

Public Services; Engineering Services - Hakanson Anderson Assoc, Inc.

**STANDARD AGREEMENT
FOR ENGINEERING SERVICES**

THIS AGREEMENT is made this 1st day of March, 1993, by and between the City of Anoka, "Owner", and Hakanson Anderson Assoc., Inc., "Engineer".

WHEREAS, the Owner is authorized to and intends to contract for the services of the Engineer from time to time in the construction of public works and in providing general engineering services, and

WHEREAS, the services will include in some instances single construction projects for which compensation shall be in the form of percentage fees and/or negotiated fees, and in other instances general engineering services, and

WHEREAS, it is intended that this contract together with any supplemental agreements shall govern the terms of employment and compensation of the Engineer and all the conditions thereof.

NOW, THEREFORE, IT IS AGREED as follows:

1. **CONTRACT FOR SERVICES.** The Owner may contract with the Engineer to furnish and perform professional services and to pay the Engineer fees in the manner and subject to the conditions noted herein below; and the Engineer agrees to render engineering services in the manner and subject to the conditions noted herein.

2. **GENERAL REQUIREMENTS OF THE ENGINEER.**

A. **Copyright or Patent Infringements:** The Engineer shall defend actions or claims charging infringement of any copyright or patent by reason of the use or adoption of any designs, drawings or specifications supplied by him, and he shall hold harmless the Owner from loss or damage resulting therefrom, providing however, that the Owner within five (5) days after receipt of any notice of infringement or of summons in any action therefor shall have forwarded the same to the Engineer in writing.

B. **Indemnification:** The Engineer agrees to indemnify and hold the City harmless from all damages and claims for damages that may arise by reason of any negligence or violation of the law on the part of the Engineers, their agents or employees, in the performance of this Agreement.

C. **Insurance:** The Engineer further agrees that it will at all times during the duration of this Agreement have and keep in force:

(1) Automobile liability insurance (single limit or combined limit or excess umbrella) covering all vehicles used in providing services to the City in an amount of one million dollars (\$1,000,000) per accident for property damage, one million dollars (\$1,000,000) for bodily injury and damages to any one person, and one million dollars (\$1,000,000) for total bodily injuries and damages arising from a single accident.

(2) General liability insurance (single limit, combined limit or excess umbrella) of not less than one million dollars (\$1,000,000) for total bodily injury and damages arising from one occurrence and one million dollars (\$1,000,000) for total personal injury arising from one occurrence. Such policy shall also include contractual liability coverage protecting the City, its officers, employees and members by specific endorsement acknowledging the contract between the Contractor and the City.

(3) Workers compensation insurance.

(4) Errors and omissions (professional liability) insurance with a minimum of one million dollars coverage per occurrence.

(5) The Engineer shall provide the City with certificates of insurance evidencing the above coverages. Irrevocable notices shall be provided by the carrier to the City thirty (30) days prior to any change, modification, or lapse in the above coverage.

3. **PROJECTS; ENGINEERING SERVICES:** The Engineer, upon direction of the owner, agrees to serve as the Owner's professional representative in the planning, design, and supervision of construction of Projects, and to give consultation and advice to the owner. For each project, the Engineer shall submit a written proposal for engineering services which shall identify the nature of the project, the engineering and design objectives, and the terms of employment, if different from this agreement.

A. Basic Services of the Engineer:

(1) **Diagrammatics:** The Engineer shall prepare all required schematic drawings, layouts, flow diagrams, studies, reports, construction cost estimate based upon the diagrammatics and make presentations at council meetings and hearings, as requested by the Owner.

(2) **Preliminaries:** The Engineer shall supervise the making of all required sub-surface explorations, shall make the necessary topographical surveys for the design purposes and shall prepare preliminary drawings, outline specifications, a construction cost estimate based upon the preliminaries, and make a presentation at a public hearing, as requested by the Owner.

(3) **Contract Documents:** From the approved preliminaries, the Engineer shall prepare working drawings, specifications and other necessary documents completely describing the material and workmanship required and procedures to be followed for the construction of the Project, and he shall adjust the preliminary construction cost estimate to include changes in the scope of the Project, the Owner's requirements and market conditions. The Engineer shall furnish Owner with copies of design calculation sheets as requested. The Engineer shall furnish up to 6 sets of drawings and specifications, as directed, for the Owner for use by the Owner and the Contractor. In addition, the Engineer shall provide up to 20 sets of drawings and specifications for the use of bidders in submitting proposals. Additional sets if required shall be paid for by the City at cost plus overhead at maximum of 10%. The Engineer may require a deposit on the drawings and specifications, and any such deposit not refunded shall be credited to owner. The Engineer shall also provide Owner with duplicates of computer disks containing contract documents in a format acceptable to Owner.

(4) **Proposals:** The Engineer shall assist the Owner in securing Proposals from Bidders, in analyzing such Proposals, and in preparing the Contract for execution by the Contractor.

(5) **Construction Observation:** The Engineer shall perform such observation of the project as is reasonably necessary to insure that the Contractor's work is in compliance with the drawings and specifications and that there are no defects and deficiencies in the Contractor's work. However, he does not guarantee the contractor's performance. The Engineer's general observation shall include the following services:

(a) **Additional Instructions:** The Engineer shall issue such additional instructions to the Contractor as may be necessary to interpret the drawings and specifications or to illustrate changes required in the Contractor's work.

(b) Contractor's Submittals: The Engineer shall check shop drawings, samples, equipment, approval data and other data submitted by the Contractor for compliance with the drawings and specifications.

(c) Contractor's Requests for Payment: The Engineer shall act upon the Contractor's requests for payment in accordance with the provisions of the General Conditions of the Contract.

(d) Visits to the Site; Diary: The Engineer shall make periodic visits to the site to check the Contractor's work for compliance with the Contract Documents and to determine the extent of work completed for approving Contractor's requests for payment. The Engineer shall keep a diary of all site visits and shall note progress, disputes, and significant events.

(e) Communications with Contractor: The Engineer shall conduct all oral or written communications with Contractor prescribed in the plans and specification as necessary to protect Owner's contractual rights.

(f) Special Performance Tests: The Engineer shall witness and fully report the results of all special performance tests required for the Project.

(g) Final Acceptance: The Engineer shall prepare completion lists when 90% completion of the Project is claimed by the Contractor and again when 100% completion is claimed. When the Contractor has completed the work in accordance with the terms of the Contract Documents, the Engineer shall certify his recommendation for acceptance to the Owner and his approval of the Contractor's final request for payment. The certification and approval shall be accompanied by a final report summarizing the project and any design, construction, compensation, or other issues that arose during the project.

(h) Instruction to the Owner: The Engineer shall arrange for detailed instruction by the Contractor and manufacturer's representatives of the Owner or his delegated representative in the proper operation and maintenance of the equipment furnished and installed for the Project. The Engineer shall transmit to the Owner two (2) certified copies of all necessary drawings.

(i) Record drawings: The Engineer shall prepare reproducible record drawings (as-builts) and shall submit them to the Owner within 90 days of Project completion.

B. Extra Services of the Engineer shall include the following when authorized in writing by the Owner:

(1) Contract Documents: Revisions to drawings and specifications previously approved and preparation of necessary documents for alternate proposals and change orders, when not previously compensated for under other sections of this Agreement.

(2) Construction staking.

(3) Observation of Construction: The Engineer shall provide the services of a Project Representative. The Project Representative shall review and report to the Engineer on construction activities and make permanent record of the daily happenings. The Project Representative shall, through the Engineer, make determinations on the intent and interpretation of the plans and specifications. The Project Representative shall maintain field measurements and locations of

constructed facilities for record drawings. Daily reports shall be available to the Owner.

(4) Supervision of Materials Testing.

(5) Assisting the Owner in arranging for continuation of the work should the contractor default for any reason; and providing construction observation over an extended period should the construction contract time be exceeded by more than 25% not occasioned by fault of the Engineer.

(6) Work performed in connection with acquisition of easements.

(7) Inspection Prior to Expiration of the Guaranty Period of the Project and preparation of a written report listing discrepancies between guaranties and performance.

(8) Preparation of the assessment roll.

4. **PROJECTS; OWNER COOPERATION:** The Owner agrees to provide the Engineer with complete information concerning the scope of the Project and to perform the following services:

A. **Access to the Work:**The Owner shall guarantee access to and make all provisions for the Engineer to enter upon public and private lands as required for the Engineer to perform such work as surveys and inspections in the development of the Project.

B. **Consideration of the Engineer's Work:**The Owner shall give thorough consideration to all reports, sketches, estimates, drawings, specifications, proposals, and other documents presented by the Engineer, and shall inform the Engineer of all decisions within a reasonable time so as not to delay the work of the Engineer.

C. **Legal Requirements:** The Owner shall hold promptly all required special meetings, service all required public and private notices, receive and act upon all protests and fulfill all requirements necessary in the development of the Project, and pay all costs incidental thereto.

D. **Proposals:** The Owner shall advertise for Proposals from Bidders, open the Proposals at the appointed time and place and pay all costs incidental thereto.

E. **Protection of Markers:** The Owner shall protect, to the best of his ability, all stakes and other markers set by the Engineer prior to the assumption of such responsibility by the Contractor. Replacement of markers or stakes which have been damaged, moved or removed shall be paid for by the Owner as extra services of the Engineer.

F. **Standards:** The Owner shall furnish the Engineer with a copy of any design and construction standards he shall require the Engineer to follow in the preparation of Contract Documents for the Project.

G. **Owner's Representative:**The City Manager or his designated representative shall act as the Owner's Representative with respect to the work to be performed under this Agreement. He shall have complete authority to transmit instruction receive information, interpret and define Owner's policies and decisions, and approve change orders.

5. **PROJECTS; ENGINEERS COMPENSATION:**

A. **Payment for Basic Services:**

(1) The Owner shall pay the Engineer for the basic services described in Paragraph 3.A of this Agreement, a basic fee (y), equal to a

percentage of the construction cost (x) and calculated as $y = ax^b$ where $a = 65$ and $b = -.165$. At the completion of each phase of the work, progress payments shall total the following percentages of the Basic Fee for the Project, or estimates thereof.

Where project construction value is less than \$50,000, the engineering fees will be based on a "not to exceed" amount plus expenses. For projects of construction value of \$50,000 or more, the formula $y = ax^b$ shall be used to calculate the fee for basic services.

(a) Feasibility Study and Report: 10%, based upon the preliminary cost estimate. If the Project is not ordered beyond the feasibility study and report, engineering services for the study and report shall be paid for as general engineering services under Paragraph 7. If the Project is ordered, but is significantly reduced in scope, that portion of engineering services for the feasibility study and report fairly allocated to that portion of the Project which is not ordered shall be paid for as general engineering services under Paragraph 7.

(b) Preliminary Design: 30%, based upon the preliminary cost estimate.

(c) Contract Documents, Final Design; Bidding or Receipt of Proposals: 80%, based upon the lowest bona fide proposal.

(d) Construction: 95%, based upon the total construction cost of the project.

(e) Final Acceptance of the Project and Receipt of Reproducible Record Drawings and Engineer's Final Report: 100% of basic fee for project.

(2) Definitions of Construction Cost of the Project as herein referred to means the total cost of all work designed or specified by the Engineer for the Project but does not include any payments to the Engineer or other consultants.

(3) Payments Withheld from Contractors: No deduction shall be made from the Engineer's compensation on account of penalty, liquidated damages, or other amounts withheld from payments to Contractor.

(4) Abandoned or Suspended Work: If any work performed by the Engineer is abandoned or suspended in whole or in substantial part, the Engineer shall be paid as provided in Paragraph 7 for general engineering services.

(5) Progress Payments: Once each month the Owner shall pay the Engineer in proportion to services performed during the period. The Engineer shall provide the Owner with an itemized bill detailing the services performed during the period.

B. Payment for Extra Services: The Engineer shall be paid for extra project services in accordance with Paragraph 7, as if they were general engineering services, with the exception of the work done by special consultants. Work done by special consultants as directed by the Engineer shall be billed directly to the Owner. However, the Engineer shall review the bills and make recommendations for payment by the Owner.

C. Payment for Reimbursable Costs:

(1) Normal transportation costs associated with the work assigned herein shall be reimbursable. The rate shall not exceed the current IRS rate for the year per mile.

(2) When authorized by Owner, the following expenses shall be reimbursable: transportation and subsistence of principals and employees on special trips to the project or to other locations; long distance telephone and telegraph calls as required to expedite the work of the Contractor; reproduction of drawings and specifications in addition to those specified in Paragraph 3.A(3) of this Agreement; work of special consultants when required by the complex or specialized nature of the project or for soils and materials testing.

(3) Overhead charge of 10% shall be added to the authorized reimbursable expenses as compensation to the engineer for profit margin.

(4) The Engineer shall bill the Owner monthly and shall provide the Owner with an itemized statement of the reimbursable costs incurred during the period.

6. **GENERAL ENGINEERING SERVICES:** Upon direction of the Owner, the Engineer agrees to perform the following work as general engineering services:

A. General: The Engineer shall serve as the Owner's professional representative in performing engineering functions as directed by the Owner's designated administrative representative for work including but not limited to the following:

(1) Special engineering studies.

(2) Research for and preparation of technical correspondence.

(3) Participating in meetings and conferences involving engineering questions.

(4) Preparing a report summarizing conclusions, recommendations and engineering observations.

7. **GENERAL ENGINEERING SERVICES; ENGINEER'S COMPENSATION:**

A. The costs for those services described in paragraph 6 shall be billed on the basis of the payroll costs of the Engineer for each person performing the work, times a multiplier. The payroll cost is the actual salary paid to the employee excluding benefits. The multiplier applied to the salary cost is considered to cover the Engineer's costs for payroll taxes, rent, utilities, office overhead, lost time or readiness to serve, equipment overhead, insurance, legal and accounting costs plus a reasonable margin of profit. The multiplier to be utilized as a part of this agreement shall be 2.8 based on straight time.

B. The Engineer shall bill the Owner monthly and shall provide the Owner with an itemized billing statement for work performed during the billing period and the payroll cost to the Engineer of the person performing the work.

8. **GENERAL PROVISIONS:**

A. Termination: This Agreement may be terminated by either party for any reason by seven (7) days, written notice in which case the Engineer shall be paid for services performed to the date of termination, including reimbursements then due, plus terminal expense, but less reasonable costs for necessary corrections.

B. Arbitration: Arbitration of all questions in dispute under this Agreement shall be by consent of both parties and shall be in accordance with rules, of the American Arbitration Association. This Agreement shall be specifically enforceable under the prevailing arbitration law and judgment upon the award rendered may be entered in the court of the forum,

state or federal, having jurisdiction. The decision of the arbitrators shall be a condition to the right of any legal action.

C. Ownership of Documents: The completed tracings and master specification sheets shall remain the property of the Engineer, but reproductions of them in whole or in part may be used by Owner on additions to the Project or on any other project. With respect to any Project in progress at the time of termination, the Engineer shall provide the Owner with copies of any plans, specifications or documents necessary for completion of said Project. The Owner shall pay the Engineer reasonable cost for making said copies.

D. Successors and Assigns: This Agreement and all of the covenants thereof shall inure to the benefit of and be binding upon the Owner and the Engineer respectively and his partners, successors, assigns and legal representatives. Neither the Owner nor the Engineer shall have the right to assign, transfer or sublet its interest or obligations hereunder without written consent of the other party.

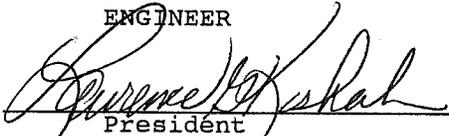
E. In accordance with Minnesota Statutes 16B.06, subd. 4, the books, records, documents, and accounting procedures and practices of the Engineer relevant to this Agreement are subject to examination by the City and either the Legislative Auditor or State Auditor as appropriate.

F. The provisions of this Agreement are severable; if any paragraph, section, subdivision, sentence, clause or other phrase of this Agreement is for any reason held to be contrary to the law, or contrary to any rule or regulation having the force and effect of law, such decision shall not affect the remaining provisions of this Agreement.

G. The laws of the State of Minnesota shall govern this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

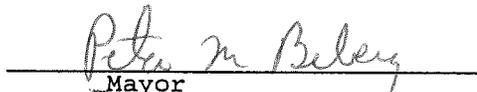
ENGINEER



President



CITY OF ANOKA



Mayor



City Manager