

RESOLUTION NO. 1495

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DAYTON, WASHINGTON, APPROVING A PROFESSIONAL SERVICES AGREEMENT FOR GENERAL ON-CALL ENGINEERING, ARCHITECTURAL AND GENERAL LAND SURVEYING SERVICES TO ANDERSON PERRY & ASSOCIATES, INC.; AND, AUTHORIZING THE MAYOR TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH ANDERSON PERRY & ASSOCIATES, INC., FOR SAID SERVICES.

WHEREAS, the City Council of the City of Dayton ("City") needs engineering, architectural or general land surveying services ("Services") from time to time; and

WHEREAS, on June 1, 2022, the city used the Small Works Roster from MRSC in selecting from a list of consulting firms qualified to provide the Services; and

WHEREAS, the City selected Anderson Perry from the consulting firm list and

WHEREAS, the City found Anderson Perry & Associates, Inc., as the most qualified consultant to begin negotiations towards an agreement to perform the Services;

WHEREAS, the Evaluation Committee is recommending that the City Council award the professional services contract to Anderson Perry & Associates, Inc., and that the mayor be granted the authority to execute a professional services agreement with Anderson Perry & Associates, Inc, to perform the Services as described in Exhibit "A", attached hereto.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DAYTON, WASHINGTON, DO RESOLVE AS FOLLOWS:

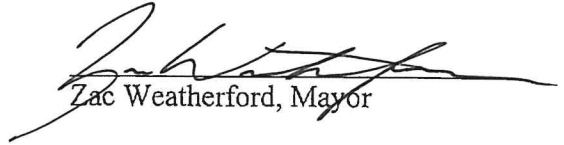
Section 1. Award. The City Council hereby awards the contract for professional services for the on-call general engineering, architectural and general land surveying services to the most qualified consultant, Anderson Perry & Associates, Inc. beginning June 14th, 2022 – May 31st, 2025.

Section 2. Authorization. The Mayor is hereby authorized to execute the Engineering Services Agreement with Anderson Perry & Associates, Inc., to perform the professional services for the City of Dayton as provided in Exhibit "A", attached hereto.

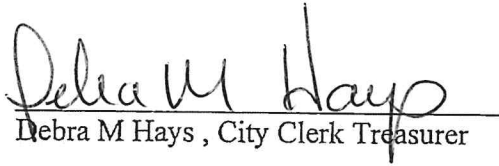
PASSED BY THE CITY COUNCIL AT A SPECIAL MEETING ON THE

____14th ____ DAY OF ____JUNE _____, 2022.

City of Dayton


Zac Weatherford, Mayor

Attested/Authenticated:


Debra M Hays, City Clerk Treasurer

Approved as to form


Quinn V. Plant, City Attorney

AGREEMENT FOR ENGINEERING SERVICES

THIS AGREEMENT, made this 14th day of June, 2022, by and between the City of Dayton, Washington, hereinafter referred to as the CITY, and Anderson Perry & Associates, Incorporated, hereinafter referred to as the ENGINEER. This Agreement shall terminate on May 31, 2025.

The CITY intends to complete miscellaneous public works projects. Engineering tasks on projects may include planning, conceptual design, design, construction engineering, and other work elements.

The ENGINEER agrees to assist the CITY with miscellaneous project elements and other associated work as requested by the CITY.

WITNESSETH:

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

SECTION A - ENGINEERING SERVICES

General

It is intended for this Agreement to cover different elements of work, hereinafter referred to as TASK ORDERS. TASK ORDERS will be specifically defined by Amendment later as authorized by the CITY. The ENGINEER shall provide planning, conceptual design, design, construction engineering, and/or other engineering services as appropriate for each TASK ORDER as generally defined by this Agreement and as specifically required by each TASK ORDER. Each TASK ORDER shall constitute a separate and severable portion of the Agreement and each TASK ORDER may be enforced as a separate contract without regard to other TASK ORDERS or their termination, cancellation, or supervision.

Planning and Conceptual Design

After acceptance by the CITY and upon authorization of CITY to proceed,

1. The ENGINEER shall assist the CITY in identifying, evaluating, and prioritizing facility improvements.
2. Such assistance shall be provided in close coordination with appropriate CITY staff.
3. The ENGINEER shall provide services as may be required to assist the CITY in obtaining funding for projects. Work may include assistance in preparing grant and loan applications, preparation of environmental data, assistance in public meetings and hearings, assistance during local bond elections, updating cost estimates, etc. The ENGINEER shall meet with the CITY and representatives of local, state, and federal agencies from time to time as necessary.

4. The ENGINEER shall prepare conceptual designs and review the designs with the CITY and applicable agencies. The ENGINEER shall also prepare a preliminary opinion of probable construction cost and probable total project cost based upon conceptual design.

Design Engineering

Upon approval by the CITY of the project scope and opinion of probable total project cost, and upon approval to proceed, the ENGINEER shall provide the following:

1. Complete the necessary project surveying and mapping; accomplish the final designs of the project; prepare final Drawings, Specifications, and Contract Documents; and make adjustments as needed to the opinion of probable construction cost and probable total project cost based on these final designs. Design activities will be coordinated with the CITY as necessary for each project.
2. Prepare and furnish to the CITY a final map showing the needed construction and permanent easements, and any lands to be acquired. Property surveys, property plats, legal descriptions, and negotiations for land rights shall be accomplished by the CITY unless the CITY requests the ENGINEER to perform these services. When the ENGINEER is requested to perform such services and make detailed property surveys, the ENGINEER will perform the work under "Other Engineering Services."
3. Prepare and furnish Bidding Documents for review and approval by the CITY, its legal counsel and other advisors as appropriate, and appropriate agencies. The ENGINEER's services under the Design Engineering phase shall be considered complete when the final Bidding Documents are approved by the CITY and other governmental authorities having jurisdiction.

Construction Engineering

After acceptance by the CITY and appropriate agencies of the Bidding Documents and upon authorization by the CITY to proceed, the ENGINEER shall:

1. Assist the CITY in advertising for and obtaining bids for the work and maintain a record of prospective bidders to whom Bidding Documents have been issued. Attend Pre-Bid Conferences, if held, and answer questions from prospective bidders and suppliers.
2. Furnish copies of the Bidding Documents as required by prospective bidders, material suppliers, and other interested parties. The ENGINEER may charge bidders and suppliers for such copies to offset the cost of printing and handling expenses.
3. Issue Addenda as appropriate to clarify, correct, or change the Bidding Documents.
4. Consult with the CITY as to the acceptability of the subcontractors, vendors, suppliers, and other persons and entities proposed by the Contractor for those portions of the work as to which such acceptability is required by the Bidding Documents.
5. Attend the Bid opening, prepare Bid tabulation sheets, and assist the CITY in evaluating Bids or proposals, and in assembling and awarding contracts for the work.

6. After the award of the construction contract by the CITY, the ENGINEER shall meet with the Contractor and the CITY in a Preconstruction Conference to discuss project schedules, procedures, etc.
7. Review and take other appropriate action with respect to Shop Drawings and Samples and other data which the Contractor is required to submit. Such action is only to determine conformance with the information given in the Contract Documents and compatibility with the design concept of the completed project as a functioning whole as indicated in the Contract Documents. Such review or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto.
8. Provide general engineering review of the work of the Contractor as construction progresses. The ENGINEER shall also provide full-time or part-time Project Representatives on site as appropriate to review the work. The ENGINEER shall keep the CITY informed as to any known deviations from the general intent of the Contract Documents or agreements made at the Preconstruction Conference. Copies of regular progress reports will be sent to the CITY and the Contractor. The ENGINEER's undertaking hereunder shall not relieve the Contractor of his/her obligation to perform the work in conformity with the Drawings and Specifications and in a workmanlike manner. The ENGINEER shall not, as a result of such observations of the Contractor's work in progress, supervise, direct, or have control over the Contractor's work, nor shall the ENGINEER have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by the Contractor, for safety precautions and programs incident to the work of the Contractor, or for any failure of the Contractor to comply with laws, rules, regulations, ordinances, codes, or orders applicable to the Contractor's furnishing and performing the work. Accordingly, the ENGINEER neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform its work in accordance with the Contract Documents.
9. Keep the CITY informed concerning progress of the work and attend meetings held by the CITY, outside agencies, and the Contractor as they relate to the project.
10. Issue necessary clarifications and interpretations of the Contract Documents as appropriate to the orderly completion of the work. Such clarifications and interpretations will be consistent with the intent of and reasonably inferable from the Contract Documents. The ENGINEER may issue Field Orders authorizing minor variations from the requirements of the Contract Documents.
11. Provide construction staking as may be required to provide control to be used by the Contractor as called for in the Contract Documents.
12. Provide testing services as the work progresses to monitor the Contractor's compliance with the Contract Documents. Such tests may include soils gradation and compaction tests, concrete tests, etc. Such testing will not replace the Contractor's own testing nor relieve the Contractor from providing his own quality control.
13. Prepare change orders for the CITY's approval that are necessary for the proper completion of the work by the Contractor.

14. Review the Contractor's requests for progress payments and, based upon on-site observation, recommend the amounts the Contractor should be paid. Such recommendations of payment will constitute the ENGINEER's representation to the CITY, based on such observations and review that, to the best of the ENGINEER's knowledge, information, and belief, the work has progressed to the point indicated. In the case of unit price work, the ENGINEER's recommendations of payment will include determinations of quantities and classifications of such work (subject to any subsequent adjustments allowed by the Contract Documents).

By recommending any payment, the ENGINEER shall not thereby be deemed to have represented that observations made by the ENGINEER to check the quality or quantity of the Contractor's work as it is performed and furnished have been exhaustive, extended to every aspect of the work in progress, or involved detailed inspections of the work beyond the responsibilities specifically assigned to the ENGINEER in this Agreement and the Contract Documents. Neither the ENGINEER's review of the Contractor's work for the purposes of recommending payments, nor the ENGINEER's recommendation of any payment including final payment will impose on the ENGINEER any responsibility to supervise, direct, or control such work or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or the Contractor's compliance with laws, rules, regulations, ordinances, codes or orders applicable to the Contractor furnishing and performing the work. It will also not impose responsibility on the ENGINEER to make any examination to ascertain how or for what purposes the Contractor has used the monies paid on account of the Contract Price, or to determine that title to any of the work, materials, or equipment has passed to the CITY free and clear of any liens, claims, security interests, or encumbrances, or that there may not be other matters at issue between the CITY and the Contractor that might affect the amount that should be paid.

15. Receive and review maintenance and operating instructions, schedules, guarantees, bonds, certificates, or other evidence of insurance required by the Contract Documents, certificates of inspection, tests and approvals, and marked-up record documents including Shop Drawings, Samples, and other data and marked-up Record Drawings which are to be assembled by the Contractor in accordance with the Contract Documents.
16. Prepare and furnish to the CITY one set of reproducible project Record Drawings showing appropriate record information based on project documentation received from the Contractor and the ENGINEER's Project Representative. It is recognized that these Drawings may contain some discrepancies and omissions and will not necessarily represent "exact" field conditions.
17. Following notice from the Contractor that the Contractor considers the entire work ready for its intended use, in company with the CITY, appropriate outside agencies, and the Contractor, conduct an inspection to determine if the work is substantially complete. If, after considering any objections of the CITY, the ENGINEER considers the work substantially complete, the ENGINEER shall deliver a certificate of Substantial Completion to the CITY and the Contractor.
18. In company with the CITY's representatives and appropriate outside agencies, conduct a final inspection to determine if the completed work of the Contractor is acceptable so that the ENGINEER may recommend, in writing, final payment to the Contractor.

19. Prepare an Operation and Maintenance Manual for the project if one is required. The Operation and Maintenance Manual shall be presented to the CITY in a separate bound document at the completion of the project. The ENGINEER may require the Contractor to supply, as a construction specification provision, supplemental information to be used in conjunction with the manual such as operation and maintenance information on specific equipment, manufacturer's catalogs, parts lists, etc.
20. The Construction Engineering services shall be considered complete when the Construction project is accepted by the CITY and when Operation and Maintenance materials and Record Drawings have been provided to the CITY.

Other Engineering Services

In addition to the foregoing being performed, the following services may be provided by the ENGINEER when requested by the CITY, as required.

1. Provide engineering services as may be required to assist the CITY in obtaining construction funding for each project through various funding programs as requested by the CITY. Work may include assistance in preparing technical portions of grant and loan applications, technical assistance with environmental checklists and assessments, assistance in public meetings, ongoing coordination and agreements with funding agencies, advance preparation of utility rate studies, assistance with fact sheets and other information for meetings, bonding, updating cost estimates, and other funding services that may be required.
2. Assist the CITY with the preparation of applications for water rights, water/sewer user ordinances, water/sewer rate schedules, Water Conservation Plans, and other user guidelines that may be required by the CITY or regulatory agencies. The ENGINEER shall also assist with public meetings and hearings relating to these applications, studies, and ordinances.
3. Assist the CITY with obtaining permits, applications, outside utility services, etc., as necessary for the work. The CITY shall pay all fees associated with such permits and applications, if such fees are required. The ENGINEER is not responsible for such fees.
4. Assist the CITY with property surveys, property plats, legal descriptions, and other items necessary for negotiating for land rights and easements. Such work may include appearances before courts and boards on these matters.
5. Redesign work when requested to do so by the CITY. Such work shall include changes in the design, after the conceptual design stage, that are beyond the control of the ENGINEER, and/or changes in the Bidding Documents after such plans have been accepted by the CITY.
6. Special tests, specialized geological, hydraulic, or other studies or tests other than as previously outlined herein that may be required on the project.
7. Additional administrative services as needed in administering the project, project grants, and other financial assistance programs with outside agencies. Such services may include preparation of requests for funds, reports, coordinating meetings, audit data, and other support

as appropriate to help facilitate the overall project development in accordance with local, state, and federal requirements.

8. Preparing to serve or serving as a consultant or witness for the CITY in any litigation, arbitration, or other dispute resolution process relating to the project.
9. Additional or extended services during construction made necessary by (1) emergencies or acts of God endangering the work, (2) work damaged by fire or other cause during construction, (3) a significant amount of defective, neglected, or delayed work by the CONTRACTOR, (4) acceleration of the progress schedule involving services beyond normal working hours, (5) longer construction time than anticipated, or (6) default by the CONTRACTOR.
10. Soil tests and borings as required to evaluate subsurface soil conditions.
11. Post-construction assistance to the CITY in the refining and adjusting of equipment, staff-training, or documentation of facilities performance.

SECTION B - RESPONSIBILITIES OF CITY

1. The CITY shall provide the ENGINEER with all criteria and full information as to the CITY's requirements for the project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations; furnish copies of all design and construction standards which the CITY will require to be included in the Drawings and Specifications; and furnish copies of the CITY's standard forms, conditions, and related documents for the ENGINEER to include in the Bidding Documents, when applicable.
2. The CITY shall furnish to the ENGINEER all available information pertinent to the project including reports and data relative to previous designs, all existing maps, field survey data, lines of streets and boundaries or rights-of-way, and other surveys presently available. The CITY shall also provide all known information concerning the existing underground utilities, etc., that could impact the proposed improvements.
3. The CITY 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.
4. The CITY shall give prompt written notice to the ENGINEER whenever the CITY 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.
5. The CITY shall pay for any agency plan review fees, advertisement for bids, building or other permits, licenses, etc., as may be required by local, state, or federal authorities, and shall secure the necessary land easements, rights-of-way, and construction permits.
6. The CITY 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 CITY deems appropriate with respect to such examination) and render timely decisions pertaining thereto.

7. The CITY 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.
8. The CITY shall provide, as required for the project:
 - a. accounting, bond, and financial advisory and insurance counseling services;
 - b. legal services with regard to issues pertaining to the project as the CITY requires, the Contractor raises, or the ENGINEER reasonably requests; and
 - c. such auditing services as the CITY requires to ascertain how or for what purpose the Contractor has used the monies paid.
9. The CITY shall advise the ENGINEER in a timely manner of the identity and scope of services of any independent consultants employed by the CITY to perform or furnish services in regard to the project.
10. The CITY shall attend the Pre-Bid Conference, Bid Opening, Pre-Construction Conferences, construction progress, and other job-related meetings and Substantial Completion, final payment, and warranty inspections.

SECTION C - COMPENSATION FOR ENGINEERING SERVICES

1. The CITY and ENGINEER will select one of two compensation methods for each task order:
 - a. The CITY shall compensate the ENGINEER in a lump sum amount for each TASK ORDER element so designated. If, during the course of the work, the scope of the work should substantially change, the CITY and the ENGINEER shall review and amend this section of the contract as necessary.
 - b. The CITY shall compensate the ENGINEER on a time and materials not to exceed basis according to the ENGINEER's current fee schedule (Attachment A; adjusted annually) for each TASK ORDER so designated. If, during the course of the work, the scope of the work should substantially change, the CITY and the ENGINEER shall review and amend this section of the contract as necessary.
2. 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 may include a 10 percent additional fee to cover handling, overhead, insurance costs, etc. Mileage shall be charged at the standard IRS rate. There shall be no charge for secretarial services, telephone calls, and postage.
3. The CITY agrees to pay the ENGINEER for the services provided in accordance with this Agreement on a monthly basis for the services actually provided. The ENGINEER will render to the CITY an itemized bill no more than once each month, for compensation for such services performed hereunder, the same to be due and payable by the CITY to the ENGINEER.

Past due amounts owed shall include a service fee charge of 10 percent annual interest beginning the 60th day after the date of billing. The ENGINEER may suspend work under this Agreement until the account is paid in full. In the event suit is brought or an attorney is retained by either party to this Agreement to enforce the terms of this Agreement or to collect any moneys due hereunder, the prevailing party shall be entitled to recover reimbursement for reasonable attorney's fees, court costs, costs of investigation and other related expenses incurred in connection therewith in addition to any other available remedies.

SECTION D - GENERAL PROVISIONS

1. Approval of this Agreement by the CITY and the ENGINEER will serve as written authorization for the ENGINEER to proceed with the services called for in subsequent executed TASK ORDERS.
2. Neither party shall hold the other responsible for damages or delay 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.
3. 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.
4. The ENGINEER intends to render his services under this Agreement in accordance with generally accepted professional practices for the intended use of the projects. The ENGINEER shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all designs, drawings, specifications, reports, and other services furnished by the ENGINEER under this Agreement. The ENGINEER shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in his designs, Drawings, Specifications, reports, and other services.
5. Any opinion of the probable construction cost or probable total project cost prepared by the ENGINEER represents his judgment as a design professional and is supplied for the general guidance of the CITY. Since the ENGINEER has no control over the cost of labor and material, or over competitive bidding or market conditions, the ENGINEER does not guarantee the accuracy of such opinions as compared to Contractor bids or actual cost to the CITY.
6. 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.
7. This Agreement represents the entire and integrated agreement between the CITY and the ENGINEER for engineering services and supersedes all prior negotiation, representations, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the CITY and the ENGINEER.
8. Original documents, survey notes, tracings and the like, except those furnished to the ENGINEER by the CITY, are and shall remain the property of the ENGINEER except as otherwise provided in Section 12 of this Agreement. Documents, including Plans and Specifications prepared under this Agreement, are instruments of service of the ENGINEER. Reuse of any of the Plans and

Specifications that may be developed during the projects by the CITY on extensions of projects or on any other project without the written permission of the ENGINEER shall be at the CITY's risk. The CITY agrees to defend, indemnify, and hold harmless the ENGINEER from all claims, damages, and expenses including attorneys' fees arising out of such reuse of the ENGINEER's instruments of service by the CITY. The ENGINEER shall make available to the CITY, when requested, all documents, Plans, pictures, etc., that are prepared as part of the ENGINEER's services under this Agreement. In addition to furnishing documents and copies of documents on projects, the ENGINEER agrees to furnish copies of the full-sized drawings in an AutoCADD digital format to be designated by the CITY. The ENGINEER shall be permitted to remove all indicia of its ownership and/or involvement from electronic records. The CITY acknowledges the ENGINEER's project documents as instruments of professional service. Nevertheless, all documents including signed and sealed record drawings, specifications, reports, and supporting documents provided or furnished by the ENGINEER pursuant to this Agreement are instruments of service in respect of the project and shall become the property of the CITY upon payment to the ENGINEER of compensation as set forth herein. There will be no cost for these documents except for labor, reproduction, and copying costs. The ENGINEER may retain copies of documents for their records.

9. There are no third party beneficiaries of this Agreement between the CITY and the ENGINEER and no third party shall be entitled to rely upon any work performed or reports prepared by the ENGINEER hereunder.
10. Neither the CITY nor the ENGINEER shall delegate his duties under this Agreement without the written consent of the other.
11. The CITY reserves the right to request replacement of any Project Representatives furnished by the ENGINEER.
12. The CITY may, by written notice to the ENGINEER, terminate this Agreement in whole or in part any time, without cause, or for the default of ENGINEER. Upon such termination, all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by the ENGINEER in the exclusive performance of this Agreement shall, in the manner and to the extent determined by the CITY, become the property of and be delivered to the CITY.

If the termination is without cause by the CITY, an equitable adjustment in the Agreement price shall be made by agreement between ENGINEER and the CITY in the compensation to be paid ENGINEER under this Agreement, but no amount shall be allowed for anticipated profit or unperformed services. Either party may do so 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 ten (10) days. In the event of failure to remedy or correct in ten (10) days, this Agreement may be terminated in writing at the option of the party giving the prior notice.

The rights and remedies of the Owner provided in this Section are in addition to any other rights and remedies provided by law or under this Agreement.

13. Unless otherwise specified within this Agreement, this Agreement shall be governed by the laws of the State of Washington.
14. The ENGINEER shall acquire and maintain statutory Worker's Compensation insurance coverage, employer's liability, and comprehensive general liability insurance coverage.
15. The CITY shall purchase and maintain property insurance upon the work to the full insurable value thereof. The insurance shall insure against the perils of fire and extended coverage, shall include "all risk" insurance for physical loss and damage including theft, vandalism, and malicious mischief, collapse and water damage, boiler and machinery insurance or additional property insurance, all as may be appropriate for the project. The ENGINEER shall have, and maintain through the Contract period, insurance and benefits in the following minimum requirement:

Professional liability and commercial general liability (bodily injury and property damage) insurance, with each policy having maximum limits of not less than \$1,000,000 and provide evidence of such insurance in a form acceptable to CITY.
16. The CITY and the ENGINEER acknowledge that changes may be required as the result of possible omissions, ambiguities, or inconsistencies in the Plans and Specifications or changes that are identified during construction which will result in an overall better end project for the CITY, or changes which are necessary due to unusual field conditions, or construction circumstances beyond the control of the CITY, ENGINEER, or Contractor. As a consequence of the above, the CITY realizes that the Construction Contractor may be entitled to additional payment. The CITY agrees to set up a reserve in the project budget to be used as required to make additional payments to the Construction Contractor with respect to such changes. When additional payments are due to the Contractor, they will be made in accordance with an approved Change Order.
17. 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 applicable federal, state, and local laws, rules, and regulations concerning Equal Employment Opportunity.
18. To the fullest extent permitted by law, the ENGINEER shall indemnify and hold harmless the CITY, the CITY's officers, directors, partners, and employees from and against any and all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) caused by the negligent acts or omissions of the ENGINEER or the ENGINEER's officers, directors, partners, employees, agents, and the ENGINEER's Consultants in the performance and furnishing of the ENGINEER's services under this Agreement.
19. To the fullest extent permitted by law, the CITY shall indemnify and hold harmless the ENGINEER, the ENGINEER's officers, directors, partners, employees, and agents and the ENGINEER's Consultants from and against any and all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) caused by the negligent acts or

omissions of the CITY or the CITY's officers, directors, partners, employees, and the CITY's Consultants with respect to this Agreement or the project.

20. ENGINEER shall protect, hold free and harmless, defend and pay on behalf of the CITY (including its mayor, council members, and employees) all liability, penalties, costs, losses, damage, expense, causes of action, claims, or judgments, (including attorney's fees) resulting from injury or death, sustained by any person (including ENGINEER's employees) or damage to property of any kind which injury, death, or damage arises out of or is in any way connected with ENGINEER's performance of this contract. ENGINEER's hold harmless agreement shall apply to any act or omission, willful misconduct or negligence whether passive or active, on the part of ENGINEER (its agents or employees); except, that this Agreement shall not be applicable to injury, death, or damage to property or persons arising from negligence or willful misconduct, whether passive or inactive, of CITY.

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

CITY:

City of Dayton, Washington

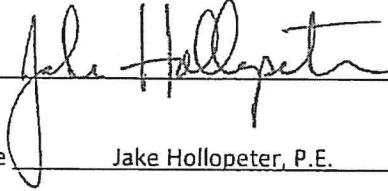
By _____

Name _____

Title _____

ENGINEER:

Anderson Perry & Associates, Inc.

By  _____

Name Jake Hollopeter, P.E.

Title Vice President



214 E. Birch Street, P.O. Box 1687
Walla Walla, WA 99362
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www.andersonperry.com

engineering • surveying • natural resources

ATTACHMENT A HOURLY FEE SCHEDULE

Revised May 2022

PROFESSIONAL TECHNICAL STAFF

TECHNICIANS	ENGINEERING	ARCHAEOLOGY
Technician I\$ 65.00	Engineering Technician I \$105.00	Archaeological Technician I.....\$ 60.00
Technician II\$ 75.00	Engineering Technician II \$110.00	Archaeological Technician II.....\$ 70.00
Technician III\$ 80.00	Engineering Technician III \$115.00	Staff Archaeologist I\$ 75.00
Technician IV\$ 90.00	Staff Engineer I\$120.00	Staff Archaeologist II\$ 80.00
Technician V\$ 95.00	Staff Engineer II\$125.00	Project Archaeologist I\$ 85.00
Technician VI\$100.00	Project Engineer I\$130.00	Senior Archaeologist I\$105.00
Technician VII\$105.00	Project Engineer II\$135.00	Senior Archaeologist II\$120.00
Senior Technician I\$110.00	Project Engineer III\$145.00	
Senior Technician II\$120.00	Project Engineer IV\$150.00	PROJECT REPRESENTATIVES
Senior Technician III\$125.00	Project Engineer V\$155.00	Project Representative I\$ 95.00
Senior Technician IV\$135.00	Project Engineer VI\$165.00	Project Representative II\$100.00
Senior Technician V\$145.00	Project Engineer VII\$170.00	Project Representative III.....\$105.00
Senior Technician VI\$155.00	Senior Engineer I\$175.00	Project Representative IV\$110.00
Senior Technician VII\$165.00	Senior Engineer II\$180.00	
Senior Technician VIII\$170.00	Senior Engineer III\$185.00	OVERTIME
Senior Technician IX\$185.00	Senior Engineer IV\$190.00	Overtime Surcharge\$ 35.00
	Senior Engineer V\$200.00	
	Senior Engineer VI\$205.00	
	Senior Engineer VII\$210.00	
	Senior Engineer VIII\$225.00	

SURVEYORS AND CREWS

Survey Technician I\$ 70.00	Professional Land Surveyor I \$130.00	Total Station\$ 25.00
Survey Technician II\$ 85.00	Professional Land Surveyor II ... \$140.00	ATV (4-hour minimum)\$ 32.00
Survey Technician III\$ 90.00	Professional Land Surveyor III .. \$155.00	Resource Grade GPS\$ 22.00
Survey Crew Chief I\$ 95.00	Professional Land Surveyor IV . \$175.00	Electrofischer.....\$ 25.00
Survey Crew Chief II\$100.00	Professional Land Surveyor V .. \$185.00	Unmanned Aircraft System
Survey Crew Chief III\$110.00	GPS Total Station\$ 40.00	(UAS/Drone)\$ 45.00
Survey Crew Chief IV\$140.00	Robotic Survey Station\$ 30.00	GIS RTK GPS/GNSS Unit.....\$ 32.00

OUT OF TOWN WORK

Mileage will be charged at the applicable IRS rate for vehicles, which is \$0.585 per mile for standard highway vehicles as of January 1, 2022. Mileage will be charged at \$0.75 per mile for vans and pickup trucks. Subsistence will be charged either per diem or actual cost, per contract. Lodging will be billed at actual cost.

OTHER

Other miscellaneous, direct, and outside expenses, including special Consultants, will be charged at actual cost plus 10%.

Expert Witness will be charged at two times the standard hourly rate.

All accounts unpaid 30 days after date of invoice may be charged a service fee of 1.0% per month.

This Hourly Fee Schedule is revised annually on or around March 1.



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Eastern Region Office
4601 North Monroe St., Spokane, WA 99205-1295 • 509-329-3400

May 31, 2022

The Honorable Zac Weatherford
City of Dayton
111 South First Street
Dayton, WA 99328

RE: NPDES Permit Number WA0020729 for the City of Dayton
Compliance with Washington State Surface Water Quality Standards

Dear Mayor Weatherford:

This letter summarizes Ecology's understanding of the City of Dayton's (Dayton) progress to comply with the state Surface Water Quality Standards (SWQS) for the Touchet River. This letter also communicates Ecology's intent to re-issue a National Pollutant Discharge Elimination System (NPDES) permit to Dayton and the actions Dayton needs to accomplish in the next several months as part of reapplication for permit coverage.

The specific water quality limits that Dayton is required to meet are described in Ecology's Walla Walla Watershed Water Quality Implementation Plan, published in 2008. Typically the deadlines for compliance are set for ten years from the date that Ecology re-issues the next permit. Dayton's NPDES permit was re-issued in 2011 for a maximum term of five years. The deadlines that extended past the five-year term are defined as milestones in the permit until a new permit can be re-issued.

In addition, in January of 2021 Ecology published the Walla Walla River Basin Water Quality Effectiveness Monitoring Report. The data collected and summarized in this report shows that Dayton's WWTP continues to discharge effluent that violates state SWQS.

Dayton's Work Summary

Since the last permit re-issuance in 2011, Dayton worked with Ecology to plan, design and construct an upgrade to the Wastewater Treatment Plant (WWTP) to meet SWQS. The City of Dayton:

- submitted a Facilities Plan with an identified preferred alternative, which Ecology approved in 2017.

- worked with the Washington Water Trust and the Confederated Tribes of the Umatilla Indian Reservation since 2019 to evaluate the feasibility of a wetlands alternative, which when compared to other alternatives promises to:
 - require less land
 - cost less for capital investment and ongoing maintenance
 - achieve watershed goals of keeping treated water in connection with the Touchet River.
 - comply with SWQS.

The City of Dayton also:

- received Ecology concurrence to proceed with the wetlands alternative.
- identified properties that met feasibility criteria and moved forward with property acquisition for the wetlands alternative.
- decided not to move forward with purchase of a viable property for the wetlands alternative.
- started discussions of looking into other upgrade alternatives and possibly going back to revisit the first stages of planning.

Path Forward

If Dayton wishes to begin exploring more alternatives than have already been documented in the approved Facilities Plan, the Feasibility Report, and other reports prepared regarding the wetlands alternative proposal, then Dayton must submit a new Facilities Plan or an amendment to the approved Facility Plan for Ecology review and approval.

Ecology started drafting the Dayton's next permit that will include a compliance schedule to meet SWQS as soon as possible. As part of this work:

1. Dayton must reapply for permit coverage, since the previously accepted NPDES permit application is over five years old. That form and the requirements will be sent to Dayton in a separate letter that will follow and will include a due date for the submittal.
2. Dayton needs to formally request an extension of time for meeting surface water quality standards, describing how the request meets the requirements in the Washington Administrative Code (WAC) 173-201A-510(4)(e), described as follows:

When an approved total maximum daily load has established waste load allocations for permitted dischargers, the department may authorize a compliance schedule longer than ten years if:

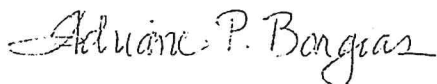
- (i) The permittee is not able to meet its waste load allocation in the TMDL solely by controlling and treating its own effluent;

The Honorable Zac Weatherford
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- (ii) The permittee has made significant progress to reduce pollutant loading during the term of the permit;
- (iii) The permittee is meeting all of its requirements under the TMDL as soon as possible; and
- (iv) Actions specified in the compliance schedule are sufficient to achieve water quality standards as soon as possible.

Please respond to this letter within the next 30 days and inform Ecology on how Dayton plans to move forward. We are committed to working with the City of Dayton in its efforts to complete an upgrade to Dayton's WWTP.

Sincerely,



Adriane P. Borgias
Water Quality Section Manager
Eastern Regional Office

APB:red

cc: Brook Beeler, Ecology Eastern Region Office Director
Anton Chiono, CTUIR
Sarah Dymecki, Washington Water Trust
Jake Hollopeter, Anderson Perry & Associates
Cynthia Wall Fuller, Department of Commerce – Small Communities Initiative
Art Jenkins, Water Quality Permit Unit Supervisor
Lucy Peterschmidt, Water Quality Permit Manager

