Title: City Manager

Date: Nov. 13, 2000

Approved as to form:


Terrence D. Mahr, City Attorney

EXHIBIT A
SCOPE OF WORK
LARRY ANDERSON ENGINEERING, INC.
TO PROVIDE CONSULTING SERVICES TO
THE CITY OF NEWBERG
RELATED TO HIGHWAY 99W CONSTRUCTION STAKING SERVICES
November 6, 2000

Project Description

The City is constructing a replacement waterline along Highway 99W from Brutscher to Main Street in preparation for the Oregon Department of Transportation's (ODOT) highway widening project to be constructed in Spring, 2001. The waterline must be staked for construction and for checking the as-constructed location.

Approach

Larry Anderson Engineering, Inc. will use the Highway Department's 3-D model of the existing curb line as survey control for most of the project. ODOT has located the top back of curb for the length of the project with a 3rd order survey (1:15,000). The existing curb model is from a dense field point group, which assures the accuracy needed for construction staking.

Larry Anderson Engineering, Inc. will also perform the following:

- Use ODOT's survey control for staking the intersections, intermediate points and control points for the curb-line staking
- Merge ODOT's survey data and their Microstation 3-D model with the City's waterline construction plans to produce a cut-sheet table of offsets and elevations at even stations and at angle points.
- Mark the existing curb at the beginning and end of a line, at 20-meter intervals and at each angle point, grade change, tee, hydrant, and meter with a P.K. nail and a stake with the offset and cut to the top of pipe.
- Highway crossings will be staked on each side of the street.
- Cut from the center of the roadway to the top of the pipe will be provided on the cut-sheet only.
- Intersections will be marked with P.K. nails and the stations, offsets and cuts to top of pipe marked with paint on the asphalt (weather permitting). Bound cut-sheets printed on "Rite-in-the-Rain" paper will be provided to the City inspector and the contractor for reference and for recording the as-built offsets and elevations.
- Apparent conflicts or problems with the alignment will be reported to Paul Chiu along with a suggested solution.

Fee

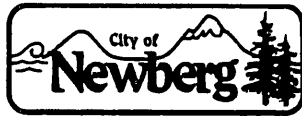
We agree to perform the work as described in accordance with the following schedule:

Prepare cut-sheets from City and State Highway plans	\$1,960.00
Conventional survey staking of control points and intersections	\$3,600.00
Curb-line controlled staking of water main and appurtenances	\$5,400.00
Materials/Miscellaneous.	<u>\$900.00</u>
Total Not-to-Exceed	\$11,860.00

The above fee assumes we will have access to the City's and Highway Department's digital data files. We are sub-contracting the Microstation work that is necessary to get the station offsets and elevation of curbs and waterline. If the City provides the offset and elevation information at the various stations, our price will be reduced approximately \$1,600.00.

Larry Anderson Engineering, Inc. has submitted a proposal to do construction staking for All Phase in the same location. If this proposal is accepted, the City and All Phase may share some of the common costs, thus reducing the not-to-exceed fee to \$9,640.00.

Backup



**Community Development Department
Engineering Division**

Lower Floor - City Hall
414 East First Street, Newberg, Oregon 97132
Tel: 503-537-1273 Fax: 503-537-1277

..... From the desk of Paul Chiu, P.E.

November 6, 2000

To: Mike Soderquist, CDD Director
From: Paul Chiu, Proj. Mgr. *P.C.*

Re: Comparative Comments on Construction Survey Quotes for Relocation of City Water on Highway 99W

I've listed below my observations and comments for each of the five companies who have submitted their quotes. I need to point out that **Matt Dunckel & Associates** surveying firm declined to submit a quote due to busy workload.

Anderson Engineering

\$11,860 (could be down to \$ 9,640 - see below)

Firm has good knowledge of the project area and has approached ODOT and come up with detailed procedure for construction staking. City may gain additional price discount because the firm plans to do survey staking for All-Phase and doesn't need to duplicate survey control effort.

Ranked #1

\$12,140

Firm is DBE. Proposal is simple. It needs some involvement of City staff to provide printouts of coordinates of particular points.

Ranked #2

G&L Land Surveying

\$10,300

Proposal is unusually simple, lack of detail or procedure.

Called Terry Waldele, Beaverton City Engineer at 1:15 p.m. He mentioned G&L was " ... *lack of communication, ... worked at after-hours, ... no interaction, ... bad timing, ... used symbols on stakes, ...*" on their parking lot survey as a subcontractor to Harper Raghellis Consulting Company last year. He did not recommend using G&L again.

Called Pete Russo at G&L. He was unable to provide names for reference purpose.

Ranked #4 (Do not recommend)

Leonard Rydell Consulting

\$12,000-\$20,000

The price range is wide stretched. Proposal indicated no professional liability insurance (Rydell's item #4) and fall back on the City apparently if there should be any errors. Traffic consideration is taken into account.

Ranked #5 (Do not recommend)

Alpha Engineering

\$14,100

Proposal cited experience with 1-1/2 miles of waterline staking in Beaverton. Traffic control is expected to be additional cost.

Ranked #3

"Working Together For A Better Community-Serious About Service"

MM_CJSurveyQuote1.doc

*App'd
Pis have Larry
call M.
11-16-00
Crane & Merseth*

How much?