



AGREEMENT FOR GENERAL ENGINEERING SERVICES

THIS AGREEMENT, made this 10th day of March 2025, by and between the **City of Hermiston, Oregon**, hereinafter referred to as the Owner, and **Anderson Perry & Associates, Inc.**, hereinafter referred to as the Engineer.

The Owner has need of Engineering Services from time to time for various work tasks or projects. The Owner hereby designates the Engineer as "Engineer of Record for the City of Hermiston." The Owner may utilize the Engineer to provide services as may be needed by authorizing individual Work Orders which will be extensions of this general engineering agreement, subject to all of the provisions contained herein. The scope of work and cost of services for each specific request shall be described in each Work Order outlining the Engineer's services. The Engineer, acting as an independent engineering firm, agrees to provide the necessary engineering services under the terms and conditions as outlined herein and as may be further detailed and described in the respective Work Orders.

In addition to the on-call services described above, the Owner intends to utilize the Engineer on a consistent basis to perform engineering duties for the Owner. To accomplish this, the Engineer shall dedicate an Oregon Registered Professional Engineer to be in the City of Hermiston to provide in-person engineering services to the Owner for a minimum of 16 hours per week, expected to consist of two agreed-upon days per week.

WITNESSETH:

That for and in consideration of the mutual covenants and promises between the parties hereto, it is hereby agreed:

SECTION A - ENGINEERING SERVICES

WORK ORDERS

The Owner shall request the Engineer to provide Engineering Services whenever the Owner wishes to engage the Engineer. A Work Order (see general format attached to this Agreement as Exhibit "A") shall be prepared which describes the scope of services to be provided by the Engineer, any special contractual agreements that are applicable to the Work Order, and the method of compensation for the services to be performed. The Engineer will provide the services outlined in the Work Order after the Work Order has been approved and authorized by both the Owner and the Engineer's representatives. Work Orders will be prepared for each specific project or work task to be performed for the Owner.

ENGINEERING SERVICES

When requested by the Owner in a Work Order, the Engineer will provide engineering services of the general type and scope outlined in Exhibit "B." The detailed scope of the requested Engineer's services shall be defined in the respective Work Order.

SECTION B - COMPENSATION FOR PROFESSIONAL SERVICES

The Owner shall compensate the Engineer for the various professional services to be provided on either a Lump Sum Basis or on a Time and Materials Basis as the Owner and Engineer agree. The method(s) of compensation shall be defined in each Work Order and as described herein.

1. Lump Sum Basis

The Owner shall compensate the Engineer on a lump sum amount basis for the tasks defined and at the dollar amounts stated in the respective Work Orders. If during the course of the work, the scope of the work should substantially change, the Owner and the Engineer shall amend the Work Order to cover the revised scope and lump sum fee for services.

2. Time and Materials Basis

The Owner shall compensate the Engineer on a time and materials basis, plus direct reimbursable expenses, for the tasks defined in the respective Work Orders.

The time and materials fee referred to in this Agreement shall be in accordance with the attached Hourly Fee Schedule, plus direct reimbursable expenses. The Hourly Fee Schedule may be adjusted by the Engineer at the beginning of each year.

Direct reimbursable expenses shall include, but not be limited to, such direct job costs as the cost of travel, subsistence, lodging, document printing, outside consultants, special tests and services of special consultants, etc. Direct reimbursable expenses shall include a 10 percent additional fee to cover handling, overhead, and insurance costs, etc. Mileage shall be charged in accordance with the Hourly Fee Schedule. There shall be no charge for secretarial services and postage.

3. Payment

The Owner agrees to pay the Engineer for the services provided in accordance with this Agreement on a monthly basis. The Owner agrees to pay the Engineer for lump sum work on a percentage basis of the total fee relative to the percent completion of the work. The Owner agrees to pay the Engineer for time and materials work for the actual services provided. The Engineer will render to the Owner an itemized invoice on a monthly basis, for compensation for such services performed hereunder during such month, the same to be due and payable by the Owner to the Engineer.

Past due amounts owed shall include a service fee charge of 12 percent annual interest beginning the 30th day after the date of billing. The Engineer may suspend work under this Agreement until the account is paid in full. If collection is made by suit or otherwise, and if the Engineer prevails, the Owner agrees to pay interest until the account and all collection costs, including reasonable attorneys' fees, are paid.

SECTION C - RESPONSIBILITIES OF OWNER

1. The Owner shall be responsible for all requirements and instructions it furnishes to the Engineer pursuant to this Agreement, and for the accuracy and completeness of all programs, reports, data, and other information furnished by the Owner to the Engineer pursuant to this Agreement. The Engineer may use and rely upon such requirements, instructions, programs, reports, data, and information in performing or furnishing services under this Agreement, subject to any express limitations or reservations applicable to the furnished items.
2. The Owner shall provide the Engineer with all criteria and full information as to the Owner's requirements for the services to be provided, including objectives and constraints, performance requirements, and any budgetary limitations; furnish copies of all design and construction standards that the Owner will require to be included in the Bidding and Contract Documents; and furnish copies of the Owner's standard forms, conditions, and related documents for the Engineer to include in the Bidding and Contract Documents, when applicable.
3. The Owner shall furnish to the Engineer all available information pertinent to the work including, if applicable, reports, existing maps, field survey data, rights-of-way, survey information, and known information concerning the existing underground utilities, etc.
4. The Owner shall provide for full, safe, and free access for the Engineer to enter upon all property required for the performance of the Engineer's services under this Agreement.
5. The Owner shall give prompt written notice to the Engineer whenever the Owner observes or otherwise becomes aware of a Hazardous Environmental Condition or of any development that affects the scope or time of performance of the Engineer's services, or any defect or nonconformance in the Engineer's services or in the work of any Contractor.
6. The Owner shall pay for any agency plan review fees, advertisements for bids, building or other permits, licenses, etc., as may be required by local, state, or federal authorities. The Owner shall secure the necessary land easements, rights-of-way, and construction permits needed for improvements. The Engineer can assist with these items if requested.
7. The Owner shall examine all alternate solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by the Engineer (including obtaining the advice of an attorney, insurance counselor, and other consultants as the Owner deems appropriate with respect to such examination) and render timely decisions pertaining thereto.
8. The Owner shall obtain, with guidance from the Engineer, reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the project designed or specified by the Engineer, and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the project.
9. The Owner shall provide, as required for the project:
 - a. Accounting, bond, financial advisory, and insurance counseling services;
 - b. Legal services with regard to issues pertaining to the project as the Owner requires, the Contractor raises, or the Engineer reasonably requests; and

- c. Such auditing services as the Owner requires to ascertain how or for what purpose the Contractor has used the monies paid.
10. The Owner shall advise the Engineer in a timely manner of the identity and scope of work of any independent consultants employed by the Owner to perform or furnish services in regard to the project.
11. The Owner shall attend the pre-bid conference, bid opening, preconstruction conferences, construction progress meetings, and other job-related meetings and substantial completion, final payment, and warranty walkthroughs.

SECTION D - TERM OF AGREEMENT

The term of this Agreement shall be for five years. Notwithstanding the content of any other term or provision of this Agreement, this Agreement may be terminated at any time by either the Engineer or Owner by delivery of written notice to the other at least 30 days prior to the date of termination.

SECTION E - GENERAL PROVISIONS

1. This Agreement represents the entire and integrated agreement between the Owner and the Engineer and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and the Engineer.
2. This Agreement is not exclusive to either party. The Owner may contract with other engineering firms as the Owner deems appropriate and in the best interest of the Owner.
3. Approval of a Work Order under this Agreement by the Owner and the Engineer will serve as written authorization for the Engineer to proceed with the services called for in this Agreement and as further defined in the respective Work Order.
4. Neither party shall hold the other responsible for damages or delays in performance caused by acts of God, strikes, lockouts, accidents, or other events beyond the control of the other or the other's employees and agents.
5. In the event any provisions of this Agreement shall be held to be invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provisions, term, condition or covenant shall not be construed by the other party as a waiver of a subsequent breach of the same by the other party.
6. The standard of care for all professional engineering and related services performed or furnished by the Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. The Engineer makes no warranties, expressed or implied, under this Agreement or otherwise, in connection with any services performed or furnished by the Engineer.

7. Subject to the standard of care set forth above, the Engineer and its consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
8. Engineer's opinions (if any) of probable construction cost are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner requires greater assurance as to probable Construction Cost, then Owner agrees to obtain an independent cost estimate.
9. The Engineer shall acquire and maintain statutory Worker's Compensation insurance coverage, employer's liability, and comprehensive general liability insurance coverage.
10. This Agreement is to be binding on the heirs, successors, and assigns of the parties hereto and is not to be assigned by either party without first obtaining the written consent of the other.
11. Original documents, except those furnished to the Engineer by the Owner, are instruments of service and Engineer shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of the Engineer) whether or not the project is completed.
12. Owner may make and retain copies of documents for information and reference in connection with the use of the documents on the project. Engineer grants Owner a limited license to use the documents on the project, extensions of the project, and for related uses of the Owner, subject to receipt by Engineer of full payment due and owing for all services relating to preparation of the documents, and subject to the following limitations: (1) Owner acknowledges that such documents are not intended or represented to be suitable for use on the project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the project, on any other project, or for any other use on purpose, without written verification or adaptation by Engineer; (2) any such use or reuse, or any modification of the documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and consultants; (3) Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the documents without written verification, completion, or adaptation by Engineer; and (4) such limited license to Owner shall not create any rights in third parties.

If Engineer at Owner's request verifies the suitability of the documents, completes them, or adapts them for extensions of the project or for any other purpose, then Owner shall compensate Engineer at rates or in an amount to be agreed upon by Owner and Engineer.

13. There are no third party beneficiaries of this Agreement between Owner and Engineer and no third party shall be entitled to rely upon any work performed or reports prepared by the Engineer hereunder.
14. Neither the Owner nor the Engineer shall delegate his duties under this Agreement without the written consent of the other.
15. Either party may terminate this Agreement for cause for any of the following reasons:
 - a. Substantial failure by the other party to perform in accordance with the terms of this Agreement and through no fault of the terminating party;
 - b. Assignment of this Agreement or transfer of the project by either party to any other entity without the prior written consent of the other party;
 - c. Suspension of the project of the Engineer's services by the Owner for more than 90 calendar days, consecutive or in the aggregate;
 - d. Material changes in the conditions under which this Agreement was entered into, the scope of work or the nature of the project, and the failure of the parties to reach agreement on the compensation and schedule adjustments necessitated by such changes.

Either party may terminate this Agreement for cause by giving written notice to the other of its intent to terminate this Agreement for substantial failure to perform according to this Agreement, which written notice shall specify the failure and demand correction or remedy thereof in 20 days. In the event of failure to remedy or correct in 20 days, this Agreement may be terminated in writing at the option of the party giving the prior notice. If this Agreement is terminated, the Engineer shall be paid for services based on actual manhours worked to the termination notice date, including reimbursable expenses due, less any amount in dispute.

16. Unless otherwise specified within this Agreement, this Agreement shall be governed by the law of the state in which the project is located.
17. Engineer shall procure and maintain insurance as set forth below. Engineer shall cause Owner to be listed as an additional insured on any applicable general liability insurance policy carried by Engineer.

Workers' Compensation:	Statutory
Employer's Liability --	
1) Bodily injury, each accident:	\$500,000
2) Bodily injury by disease, each employee:	\$500,000
3) Bodily injury/disease, aggregate:	\$500,000

General Liability --

- 1) Each Occurrence (Bodily Injury and Property Damage): \$1,000,000
- 2) General Aggregate: \$2,000,000

Excess or Umbrella Liability --

- 1) Per Occurrence: \$10,000,000
- 2) General Aggregate: \$10,000,000

Automobile Liability -- Combined Single Limit (Bodily Injury and Property Damage):

\$1,000,000

Professional Liability --

- 1) Each Claim Made \$5,000,000
- 2) Annual Aggregate \$5,000,000

18. Engineer shall deliver a certificate of insurance evidencing the coverages indicated. Such certificate shall be furnished prior to commencement of Engineer's services and at renewals thereafter during the life of the Agreement.

19. The Owner will require that any contractor or subcontractor performing construction work in connection with Contract Documents produced under this Agreement to hold harmless, indemnify and defend, the Owner and the Engineer, their consultants, and each of their officers, agents, and employees from any and all liability claims, losses or damage arising out of or alleged to arise from the contractor's (or subcontractor's) negligence in the performance of the work described in the Contract Documents, but not including liability that may be due to the sole negligence of the Owner, the Engineer, their consultants, or their officers, agents and employees.

20. The Engineer shall not supervise, direct, or have control over the Contractor's work nor have any responsibility for the construction means, methods, techniques, sequences, or procedures selected by the Contractor nor for the Contractor's safety precautions or programs in connection with the work. These rights and responsibilities are solely those of the Contractor in accordance with the Contract Documents.

21. The Owner and Engineer acknowledge that during construction projects, changes may be required as the result of possible omissions, ambiguities, or inconsistencies in the Contract Documents or changes that are identified during construction which will result in a better overall project for the Owner, or changes which are necessary due to unusual field conditions, or construction circumstances beyond the control of the Owner, Engineer or Contractor.

As a consequence of the above, the Owner realizes that the construction contractors may be entitled to additional payment. The Owner agrees to set up a reserve in the project budget to be used as required to make additional payments to the construction contractors with respect to such changes. When additional payments are due the contractor they will be made in accordance with an approved change order. The Owner further agrees to make no claim by way of direct or third party action against the Engineer with respect to additional payments made to

construction contractors or as a result of any claim made by construction contracts relating to such changes.

22. The Engineer shall comply with all applicable provisions of the Regulations of the U.S. Department of Commerce (Part 8 of Subtitle 15 of the Code of Federal Regulations) issued pursuant to the Civil Rights Act of 1964, in regard to nondiscrimination in employment because of race, religion, color, sex, or national origin. The Engineer shall comply with Executive Order 11246 (41 CFR 60-1.4), Section 503 of the Rehabilitation Act of 1973 (41 CFR 60-741.5(a)), Section 402 of the Vietnam Era Veterans Readjustment Act of 1974 (41 CFR 60-250.5(a)), the Jobs for Veterans Act of 2003 (41 CFR 60-300.5(a)), and, the organizing and collective bargaining Clauses of Executive Order 13496 (29 CFR 471). The Engineer shall comply with applicable federal, state, and local laws, rules, and regulations concerning Equal Employment Opportunity.
23. To the fullest extent permitted by law, the Owner and Engineer each agree to indemnify and hold the other harmless, and their respective officers, employees, agents, and representatives from and against liability for all claims, losses, damages, and expenses, including reasonable attorneys' fees, to the extent such claims, losses, damages, and expenses are caused by the indemnifying party's negligent acts, errors, or omissions. In the event claims, losses, damages, or expenses are caused by the joint or concurrent negligence of the Owner and Engineer, they shall be borne by each party in proportion to its negligence.
24. Neither party will be liable for special, incidental, indirect, or consequential damages arising out of or in connection with this Agreement. Except for losses resulting directly from the Engineer's professional negligent acts, errors, or omissions, the Owner agrees to limit the Engineer's cumulative liability to the Owner and to all construction contractors and their subcontractors on the project to \$100,000 or the Engineer's total fee for services rendered for any given Work Order, whichever is greater.
25. Neither Engineer, Engineer's subconsultants, nor their agents or employees shall be jointly, severally, or individually liable to Owner for an amount in excess of the available proceeds of the professional liability insurance coverage required by this Agreement by reason of any act or omission, in tort or contract, including breach of contract, breach of warranty, or negligence.
26. Any claim, dispute, or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution through arbitration.
27. Engineer shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to hazardous materials or toxic substances in any form at the project site.

If hazardous materials are present, Owner shall be responsible to remove them from the project site in a manner that will not adversely affect the health of any person and will comply with any applicable governmental laws and regulations.

Owner shall indemnify and hold harmless Engineer from any liability, loss, damage, or expense arising out of or with respect to the presence of hazardous materials on the project site.

The presence or discovery of any hazardous or toxic substance on the site shall be cause for extension of the schedule of the Engineer's services and equitable adjustment of fees for Engineer as mutually agreed by the parties.

This Agreement is executed the day and year written at the beginning of this Agreement.

Owner:

City of Hermiston, Oregon

By _____

Name _____

Title _____

Engineer:

Anderson Perry & Associates, Inc.

By Chas Hutchins

Name Chas Hutchins, P.E.

Title President

EXHIBIT "A"

Work Order - _____ and Anderson Perry & Associates, Inc.

Project Title _____

Work Order No. _____

Job No. _____

Date _____

Billing Group No. _____

I. SCOPE OF SERVICES

In accordance with the Agreement for General Engineering Services dated _____, the Owner hereby authorizes the Engineer to perform the following professional engineering services:

II. SPECIAL CONDITIONS

Special conditions related to this Work Order are as follows:

III. BASIS OF PAYMENT

- ☐ Time and Materials Basis
- ☐ Lump Sum Basis = (Lump Sum Amount: \$ _____)
- ☐ Other as described hereafter:

IV. AUTHORIZATION OF WORK ORDER

Owner: _____

By: _____

Type Name: _____

Title: _____

Acceptance by Engineer: **Anderson Perry & Associates, Inc.**

By: _____

Type Name: _____

Title: _____

EXHIBIT "B"

The Engineer may provide engineering services to the Owner as may be requested by the Owner. Any services performed must be authorized by an approved Work Order. A general list of services that could be provided is summarized hereafter. This list is not all-inclusive, but is intended to provide a summary of services that could be provided.

A. General City Engineering Services.

- Review and approval of plans for road, sewer, water, storm drainage, geotechnical, grading and other improvements for conformance to City standards and accepted engineering practices for subdivisions and development projects.
- Assistance to the Owner in working with regulatory agencies, i.e., permits, negotiations, compliance issues, etc.
- Assistance with funding applications and other applications as required.
- Assistance with water rights work.
- Assistance with planning issues, plat reviews, tentative partitions, etc.
- Preparation and maintenance of City utility maps, street maps, zoning maps, etc.
- General surveying services for property boundaries, street and right-of-way surveys, etc.
- General review of construction of public facilities performed by non-City personnel.
- Assistance with developing alternatives for infrastructure systems' operation and maintenance.
- Preparation of environmental review records, impact statements, and other information as may be requested from outside agencies or bodies.
- Attendance at City Council meetings to assist the Council as needed.
- Advice to the City regarding impacts of new and/or proposed state and federal regulations, etc.
- Other services as may be required.

B. Planning Studies, Technical Evaluations, Water/Sewer Rate Studies, and Feasibility Studies.

C. Design Engineering Services Including Conceptual Designs, Cost Estimates, Site Mapping, and Final Bidding and Contract Documents.

D. Construction Engineering Services Such as Construction Contract Administration, Engineering Review of Construction Work, Staking, and Materials Testing.

E. General Consultation for Water, Wastewater, and Stormwater Systems.

F. General Consultation for Street and Transportation Systems.