

CITY OF NEWBERG
PROFESSIONAL SERVICES AGREEMENT AMENDMENT NO. 1
August 12, 2002

Project: Mountainview Drive Traffic Signal Construction Phase Services
Consultant: Charbonneau Engineering LLC

Summary of Proposed Changes:

1. Work Involved:

Traffic signal design and construction phase services for Mountainview Drive Improvement Project. **Consultant** will perform traffic signal inspection work during the signal construction phase. There is no change in scope of work.

2. Cost Summary:

Original contract amount:	\$21,910.00
Net change by previous amendments:	\$ 0.00
Previous total:	\$21,910.00
This amendment:	\$ 0.00
Amended contract amount:	\$21,910.00 (no change)

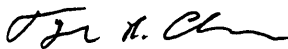
3. Contract Time:

The original contract dated March 25, 2002 will expire on August 30, 2002. As the traffic signal construction work has just begun, and the project is expected to be completed by October 22, 2002, there is a need to extend the contract time accordingly. This Amendment shall extend the original services agreement to **October 22, 2002**.

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

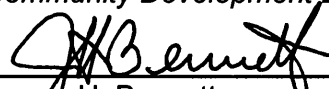
ACCEPTANCE SIGNATURES:

Charbonneau Engineering, LLC
(Consultant)

 8-20-02
Frank R. Charbonneau, PE Date
Executive Manager

City of Newberg

 8-28-02
Michael Soderquist, PE, PLS, DEE Date
Community Development Director

 8/28/02
James H. Bennett Date
City Manager

CITY OF NEWBERG

**AGREEMENT WITH CHARBONNEAU ENGINEERING LLC
TO PROVIDE TRAFFIC SIGNAL DESIGN AND
CONSTRUCTION PHASE SERVICES AT
MOUNTAINVIEW DRIVE AND COLLEGE STREET
TO THE CITY OF NEWBERG**

THIS AGREEMENT is entered into this 25th day of March, 2002 by and between the City of Newberg, a municipal corporation of the State of Oregon, hereinafter called **City**, and

Charbonneau Engineering LLC
9370 SW Greenburg Road, Suite 411
Portland, OR 97223
Phone: (503) 293-1118
Fax: (503) 293-1119
Email: ce@teleport.com

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**.
2. **City** has prematurely terminated the Mountainview Drive Traffic Study and Signal Warrant/Design Services Contract with *Falconi Consulting Services* per their request and *Charbonneau Engineering LLC* was involved from the beginning as their subconsultant.
3. **City** has chosen the **Consultant** to continue the traffic signal design as the next phase of work after receiving signal warrant approval from the Oregon Department of Transportation (ODOT). The **Consultant** proposed a design fee of \$13,020 which was comparable to Falconi's unused balance of \$12,620.00. However, there is additional signal inspection work not covered by ODOT that has to be included in the scope of work. The **Consultant** also provided to the **City** a detailed reasonable fee proposal for the signal construction phase.

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 the **Consultant's** completed performance or on August 30, 2002, whichever date occurs first. The **Consultant** must complete the traffic signal design phase with ODOT permit on hand by June

10, 2002. This fact notwithstanding, the services of the **Consultant** shall be authorized and paid for on a monthly basis and as described in Exhibit "A".

Expiration shall not extinguish or prejudice **City's** right to enforce this Agreement with respect to any breach 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 in the proposal dated February 6, 2002, 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:

\$21,910.00

The Consultant shall not exceed the fee for any task included in the fee proposal amount. If the Consultant foresees 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: This Agreement with attached Exhibits, (Exhibit "A" - the proposal of the Consultant; and Exhibit "B" - the background information). 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 to the extent 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 performs 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 Commercial 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 a cancellation clause shall be included in said certificates. The **City** has the right to reject any certificate for

unacceptable coverage and/or companies.

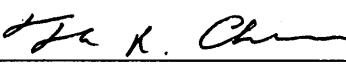
14. **Assignment:** The parties hereto each bind themselves, their partners, successors, assigns and legal representatives of such other party in respect to all terms of this Agreement. Neither party shall assign the Agreement as a whole without written consent of the other.

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.

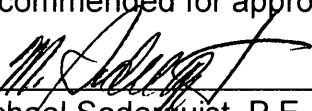
IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above mentioned.

CONSULTANT

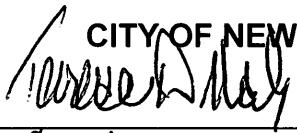
By: 
Name: Frank Charbonneau
Title: Executive Manager
Date: 3-22-02

Division approval: 

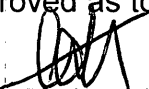
Recommended for approval by:


Michael Soderquist, P.E., P.L.S., DEE
Community Development Director

CITY OF NEWBERG

By: 
Name: City Manager Po-Ten
Title: Terrence D. Mahr
Date: 3/25/02

Approved as to form:


Terrence D. Mahr
City Attorney

E x h i b i t “ A ”

The Proposal of the Consultant

**CHARBONNEAU
ENGINEERING LLC****FAX-TRANSMITTAL****Date:** February 6, 2002**Fax To:** Daniel J. Danicic, P.E.
Newberg City Engineer**Fax No:** 503.537.1277**From:** Frank Charbonneau, P.E.**No. Pages:** 4**Subject:** Traffic Signal Design Proposal
College Street (Highway 219) at Mountainview Drive
City of Newberg

FL0232

Following is our design services proposal for the new signal as discussed last week at the meeting with Xavler Falconi and ODOT.

We understand that this proposal may be used in the upcoming contract for design once all the details are finalized.

Please let us know if you should have any questions.

**CHARBONNEAU
ENGINEERING LLC****TRAFFIC FEE PROPOSAL**

Date: February 6, 2002

To: Mr. Daniel J. Danicic, P.E.
City Engineer
City of Newberg
P.O. Box 970
Newberg OR 97132

From: Frank Charbonneau, P.E.

Subject: Traffic Engineering Fee Proposal
College Street (Highway 219) at Mountainview Drive
City of Newberg

FLO291

It was pleasure meeting at the City with your staff, Xavier Falconi, P.E., and ODOT last week to discuss the upcoming signalization project in Newberg. We appreciate the opportunity to present a proposal and help the City on this important project.

This memo will serve as our fee proposal to complete the traffic signal design for the intersection of College Street (Highway 219) at Mountainview Drive in Newberg. The work will also involve providing some additional services after design as related to the construction phase of the project.

It is anticipated that a substantial work plan will need to be performed by our firm in completing the design and post-design effort. The design must be accomplished according to ODOT standards. We are very familiar with the State's requirements and look forward to working again with Thomas Jenkins of ODOT's signal department and Craig Black.

The final output for the proposed signal will be a set of design plans, specifications, and engineering estimate that will be utilized for bidding and construction. This documentation will be submitted to the City for advertising and bidding purposes.

Charbonneau Engineering LLC will accomplish the following tasks.

Traffic Signal Design:

1. Receive full-scale civil drawing of the intersection base plan from the City in AutoCAD 2000 format. Base plans shall provide sufficient intersection approach data for placement of detector loops (estimated up to 350 feet from stop bars). The City furnished base plan will illustrate the final street improvements, curbs, R/W, utilities, lane striping, and channelization planned at the intersection and necessary for the signal design.
2. Conduct on-site visit to review the existing intersection, signing, available electrical conduit, and the proposed street improvements. Verify power source with power co.
3. After preparing preliminary plan layout submit 11"x 17" plan copies to City and ODOT for review. Discuss the comments and continue with the design.

4. Prepare 90% complete plans including signal hardware, wiring, pole standards, conduit, junction boxes, detector loops, crosswalks, stop bars, and other design features. Plans must be designed to ODOT standards using their legends and callouts. Signal displays will consist of LED lenses. Include illumination (separate circuit) on opposite side signal poles. Submit design to City and ODOT for final review.
5. Prepare signing plan and include street name and advance signal symbol signs.
6. Prepare project specifications and engineering estimate.
7. Throughout the design phase maintain contact and consult with City staff and ODOT.
8. Prepare final engineering P.S. & E and submit to City (hard copy & electronic format).
City will perform advertising, project bidding, and award.

<u>Design Services Tasks</u>	<u>Hours</u>	
	<u>Traffic Engineer</u>	<u>Tech</u>
1. Obtain base plans from City	--	--
2. Review base plans, on-site review of power service, pole and controller location.	4	4
3. Prepare preliminary signal design, discuss with City/ODOT	6	40
4. Prepare 90% design	4	30
5. Prepare signing & crosswalks plan	2	4
6. Prepare project special provisions to ODOT standards, engineer's estimate	12	4
7. Consultation with City, ODOT & respond to comments/finalize plans.	8	2
8. Prepare final P, S, & E	8	16
	Hours 44	100
	\$/Hr. 110	75
	\$ 4,840	7,500
Labor		\$12,340
Expenses		<u>680</u>
Total Design Fee		\$13,020

As discussed at our meeting last week we will be responsible for providing limited construction engineering services associated with the major signal work elements. This effort will consist of the following tasks.

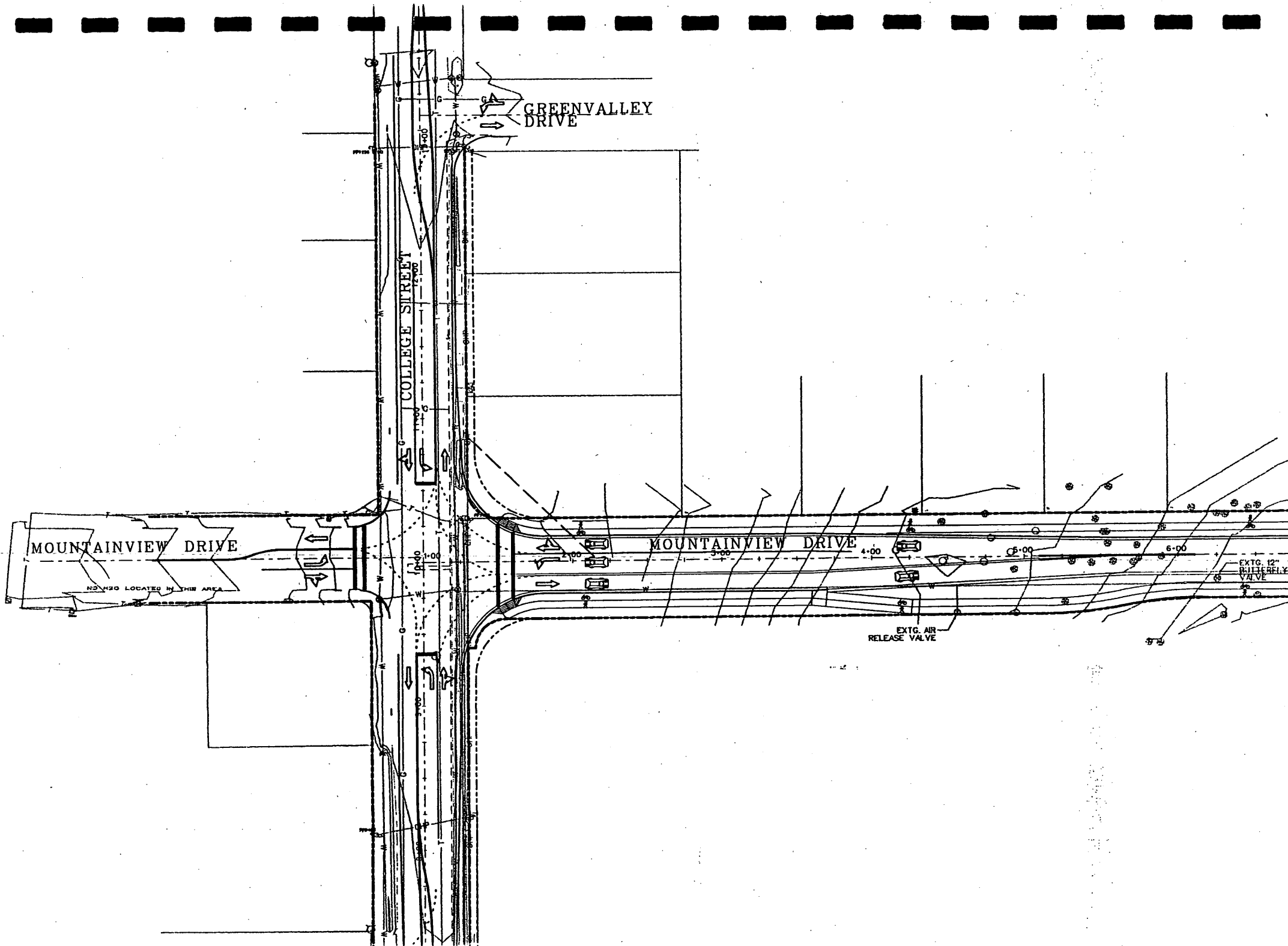
<u>Construction Services Tasks</u>	<u>Traffic Engineer</u>	<u>Tech</u>
1. Construction administration, one pre-construction meeting, and one City meeting, respond to bidders' questions during bidding period	8	8
2. Review shop dwgs.	2	4
3. Perform up to six on-site visits to review pole bases, major hardware items, and detector loops (pole and loop staking by City, Charbonneau to review)	12	24
4. Review/approve signal project change orders	4	6
5. Prior to signal turn-on preview signals for final approval by ODOT & City	4	4
6. Prepare as-built signal plans from construction notes furnished by City, contractor, & engineer's records	4	12
	Hours 34	58
	\$/Hr. <u>110</u>	<u>75</u>
	\$ 3,740	4,350
Labor		\$ 8,090
Expenses		<u>800</u>
Construction Fee		\$ 8,890
Total Design & Construction Services Fee		\$21,910

This proposal does not cover day to day construction management, inspection, daily progress reports, or signal turn-on services. It is our understanding ODOT will furnish and program the signal timing plan into the controller, provide complete electrical system checkout to their satisfaction, issue punch list to contractor, and manage the signal turn-on activity.

Please let us know if this proposal is acceptable.

E x h i b i t " B "

Background Information





CHARBONNEAU ENGINEERING LLC

FRANK R. CHARBONNEAU, P.E., Principal
CHARBONNEAU Engineering LLC

EDUCATION B.S. in Civil Engineering, Oregon State
University, 1973

REGISTRATION Registered, Civil and Traffic Engineer,
States of Oregon and Washington

PREVIOUS POSITIONS
Oregon State Highway Division,
Assistant Regional Traffic Engineer,
Region 3, Roseburg, Oregon
City of Portland, Traffic Bureau,
Signal Design Engineer
Stevens, Thompson & Runyan, (CRSS, Group Engineers),
Seattle, Washington & Portland, Oregon

1988-Present CHARBONNEAU Engineering LLC
Portland, Oregon

EXPERIENCE

Frank Charbonneau, principal of CHARBONNEAU Engineering LLC, is a civil and traffic engineer with experience in analysis, design, management, and construction of street and highway related projects, including the design and installation of traffic signals, illumination, signing, and channelization.

His experience has included the performance and management of many transportation and civil engineering projects for public agencies, private firms, and developers. These projects have consisted of major traffic signal system designs, analyses, intersection design, comprehensive transportation safety studies, and traffic impact studies.

Some of the most recent projects have included work for the City of Tigard on the SW Walnut St./Tiedeman Ave. realignment and signal project, City of Lake Oswego (South Shore at McVey signal design/construction), City of Redmond and Redmond Public Schools (safety study for eight schools), Oregon State University Transportation Research Institute (safety studies for local agencies), Washington County (SW Baseline Rd. signal design), and Clark County (Skyview High School NW 139th Street signal design for Vancouver School District). Other experience includes determination of the transportation impact levels of several major private development type projects within the SE 164th Avenue corridor of Clark County and the determination of concurrency status.



CHARBONNEAU ENGINEERING LLC

Titus A. Reynolds, (EIT) Traffic Analyst
CHARBONNEAU Engineering LLC

EDUCATION

M.S. in Civil Engineering,
Portland State University

B.S. in Civil Engineering,
Portland State University

B.S. in Applied Science,
George Fox University

PREVIOUS EMPLOYMENT

Portland State University, Department of Civil Engineering
Research Assistant

Oregon Department of Transportation, Region 1, Portland, OR
Engineering Trainee

EXPERIENCE

Titus Reynolds (Engineering-In-Training) is a transportation analyst with experience in traffic data collection and analysis, computer modeling, highway design, and construction surveying and inspection.

He is experienced in the use of TRAFFIX Traffic Impact and Analysis Software, and has implemented the software in the analysis of the 164th Avenue Corridor for use in City of Vancouver projects.

He has worked on various projects with public agencies, private firms, and developers. Recent projects include traffic impact studies for the City of Vancouver and Clark County. Duties performed include traffic impact analyses, traffic safety studies, and sight distance studies.

As an Engineering Trainee with ODOT, he has prepared technical documentation such as project narratives, cost estimates, and project justifications. He has performed technical calculations for alignments, grades, superelevations, drainage, and quantities. He also has worked in the coordination of utilities, and mitigation of construction conflicts.

As a research assistant for Portland State University, he has worked on a number of transportation related research projects funded by ODOT and Tri-Met in which data collection, analysis, and documentation were primary responsibilities. Projects include corridor studies dealing with traffic safety and access management, and video for traffic monitoring and management.

Paul Chiu

From: Craig.B.BLACK@odot.state.or.us
Sent: Wednesday, February 13, 2002 10:18 AM
To: chiup@ci.newberg.or.us
Cc: knorrbo@ci.newberg.or.us; truirr@ci.newberg.or.us; Dennis.N.Santos@state.or.us; Katryn.L.Cramer@state.or.us
Subject: Mountainview Drive Signal Inspection and Turn on

Paul

As you requested at our February 1st meeting, answers to a couple of the questions that you had asked about included

1) Who would be expected to inspect the signal construction.

At this point, since this is not a formal ODOT project, I see The City of Newberg performing the actual signal project inspection. That is you would be inspecting the placement of the signal related items itself, including, conduit, wiring, poles and bases, controller cabinet, loops, etc. We would still be available to answer any questions that you might have towards the signal since we will maintain what is built. A key to lower maintenance costs is to have a competent signal contractor and good signal inspection.

Then as part of our specs, 00990.70, we still have our ODOT formal inspection process to go through to turn it on. This includes the pre turn on inspection occurring a few days before we schedule the turn on. This involves making sure everything holds up physically. Then the actual final inspection which includes the equipment inside the controller cabinet, ensuring the loops work properly, bulb out the intersection etc. Then we turn on the signal when it's all checked out and every ones still on site just in case we need to tend to some thing right then and there.

2) Who pays for the ODOT's costs for the design review and inspection.

There is an account number for ODOT staff to charge their time and services to that stays within ODOT. As a result, the city should not see any charges from ODOT for the design review and inspection.

I hope this answers your questions thus far. As you have additional questions, please feel free to ask. Thank you again for your cooperation with this project. I look forward to turning this signal on.

Craig Black PE
Region 2 Signal Operations Engineer
Oregon Department of Transportation
455 Airport Road SE, Bldg "B"
Salem, OR 97301-5395
Ph: (503)986-2766
Fax: (503)986-2840
email: craig.b.black@odot.state.or.us

**End of
Contract Document**