



Michael Pallamary (left) believes one of the best investments in any project is assuring there are no misunderstandings between you and your client.

# Phased Contracting

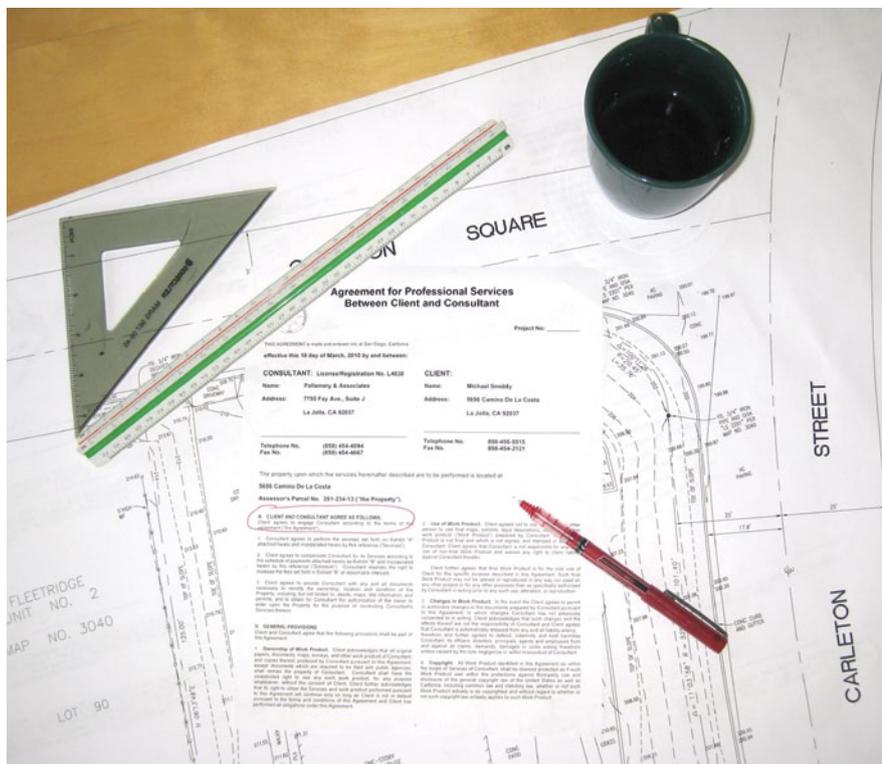
One of the biggest challenges in operating a *profitable* land surveying business is the impact of unexpected evidence and its effect on client relationships. Not surprisingly, the two are oftentimes related and when problems arise, it can affect one's business reputation along with the proverbial bottom line. If you are in business, it is assumed you intend to make a profit. If that is not your goal, you should reevaluate your financial objectives.

One of the most frustrating challenges in land surveying is the influence of so-called "non-record" or unreferenced

monuments and the effects of unrecorded survey plats. On one hand, non-record monuments and unrecorded plats can be beneficial if they result in the correct solution. Conversely, if the evidence contradicts anticipated results, these rogue documents can rapidly complicate any project. All in all, it is the unexpected things that create the headaches.

Notwithstanding the dilemma these scenarios create for the surveyor, most clients are not concerned with such problems. All they care about is where the marks are and when their jobs will be completed. At the end of the day, most problems like this translate into delays and disputes between the client and

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the surveyor. For better or for worse, good faith fee quotations, timing, and contracted scope of work are usually rendered irrelevant. Clearly the client has no intention of paying for these cost overruns. In most cases, the ingenuous land surveyor is forced to absorb these costs. Who cares if you found an unrecorded plat map or some conflicting monuments?

Fortunately, by anticipating problems like this, and by taking the time to educate clients, your bottom line can be enhanced. With a little planning, there is no reason you cannot maintain good client relationships while running a profitable business, and you can be assured that you will be paid for your services in accordance with the terms of your agreement.

With regards to absorbing the economic consequences of unearthing unrecorded documents, this is akin to a doctor, who, in the course of examining a patient, discovers a previously undetected problem, but instead of discussing it with the patient, he or she opts to say nothing and hopes the condition will not become an issue. When a surveyor is pressed as to why he or she bid so low on a job, a typical response may be that he or she “just wanted to be competitive,” or “just needed the work.”

Does one take the same approach in the world of medicine? If a doctor finds evidence of cancer, is he/she going to only charge the fee quoted for the yearly physical? Why then does the land surveyor stoop to a tradesman’s approach to work? The professional land surveyor is not a ditch digger or a hired laborer, but rather a skilled and licensed professional who is hired to establish and defend a client’s largest investment—home and hearth.

To the savvy business owner, many problems can be avoided by implementing “phased” or “tiered” contracting, with meticulous methods of billing and benchmark-based events. Just as a systematic approach to client treatment is a proven model for the medical and legal professions, the same systematic approach can be applied to a land surveyor’s business. The need to map and monument a piece of property are steps that should be evaluated and reviewed before any actions are taken. To do otherwise can lead to litigation and disputes and although there are two sides to a coin, one must ask, does it really benefit a property owner to advance litigation if, even though unavoidable, it can be planned for and assessed? Imagine going to the doctor’s

office to complain about a stomachache and instead of discussing various treatment options, the doctor immediately admits you to the hospital so that he/she can perform radical surgery?

In the business of land surveying there are generally four distinct phases of work: Baseline Research, Reconnaissance and Field Study, Field Survey, and Final Documentation.

## Phase 1: Baseline Research

Under this phase, the surveyor is engaged to conduct an inspection and review of the client’s deeds, maps and other documents, which may include a chain of title and a title report. Are there any easements, agreements, recorded licenses, title conflict disclosures, or adverse claims that might affect the surveyor’s opinion? What of private deed restrictions? This phase may also involve research at the County Recorder’s office, the Registry of Deeds, the County Surveyor, the City Agency, and any other records repository.

Once all the documentation is compiled, the surveyor should meet with the client to review his/her findings if necessary. If the research is unremarkable, the client can authorize the surveyor to proceed to Phase 2. If, on the other hand, Phase 1 uncovers conflicting evidence, the surveyor should review the evidence to determine where the problem is likely to occur and the potential ramifications. If the evidence discloses a conflict with a neighboring property, the client should be entitled to evaluate the situation. If significant, the client may elect to seek legal counsel in anticipation of a dispute, all before the stakes are set.

## Phase 2: Reconnaissance and Field Study

This phase involves a conventional field reconnaissance to unearth or observe both record and non-record monuments. This phase also affords the surveyor the opportunity to see if the monuments comport with existing fences and improvements. In addition to identifying potential problems, the surveyor can decide what kind of survey and equipment will be appropriate. Should corners be staked? Should the surveyor who placed the monuments be consulted? Is there evidence indicating easements may need to be created? Will the survey need to be filed or recorded?

### Phase 3: Field Survey

This phase involves the actual field survey. Control lines will be established with recoverable markers and the field ties will be made. Once the final calculations have been completed, final monuments will be set and if any conflicts such as encroachments or alternate lines of occupation are observed, they are located and the field work is concluded.

### Phase 4: Project Documentation

Based upon the results of the previous phases, the final scope of work will become evident and the costs for this work will have been refined. This process and the evidence uncovered will dictate the form and content of the final documentation. Will the survey need to be recorded or filed? Will the

attorney want a plat map? Will a land description need to be prepared? Will an easement deed solve the problem? Because the encountered problems were discussed early on, every step taken by the surveyor will have been done with the knowledge of the client and he/she will have been afforded the opportunity to obtain legal counsel if needed. It is disturbing to learn that some surveyors will conduct a survey and then place their markers in the middle of the neighbor's front yard and then send a bill for their "services." In the meantime their client has been threatened, or worse, sued by their neighbor because of the actions of the client's surveyor.

### Collective Solutions

It is evident that by adopting this phased approach to contracting, the problems encountered in the determination of boundary lines are incrementally evaluated, all in the best interest of the surveyor, the client, and the adjoining. Moreover, most legal problems can be evaluated before monuments are placed. Sadly, it is the imprudent surveyor who casts a client's fate.

Another advantage in evaluating potential problems is that the temperament of the conflicted adjoining can be assessed. Perhaps the surveyor might consider meeting with the neighbor to let them know what they are doing. What if the neighbor has an unrecorded plat map from his surveyor, who, although having failed to file his or her survey, set otherwise valid property markers or preserved the location of original monumentation? What if the reason the neighbor's survey has not been recorded is because it was performed last month? In problem areas it might be advisable to confer with other local surveyors so as to avoid the filing of conflicting maps. A collective solution wherein evidence can be shared and the best solution can be developed is a benefit to the community and the profession at large. *A*

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