

**University Avenue (Union St. - Goodman St.) Improvements
& ARTWalk II Enhancements**

Project Scope: Preliminary Design (Design Phases I-IV).
Project Code: 08101
NYSDOT PIN: 475418
Consultant: Bergmann Associates
Agreement #:
Authorizing Ordinance: 2007-313

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AGREEMENT

THIS AGREEMENT, entered into on the 18 day of Oct, 2007, by and between the CITY OF ROCHESTER, a municipal corporation having its principal office located at CITY HALL, 30 Church Street, Rochester, New York, 14614, hereinafter referred to as the "City", and Bergmann Associates, 28 East Main Street, Rochester, NY 14614, hereinafter referred to as the "Consultant."

WITNESSETH:

WHEREAS, the City, through the Department of Environmental Services, desires to engage the Consultant for the purposes of providing professional engineering design services required in connection with University Avenue improvements between N. Union St. and N. Goodman St., hereinafter referred to as the "Street Project", and the extension of ARTWalk from its current western terminus at the University Avenue and N. Goodman Street intersection to 1) the Arts & Cultural Council and Village Gate to the north; 2) the Rochester Museum & Science Center (RMSC) and the Strasenburgh Planetarium to the south and 3) the School of the Arts (SOTA) and the Visual Studies Workshop to the east, hereinafter referred to as the "ARTWalk Project".

WHEREAS, the "Street Project" and the "ARTWalk Project" are hereinafter jointly referred to as the "Project".

WHEREAS, the Consultant covenants that it has the personnel, skills and expertise required and wishes to undertake the engineering services related to the Project.

NOW THEREFORE, the City and the Consultant do mutually agree, in consideration of the covenants, terms and conditions contained herein, as follows:

ART. I, Part 1. Description of Project

Section 1.101 General Description

A. Project Description and Location

This project involves the rehabilitation or reconstruction of University Avenue, from Union Street to North Goodman Street.

The project scope includes but is not limited to the following items of work: rehabilitate or reconstruct the pavement; replacement of concrete sidewalks and driveway aprons; granite stone curbs; accident analysis and intersection improvements; street lighting improvements; drainage improvements; relocation of water utilities; relocation and/or redesign of traffic signal equipment as necessary; new pavement markings and signage; landscaping improvements; extension of the existing City telecommunication conduit system and the extension of the existing ARTWalk urban trail/outdoor museum.

The Design Approval Document will consist of a Final Design Report. Project design shall be progressed in accordance with the current NYSDOT Design Procedures Manual (DPM), including NCA procedures for non-DOT-administered Federal Aid projects.

B. Project Classification

This project is to be developed in accordance with the New York State Department of Transportation's (NYSDOT) Environmental Action Plan Class II process. It has been identified as a "Type II" Action in accordance with the definitions of the State Environmental Quality Review (S.E.Q.R.) Act 17NYCRR15, and as a Class II Categorical Exclusion project with respect to the Federal Highway Administration's Rules and Regulations 23CFR771.117(d)(1). NCA procedures are to be followed for this non-DOT-administered Federal Aid Project.

C. Policy and Procedures

1. The design of this project will be progressed in accordance with the current NYSDOT Design Procedure Manual (DPM) and appropriate sections of the Federal Aid Policy Guide (FAPG). All work must conform to current versions of the following documents, as applicable. Where necessary, the Consultant will obtain either the full document or guidance extracted from it.

City of Rochester Standard Construction Contract Documents, Nov. 1, 1991, as amended;
A Policy on Geometric Design of Highways and Streets, American Association of State Highway and Transportation Officials (AASHTO);
A Policy on Design Standards -- Interstate System, AASHTO;
Highway Capacity Manual, Special Report 209, Transportation Research Board;
NYS Eminent Domain Procedure Law;
ADA Accessibility Guidelines for Buildings and Facilities;
AASHTO Standard Specifications for Highway Bridges;
Manual for Condition Evaluation of Bridges, AASHTO;
Guide Specification for Strength Evaluation of Existing Steel and Concrete Bridges, AASHTO;
AASHTO Guide Specification for Fatigue Evaluation of Existing Bridges;
AASHTO Model Drainage Manual & NYSDOT Model Drainage Manual;
NYSDOT Bridge Deck Evaluation Procedure Manual;
AASHTO Guide Specification for Design of Pedestrian Bridges;
AASHTO Guide for the Development of Bicycle Facilities;
NYSDOT Scoping Procedure Manual, Appendix D (Design Traffic Forecast Policy);
NYSDOT Highway Design Manual, Chapter 2 (Design Criteria);
NYSDOT Highway Design Manual, Chapter 4 (Design Criteria & Guidance for Bridge Projects on Low Volume Highways);
NYSDOT Highway Design Manual, Chapter 7 (Resurfacing, Restoration and Rehabilitation (3R));
NYSDOT Bridge Manual, Section 2, Geometric Design Policy for Bridges;
New York State Manual of Uniform Traffic Control Devices;
NYSDOT Environmental Procedures Manual;
NYSDOT Bridge Inspection Manual;
Uniform Code of Bridge Inspection;

All work must comply with the requirements of all applicable state and federal environmental laws, regulations and policy. Applicable laws, regulations and policies are specified in Appendix A of the NYSDOT Design Procedure Manual.

2. Work on this project shall be divided into the following parts:

Part I Survey and Mapping (Design Phases I-VI); and,
Part II Preliminary Design (Design Phases I-IV).

3. The Consultant shall provide the City with Reports, Plans, Estimates, and other data specifically described under Parts I and II below.

Section 1.102 Description of Improvements

The project includes, but is not limited to the improvements generally identified below.

A. Street Improvements

It is proposed that the street pavement be rehabilitated or reconstructed within the limits of the Street Project. The limits of rehabilitation and reconstruction as well as recommendations for pavement width modifications and geometric changes will be addressed during the Planning and Preliminary Engineering Phase. New granite curbing, sidewalks and driveway aprons and standard landscaping treatments are proposed throughout the limits of the Street Project.

B. Water Improvements

It is proposed to abandon the 6" watermain between North Goodman Street and Prince Street and transfer services on this main to the existing 16" watermain. Any active lead or galvanized services connected to the 16" main will be replaced with copper services. Side street water main stubs at Strathallen Place and Prince Street are proposed, as are new fire hydrants throughout the project. The complete scope of the water improvements are to be determined during the Planning and Preliminary Engineering Phase.

C. Sewer Improvements and Drainage Improvements

Replacement of receiving basins and repair/cleaning of laterals are proposed within the limits of the Street Project. The complete scope of the sewer improvements are to be determined during the Planning and Preliminary Engineering Phase.

D. Street Lighting

It is proposed to install a new street lighting system within the limits of the Street Project. It is further proposed that new or supplemental pedestrian level lighting may be installed within the limits of the ARTWalk Project. The complete scope of the street lighting improvements are to be determined during the Planning and Preliminary Engineering Phase.

E. Traffic Feature Improvements

It is proposed that new pavement markings and signs be installed within the limits of the Street Project. It is proposed that all traffic signal equipment be upgraded at the following University Avenue intersections: N. Goodman Street, Prince Street, Alexander Street & N. Union Street. It is also proposed that existing signal facilities be evaluated for upgrade at the ARTWalk crossing of East Avenue near RMSC. It is further proposed that several unsignalized crosswalk locations be evaluated along the ARTWalk Project. All pedestrian crosswalks within the Project shall be designed with appropriate vehicular warning techniques including the use of high visibility striping, the use of median islands, tabling of intersections/crosswalks, use of alternate materials/textures and use of in-roadway warning lights. Also, the feasibility of changing Union Street between University Avenue and East Main Street from one-way traffic to two-way traffic will be evaluated and studied. The complete scope

of the traffic and crosswalk improvements are to be determined during the Planning and Preliminary Engineering Phase.

F. Areaways

It is proposed that building areaways, vaults and window-wells within the limits of the Street Project be abandoned or rehabilitated. It is further proposed that building areaways, vaults and window-wells which are impacted by the ARTWalk Project be abandoned or rehabilitated. The complete scope of the areaway, vault and window-well impacts are to be determined during the Planning and Preliminary Engineering Phase.

G. Streetscape

Standard landscaping treatments are proposed throughout the Street Project. The ARTWalk Project may include higher level landscaping treatments.

H. ARTWalk Extension

ARTWalk is a permanent urban art trail, connecting the arts centers and public spaces within the City's Neighborhood of the Arts (NOTA). ARTWalk is an interactive outdoor museum, currently located on University Avenue between the George Eastman House and the University Avenue and N. Goodman Street intersection (hereinafter "its current western terminus").

It is proposed to extend ARTWalk to the north from its current western terminus, along the east side of N. Goodman Street, to a terminus at Village Gate. It is proposed that ARTWalk cross N. Goodman Street near College Avenue to a terminus at the Arts & Cultural Council.

It is proposed to extend ARTWalk to the south from its current western terminus, along the east side of N. Goodman Street and the south side of East Avenue, to termini at RMSC and the Strassenburgh Planetarium. It is also proposed that this section of ARTWalk incorporate a mid-block crossing of N. Goodman Street near the Chatterbox Club.

It is proposed to extend ARTWalk to the west from its current western terminus, along the north side of University Avenue and the west side of Prince Street, to a terminus at SOTA. It is proposed that ARTWalk cross University Avenue at Prince Street to a terminus at the Visual Studies Workshop. This section of ARTWalk must promote a unifying aesthetic with the Master Plan improvements being considered by the University of Rochester at the Memorial Art Gallery (MAG). This unifying aesthetic may include expansion of the public Right-of-Way along MAG, creation of a gateway entrance portal into MAG from the University / Goodman intersection, and relocation and incorporation of the MAG fence into the ARTWalk fabric. The University / Goodman intersection is to receive focus treatment as the crossroads of ARTWalk. In addition to its gateway to MAG, other considerations for the intersection include creation of a reflective pocket park (mirroring the MAG portal) adjacent to the RHA property and the use of special, unique materials in the reconstruction of the intersection.

The ARTWalk extension is intended to be a world class cultural nexus by 1) incorporating contemporary thinking and methodology about place-making and public space design; 2) being an invitational and welcoming space that will engage people in an aesthetic experience to which they will return to visit again and again; 3) creating places of discovery and visual refinement and areas for gathering and reflection; and 4) providing settings for engagement of living artists who work within the field of contemporary, site-specific and interactive public art.

Other improvements may be added to this agreement with the concurrence of the City.

ART. I Part 2 Description of Professional Services

Section 1.201 General

- A. The Consultant shall provide all basic architectural and/or engineering services required for the Project including but not limited to surveys, preparation of a Planning and Preliminary Engineering Report, design, contract documents, assistance during bidding and award, and construction phase design services.
- B. The Consultant shall provide "additional services" if required at the request of the City.
- C. The Consultant is to have on its staff and is to retain during the performance of its services all appropriate professional personnel necessary to completely and accurately perform the services required. Where the design of structural, mechanical, electrical, civil or other engineering features of the work is included in the Project, such must be performed by an architect or an engineer registered to practice in the State of New York.
- D. The Consultant agrees that, where the Project will involve the design or substantial renovation, relocation, or reconstruction of, or will involve the new construction of a building, facility, street, sidewalk, park, mall or other public area, then it will incorporate into its design, study and other work those facilities or improvements reasonably required to give handicapped persons access to and enjoyment of those facilities. Such facilities or improvements shall conform to the latest Americans with Disabilities Act - Accessibility Guidelines as developed by the U.S. Architectural and Transportation Barriers Compliance Board (Access Board). ANSI A117.1 - R1980 American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by the Physically Handicapped. Such facilities and improvements for the handicapped shall include, but shall not be limited to, access ramps to buildings, sufficiently large elevators, support rails, rest room improvements, sidewalk curb cuts at corners, and additional lighting that are reasonably a part of and necessitated by the Project.
- E. The Consultant shall develop and submit to the City an implementation plan and schedule for the orderly and timely completion of requirements of this Agreement. The Consultant shall utilize appropriate graphics to illustrate the plan, e.g., bar charts, etc. All pertinent dates of meetings and submittals shall be identified subsequent to execution of this agreement.
- F. The Consultant shall be available to meet with the City periodically and as necessary to review the progress on the requirements of this Agreement and to provide engineering consultation.
- G. The Consultant shall maintain an up-to-date orderly assembled file of design notes providing a history of the design of the Project. Design notes shall include correspondence, calculations, documentation, references and other material necessary to establish the basis of design. The Consultant shall furnish such notes to the City.
- H. The Consultant shall prepare and furnish to the City within one week minutes of all meetings held and monthly written progress reports in a format mutually agreed upon.
- I. The Consultant shall supply two digital record drawings products, upon completion of the work required herein. The first is a complete compilation of all digital files created for the project. The

second, an abbreviated digital record of the project, shall be used to update the City's GIS Map. All digital record files shall conform to the City Digital Record File Standards listed in Art I, Part 8 of this agreement.

Section 1.202 Basic Services

A. PART I. Survey and Mapping (Design Phases I-VI)

1. Design Survey & Supplemental Survey

- a. The City of Rochester has performed the topographic survey for the project and will provide the digital files to the Consultant.
- b. The Consultant shall perform supplemental survey required for design purposes or to keep the mapping current.

2. Design Mapping

The Consultant shall provide the following base mapping conforming to Section 5.4.2, as amended, of the NYSDOT Highway Design Manual:

- a. 1" = 20' scale base map for the project
- b. Swing ties are required for all monuments within the project area.
- c. Mapping shall be prepared on 22"x34" reproducible medium.

The Consultant shall update the mapping as required to keep the mapping current.

3. R.O.W. Survey

The Consultant shall supplement design survey with additional survey if required to accomplish R.O.W. mapping, including any survey needed to accurately determine existing right-of-way limits and establish side property lines.

The Consultant shall prepare the "Table of Anticipated ROW Acquisitions" for each feasible alternative in accordance with the New York State Highway Design Manual.

Once the preferred alternative is chosen the consultant shall expand the "Table of Anticipated ROW Acquisitions" into the "Table of ROW Acquisitions" in accordance with the HDM.

The Consultant shall meet with the City to discuss the types of right-of-way acquisitions required and the limits of the acquisition lines.

The Consultant shall prepare acquisition maps, in a format acceptable to the City (Maximum of 15 maps) and will be reviewed and sealed by a license surveyor. All right-of-way mapping shall show English and Metric dimensions.

4. Subsurface Investigations

The Consultant shall provide all necessary subsurface explorations, based on a Soil Boring Location Plan developed by the Consultant and approved by the City (submit minimum of 3 copies). Additionally soil sampling from the bores will be used to test for soil resistivity and the presence of petroleum contamination in selected areas.

B. PART II Preliminary Design (Design Phases I - IV)

1. Project Information

a. The City shall provide the following project information to the Consultant:

- 1) Project Objectives;
- 2) Available Traffic Data;
- 3) Available Accident Records; and,
- 4) Record drawings and pavement history.

b. Existing Data, Surveys and Reports

The Consultant shall assemble and evaluate existing planimetric, topographic and utility maps and surveys, reports and studies as available from the City, County of Monroe, State, or private utility corporations.

c. Subsurface Investigations

The Consultant shall use all available existing data regarding subsurface conditions for the evaluation and the design of the project. The Consultant shall, with the City's approval, perform corings, borings, and/or test pits as necessary to determine subsurface conditions.

2. Project Familiarization

The Consultant shall become familiar with the project before starting any work. This includes a thorough review of all supplied project information and a site visit to become familiar with field conditions. The order of listing for Parts I through IV does not necessarily preclude that the work contained in some, if not all parts, be started immediately in order to progress the project in a timely and orderly fashion. As a minimum, work shall be started immediately on the following items:

- a. Environmental assessments;
- b. Accident Analysis; and,
- c. Identifying ROW requirements.

3. Phase I - Design Studies

It is assumed that the Consultant will progress the two alternatives as defined in the Draft Design Report plus the null alternative for University Avenue.

- a. The Consultant shall develop, provide and maintain construction cost estimates for the design alternatives. The Consultant shall provide the pricing information. The Consultant shall manage the estimate, including the pricing information.

- b. The Consultant shall develop 1" = 20' scale plans for the design alternatives. At locations where more detail is required, the Consultant shall provide drawings at a larger scale. As a minimum all plans shall show sufficient detail to convey to utility/agencies and the public, the design intent of each alternative. The plans shall also be of sufficient detail to insure that engineering considerations are identifiable at this phase of the plans. The plan views shall also show each property address, property owner, and tax account number.
- c. The Consultant shall develop profiles for the design alternatives at a scale of 1" = 20' horizontal and 1" = 5' (maximum) vertical. As a minimum the profiles shall reference the vertical datum and show all significant elevations, existing ground line, theoretical grade line, all vertical data including sight distances, and critical clearances.
- d. The Consultant shall evaluate the design alternatives and the null alternative with specific engineering analysis and considerations. All environmental analyses are covered under the Draft Design Report Section of this agreement. Analysis shall be conceptual only and limited to determining the relative suitability of the design alternative, they shall include:

Design Criteria and geometry

Traffic Flow

Bicycle facilities

Pedestrian facilities

Highway capacity

Schematic Typical section

Alignment constraints

Pavement

Structures (including Bridges, Retaining Walls, Building alterations)

Drainage requirements

Maintenance Responsibility

Maintenance and protection of traffic during construction

Soil and Foundation Considerations

Utilities

Railroads

Accessibility for pedestrians, bicyclists and the handicapped

Right-of Way Considerations

Conceptual landscaping and gateway development

Lighting and other utility considerations

Construction cost factors

Potential environmental impact mitigation measures

- e. Existing or New Sewer, Water and Other Facilities

The Consultant shall locate and identify all storm, sanitary or combined sewer mains and laterals, catch basins and manholes, water mains, valves and services, and other similar structures within the Project Area.

The Consultant shall locate all existing overhead and underground utilities utilizing available system maps and cross-checking by site inspection.

The Consultant shall evaluate the physical condition and drainage capacity of existing storm sewer drains, catch basins, and laterals and shall utilize such information in the design of the Project.

The Consultant shall review the condition and capacity of other utilities with their respective owners. All planned improvements will be noted so that construction efforts can be coordinated between the City and third parties.

f. Areaways

The Consultant shall identify all building areaways (maximum of 6), window wells, and vaults. The Consultant shall determine the location and size, and evaluate the structural condition relative to the City's areaway standards. Photographs and diagrams indicating dimensions of each areaway shall be provided as part of the investigation and report. Utility location, size and condition, shall also be noted. The Consultant shall prepare concept designs and cost estimates accompanied with share breakdown of alternatives available to an areaway owner through the City's Areaway Policy. The Consultant shall meet with the City and the areaway owners to discuss the findings of the areaway investigations.

g. Traffic

The Consultant shall conduct capacity analyses for current and projected traffic flow both with and without improvements, based upon available traffic data obtained from the Monroe County Department of Transportation using appropriate analysis method(s), as approved by the City. Intersection Level of Service and conflicts, channelization, orientation and traffic control including signalization shall be identified and improvements recommended.

The Consultant shall perform accident analyses within the project limits. The accident analyses shall include collision diagrams for any areas which exhibit accident rates above the City average rate.

The Consultant shall evaluate provisions for bicyclists and pedestrians and shall recommend appropriate improvements. Pedestrian accommodations may include mid-block crosswalks, crosswalk warning systems and pedestrian refuge islands at intersections. The Consultant shall review all traffic signing and make recommendations for its improvement.

Monroe County will provide available traffic count data for existing conditions, growth factors for forecasting, and forecast data, including:

<u>Existing Conditions</u>	AADT; DHV (2-way); DDHV
<u>& Forecast Data:</u>	% Trucks
	Turning Volumes
<u>Year:</u>	Present
<u>Estimated Time of</u>	
<u>Construction Completion (ETC):</u>	ETC + 20 years

The Consultant will forecast and provide design year volumes according to the policy in Appendix D of the NYSDOT Scoping Procedure Manual, and will explain the basis for the design year selection.

The Consultant will provide flow diagrams for appropriate peak periods (e. g., am, noon, pm) showing existing and design year volumes on the mainline, on each approach of all intersections, and at major traffic generators.

Capacity Analysis

The Consultant will perform capacity analyses using the latest version of the Highway Capacity Manual at mainline and intersection locations within the project limits to determine:

1. existing level of service.
2. design year level of service.
3. estimates of the duration of the poor level of service where it occurs during commuter travel periods.

The Consultant will develop project travel speed and intersection vehicle delay estimates for the peak hour for:

4. existing traffic conditions.
5. design year traffic for the null alternative.

h. Roadway and Sidewalk Lighting

The Consultant shall review information supplied by RG&E and/or the City Street Lighting Division regarding the condition and lighting levels of the existing street lighting system. The Consultant shall make preliminary recommendations for improvements based upon the proposed lighting levels recommended by the City and the inventory of standard City lighting products.

I. ARTWalk and streetscape features

ARTWalk improvements shall be consistent with the original portion of ARTWalk and consistent with the aims and desires of the ARTWalk committee shall be determined during the preliminary design. The Consultant shall identify and describe opportunities in the project area. Elements to consider include gateways/ARTWalk nodes, focal features, important visual linkages, buffers and screening which enhance the pedestrian experience and the aesthetic quality of the neighborhoods. Treatments and elements such as benches, special lighting, brick crosswalks shall be compatible in style, scale, color, pattern and materials with, and support or enhance, the ARTWalk trail.

j. Coordination

The Consultant shall notify and meet with the utilities/agencies identified by the City to review their involvement with this project.

4. Project Estimate

The Consultant shall maintain project estimates. Estimates for all alternatives under consideration, with share breakdowns, shall be provided to the City with the Draft Design Approval Document.

5. Draft Design Approval Report and Design Approval Document (DAD)

The Consultant shall document these studies and provide the City with 6 copies of the Draft Design Approval Document (DAD) for review by the City and other designated agencies, prepared in a format approved by the City and consistent with the appropriate section of the NYSDOT Design Procedure Manual.

a. Plans

1" = 20' plans for the chosen alternative or alternatives shall be provided at the completion of the Draft Design Approval Document (DAD). Plans shall show stationed centerlines along the mainline and intersecting side streets, roadway geometrics and preliminary lane striping, Highway Boundary Plan, construction and R.O.W. limits and include profiles at an appropriate scale. Additionally the Consultant shall provide, upon request, certain promotional displays to be used by the ARTWalk committee to aid in their efforts to secure additional support for the project. Those displays may include up to ten (10) rendered drawings and/or photosimulations of the ARTWalk features. The Consultant will be expected to provide some for use at the 2007 Clothesline Festival and the 2007 ARTWalk Alive events.

b. Summary Environmental Assessment, City of Rochester

The Draft Design Approval Document (DAD) shall also include a summary environmental assessment of the effects of the project, particularly during the construction phase. This shall not constitute a requirement to prepare an Environmental Impact Statement. The assessment must include completion of City of Rochester Environmental Assessment Form (EAF 1c, submit 3 copies). See also Section 1.202.B.7, "Environmental Investigations."

c. Review Meeting

The Consultant shall present the findings of its investigations at a review meeting with the City and others designated by the City and prepare minutes of this meeting. The Consultant shall incorporate into the preliminary engineering documents of the Project any comments or direction resulting from this review meeting with the City. Also, the Consultant shall meet with the project Advisory Task Force. The Advisory Task Force will be convened by the City and will include six to twelve representatives of business and community groups with interest in the project.

d. The Consultant shall, based on the City's review, revise the Draft Design Approval Document (DAD) and provide the City with 10 copies of the Design Approval Document (DAD) for Federal Highway Administration (FHWA) review and comment for environmental determination and other reviews as necessary.

6. Compliance with Environmental Laws, Regulations, and Permits

The Consultant shall meet the requirements of all applicable State and Federal environmental laws and regulations, and notify the City of what permits and/or variances the City must obtain according to the NYSDOT Region 4 Environmental Permit and Program Guidance Manual.

7. Environmental Investigations and Studies.

a. Environmental Investigations

The Consultant shall evaluate whether or not environmental concerns listed in the NYSDOT Region 4 Environmental Permit and Program Guidance Permit Manual, are involved in the project. The Consultant shall report to the City which topics are or may be involved in a separate memorandum entitled "Proposed Environmental Investigations Report," to which

shall be attached a copy of the "Environmental Permit and Program Checklist" form from the above-cited manual. For those topics involved or of unknown involvement, the Consultant shall perform the services specified in the NYSDOT Base Scope of Services and Users Guide, following receipt of written City approval of the "Proposed Environmental Investigations Report." For each such topic the Consultant shall identify review points at which the city and the Consultant shall meet to review reports prescribed in the NYSDOT procedures and to determine whether the Consultant shall proceed with further investigation, sampling, etc. The Consultant shall submit at least 5 copies of required reports to the City. The Consultant shall not proceed with development of removal, mitigation, or remediation plans without written approval from the City; development of such documents shall be considered additional services which are to be approved and financed according to procedures specified therefor in this agreement.

b. Social, Economic, and Environmental Considerations

This subsection covers general analysis and preparation of environmental portion (Chapter IV) of the DAD text. The Consultant shall document in this section of the report the assessment of social, economic and environmental impacts in accordance with the *Design Procedure Manual* (DPM).

This subsection also includes the summarizing in the body of the report of the special detailed studies and reports performed under other subsections. In the opening paragraphs of the Pre-Draft Design Report the Consultant shall:

- Summarize the assessment of social, economic and environmental considerations;
- Note and list any permit requirements;
- Note whether the NEPA classification, SEQR type, or need for permits varies with the alternatives.

In accordance with the requirements and format of the applicable section of Appendix B of the Design Procedure Manual, the Consultant shall analyze all design alternatives and the null alternative with regard to environmental social and economic issues (including beneficial and adverse impacts) and document all analyses in the DAD. Wherever appropriate the Consultant shall describe proposed measures to avoid, minimize, or mitigate impacts.

The analyses and reporting shall be performed and presented in accordance with instructions in FHWA Technical Advisory T6640.8A (10/30/87), as amended.

The information may be organized either sequentially or for each alternative.

Affected Environment

This section shall succinctly describe the effect of each design alternative and the null alternative regarding:

Social consequences

- A. Community cohesion: Changes in neighborhoods, including property values; isolation of portion of neighborhood or ethnic group;
- B. Changes in travel patterns and accessibility (all travel modes, including pedestrians and bicycles);

- C. Impacts on School districts, recreation areas, churches, and businesses;
- D. Impacts on police, fire protection, and ambulance access;
- E. Impacts on highway safety, traffic safety, and overall public safety;
- F. General social groups specially benefitted or harmed.

Environmental consequences

- A. Surface water quality
- B. Groundwater
- C. Historic and cultural resources
- D. Section 4(f) and Section 6(f)
- E. Hazardous waste and contaminated materials
- F. Asbestos
- G. Visual impacts
- H. Construction impacts (summary of combined categorical impacts)

DETERMINATION OF NO SIGNIFICANT EFFECT (DONSE)

The Consultant shall prepare a DONSE. It shall include sufficient documentation to show that this project does not have a significant effect on the environment. The State shall sign and distribute the DONSE and provide guidance on specific content and format.

Assistance with Permits and Certifications

The Consultant shall assist the City / State in applying for the following permit(s) and certification (if applicable):

- U.S. Army Corps of Engineers Section 10 Permit (Indiv. or Nationwide)
- U.S. Army Corps of Engineers Section 404 Permit (Indiv. or Nationwide)
- NYSDEC Section 401 Water Quality Certification

The Consultant shall assemble and submit to the State all specifically-required information in a suitable form for obtaining each permit or certification. (This information shall include, as necessary, special reports and other documentation prepared under other tasks.)

The Consultant shall prepare the required application forms.

The City / State shall obtain the permit(s) and certification from the regulatory agencies.

Surface Water Quality

Section 401 Water Quality Certification (WQC)

The Consultant shall determine whether the project qualifies under a blanket WQC (for certain COE Section 10 or 404 Nationwide Permits) or an individual WQC is required.

For each design alternative, the Consultant shall assess potential sources of surface water pollution from construction activities and from motor vehicle use of the completed project. Analyses performed in accordance with both the Toler Method and FHWA *Pollutant Loadings and Impacts From Highway Stormwater Runoff*, 1990, shall be included if appropriate.

The Consultant shall assess temporary and permanent measures and practices that may be used to avoid or minimize and control soil erosion, sedimentation, and surface water pollution during and after construction.

The Consultant shall prepare an Erosion and Sediment Control Plan

c. Review Meeting

The Consultant shall present the findings of its investigations at a review meeting with the City, State and others designated by the City and prepare minutes of this meeting. The Consultant shall incorporate into the preliminary engineering documents of the Project any comments or direction resulting from this review meeting with the City and State.

- d. The Consultant shall, based on the City's and State's review, revise the Draft Design Approval Document (DAD) and provide the City with 15 copies (maximum) of the Draft Design Approval Document for Federal Highway Administration (FHWA) review and comment for environmental determination and other reviews as necessary.

8. Advisory Agency Review

- a. Based on the City's review, the Consultant shall modify and prepare the Design Approval Document (DAD) for distribution.
- b. The Consultant shall provide 10 copies of the Design Approval Document (DAD) for the City and designated review agencies.
- c. The Consultant shall, with City concurrence, distribute the Design Approval Document (DAD) to the local advisory agencies for review.

9. Community Coordination

The Consultant shall assist the City in conducting meetings with local officials and citizens.

a. Review Meeting

The Consultant shall present the Design Approval Document (DAD) and plans for review at a review meeting with the City and others designated by the City and prepare minutes of this meeting.

b. Utility/Agency Review Meeting

The Consultant shall present the Design Approval Document (DAD) and Plans for review at a review meeting with the City, Utilities/Agencies, and others designated by the City and prepare minutes of this meeting.

c. Neighborhood Meeting(s)

At the request of the City and in cooperation with the City, the Consultant shall conduct meetings with neighborhood groups and merchant's associations neighboring the Project Area. At the meeting(s) the Consultant shall attempt to determine the problems, needs, and priorities of such associations and their members and shall solicit suggested methods of remedying their

problems with current road, sidewalk and other related facilities. The Consultant shall also utilize such meeting(s) to keep residents and merchants informed of the progress of the project, in order to stimulate their involvement and cooperation. In order to facilitate the dissemination of information at such meetings, the Consultant shall prepare necessary visual aids, colored display and informational material. The Consultant shall provide a memorandum summarizing these meetings. Assume that 5 meetings with the project Advisory Task Force shall be included among the meetings above. The Advisory Task Force will be convened by the City and will include six to twelve representatives of business and community groups with interest in the project.

d. **Traffic Control Board**

The Consultant shall present the project to the City of Rochester Traffic Control Board for approval of any traffic regulations or geometric changes.

10. Phase IV - Final Design Report (DAD)

The Consultant shall modify the Design Approval Document (DAD) to incorporate comments received from local officials. This Report, entitled Final Design Report, will include the Design Recommendation, pavement design recommendation, and a Justification for the Retention of Nonstandard Features (if applicable). The Consultant shall provide and distribute 10 copies of the Final Design Report for the City and designated review agencies. A copy of the cost estimate, including share breakdowns, for the recommended alternative will be provided to the City (submit 10 copies).

11. Design Approval

The City, with the concurrence of the New York State Department of Transportation and the Federal Highway Administration, shall verify that the FHWA Class II, Categorical Exclusion, and SEQR Type II determination for the recommended alternative is appropriate. The City will obtain approval of the recommended design.

Section 1.203 Additional Services

The following shall constitute Additional Services:

- A. If the Consultant is caused expense due to substantial revisions of previously approved studies, design documents, drawings or specifications, such revisions having been ordered in writing by the City, or if the scope of the project is significantly enlarged either by expansion of the project's physical limits or by increase of the Consultant's responsibilities, such shall constitute additional services.
- B. Where the Construction Work extends more than six months beyond the completion date specified in the construction contract, not including seasonal layoffs or strikes, the parties acknowledge a need may exist for re-negotiating this Agreement to establish a revised maximum fee payable to the Consultant.
- C. If the Consultant is requested to prepare an Environmental Impact Statement (EIS) for the Project, all services related to the preparation and approval of the EIS shall constitute additional services.
- D. If the Consultant is requested to accomplish R.O.W. mapping, provide property surveys, and prepare plats and legal descriptions for R.O.W. acquisitions in excess of fifteen (15) parcels, these services shall constitute additional services.

- E. If the Consultant is requested to perform Resident Project Representation services for the Project, such services having been requested in writing by the City, these services shall constitute additional services.
- F. Should the City require the services of the Consultant as an Expert Witness on behalf of the City and request such services in writing, serving as an Expert Witness shall constitute additional services.
- G. Televised inspection of sewers, unless specifically included as a basic service reimbursable expense.
- H. Materials testing other than that done by a testing laboratory with a contract with the City except for that testing performed under Section 1.202.B.7, Environmental Investigations, and as included in Schedule A, Reimbursable Expenses.
- I. Preparation of plans, specifications, special notes, and estimates for removal of hazardous materials; remediation of hazardous waste sites; avoidance or mitigation of environmental impacts; etc., developed per the NYSDOT Base Scope of Services and Users Guide and required to satisfy State, Federal, and local environmental laws and regulations.
- J. Performing work not described under Basic Services requested and authorized in writing by the City's Authorized Agent.
- K. If the Consultant is of the opinion that any work the Consultant has been directed to perform is beyond the scope of this agreement and constitutes extra work, the Consultant shall promptly notify the City's Authorized Agent in writing of this fact prior to beginning any of the work. The City shall be the sole judge as to whether or not such work is in fact beyond the scope of this agreement and constitutes extra work. In the event that the City determines that such work does constitute extra work the City shall provide extra compensation to the Consultant in a fair and equitable manner. If necessary, an amendatory agreement providing the compensation and describing the work authorized shall be issued by the City to the Consultant for execution after approvals have been obtained from any necessary City, State, and Federal Highway Administration authorities.

ART. I Part 3 City Responsibilities

The City shall:

- A. Provide as complete information as is reasonably possible regarding its requirements for the Project to the Consultant.
- B. Assist the Consultant by making available any information pertinent to the Project, including previous reports and any other data relevant to the design of the Project.
- C. Examine all studies, reports, sketches, estimates, drawings, specifications, proposals and other documents presented to the City by the Consultant for review and render decisions pertaining thereto within a reasonable period of time, so as not to delay the work of the Consultant.
- D. Advertise for proposals from bidders, open the proposals at the appointed time and place and pay all costs incident thereto.
- E. Designate a representative (Authorized Agent) to act as liaison between the City and the Consultant. The Authorized Agent will have the authority and responsibility to transmit instructions and to receive information with respect to the City policies and pertinent to the work covered by this Agreement, except as otherwise limited by Code or Charter of the City.

- F. Give written notice to the Consultant where the City observes or otherwise becomes aware of any default in the Consultant's performance hereunder or where the City does not concur with the design or other recommendations of the Consultant.
- G. Obtain approval of the State Department of Environmental Conservation and other governmental authorities having jurisdiction over the Project, with the assistance of the Consultant, for the actual Project construction work.
- H. Obtain required easements with the assistance of the Consultant.
- I. Convene neighborhood, project Advisory Task Force, and Utility/Agency meetings

ART. I Part 4 Fee

Section 1.401 General

- A. In no event whatsoever shall the total fee payable to the Consultant pursuant to this Agreement, including all costs and disbursements whatsoever, exceed \$ 210,000 (two hundred ten thousand dollars).
- B. The Consultant shall have the right to bill the City for services performed and not already billed on a monthly basis.
- C. The Consultant shall submit duly executed vouchers upon forms which shall be supplied by the City in order to receive payment.
- D. The City may audit the Consultant's performance of this agreement, the adequacy of the Consultant's accounting system, and the reasonableness of the Consultant's overhead rates, and retain the results for New York State or Federal audit of the project. Costs claimed by or previously paid to the Consultant that cannot be appropriately supported or which do not comply with applicable City, New York State, or Federal regulations are subject to disallowance. Amounts paid to the Consultant that are subsequently disallowed are subject to recovery by the City from the Consultant or, at the option of the City, may be offset or reduced against current or future payment claims on this or other projects.

Section 1.402 Fee for Basic Services, Reimbursable Expenses, Fixed Fee, and Retainage.

- A. The fee payable to the Consultant for Basic Services pursuant to this Agreement shall be as initially set forth in Schedule A.
- B. The fee payable to the consultant for Overhead Allowance pursuant to this Agreement shall be as initially set forth in Schedule A, where it is included in the Basic Services.
- C. The fees payable to the Consultant for Reimbursable Expenses pursuant to this Agreement shall be as initially set forth in Schedule A.
- D. The fees payable to the Consultant for the Fixed Fee pursuant to this Agreement shall be as initially set forth in Schedule A, where it is included in the Basic Services..
- E. The City agrees to pay and the Consultant agrees to accept as full payment for the work and service performed pursuant to this Agreement the following fees, payable in the following manner:

1. Basic Services Fee Computation

- a. The Consultant's basic services fee shall be computed at the rate of 100% times actual direct salary expenses based on rates approved by the City's Authorized Agent for the Consultant's technical and professional personnel, except for surveyors, within the phase limits shown in Schedule A.
- b. Surveyor's wages are subject to the New York State Department of Labor, Bureau of Public Works, Prevailing Rate schedules. The City will pay the incremental cost due to the prevailing wage rate schedules established by the New York State Department of Labor. This incremental cost and supplemental benefits may be paid either as a component of basic services or as a direct cost, provided that only one of these methods may be chosen and applied to this agreement.

If the prevailing wage incremental costs and supplemental benefits are paid as a direct cost, see Section 1.402.E.4, below.

2. Overtime Premium

The City will not pay premium costs for overtime arising from work on any part of this agreement.

3. Overhead Allowance

An overhead allowance shall be established as a percentage of direct salary expenses for Basic Services, as described in Section 1.402.E.1 above, and shall conform to the Federal Acquisition Regulations (48 Code of Federal Regulations Part 31). The percentage is subject to audit and adjustment and shall not exceed the lowest rate of the following: that established by City or New York State Department of Transportation audits for the period being billed or the rate designated below. The rates initially estimated for progress payment billings by the Consultant and subconsultants for this agreement are

Bergmann Associates (Prime Consultant): 147%;
Shumaker Consulting Engineering (Subconsultant 1): 150%;

An increase in the approved overhead rate shall not be a reason for a change in the total fee payable for Basic Services or the Fixed Fee.

The Consultant shall provide the City with a copy of the following documents issued to the Consultant or subconsultants that apply to the periods during which services for this agreement are provided:

- a. Audits of the firm conducted to establish overhead rates in accordance with Federal Acquisition Regulations or to establish adequacy of the firm's accounting systems with respect to Federal regulations or Government Accounting Standards; and,
- b. Correspondence from New York State or comparable agencies establishing overhead billing rates for Federal Aid projects, including NYS Department of Transportation pre-negotiation, pre-award, and overhead audit letters and related audit reports.

4. Fixed Fee

The Fixed Fee is within the total fee amount defined in Section 1.401.A. The Fixed Fee is a negotiated lump sum fee which in this agreement shall be as detailed in Schedule A. It is payable in proportion to the value of the completed Basic Services tasks listed in Schedule A as a percentage of the Basic Services total.

The amount of the monthly payment of this lump sum fee shall be equal to the percentage of the basic services fee billed during that month. Any unpaid balance of the payable portion of the Fixed Fee shall be paid to the Consultant upon successful meeting of the terms and conditions of this agreement and its final close-out.

5. Reimbursable Expenses

The Consultant shall be reimbursed the actual expenses for Reimbursable Expenses incurred in performing services under this Agreement. All reimbursement claims must be supported by adequate documentation and show appropriate share break-down. Reimbursable Expenses are as outlined in Schedule A.

Direct salary, overhead and other expenses for subconsultants, billed to the City as reimbursable expenses, shall be paid on the basis outlined above for Basic Services, Overtime Premium, Overhead Allowance and Fixed Fee.

If the prevailing wage incremental costs and supplemental benefits for Surveyors are paid as a reimbursable expense (see Section 1.402.E.1, above), the Consultant shall compute these costs as follows. The difference between the employees's normal hourly wage and the appropriate prevailing wage, plus a payroll additive applied to this difference for any incremental social security, disability, or workers compensation insurance beyond those costs applied to the normal wage, will be considered as a project-related reimbursable expense. Regarding the wage supplement connected to the prevailing wage rate, the difference between the applicable, published wage supplement to be paid and those deductions which may be made for the employer's contributions in accordance with the Department of Labor's accepted procedures, plus a payroll additive applied to this difference as for the normal wage above, will be considered to be a project-related reimbursable expense. No overhead multiplier may be applied to these costs.

6. Payments and Retainage

The amount payable in each billing period shall be the sum of the fee for Basic Services plus Overhead Allowance plus the Fixed Fee amount plus Reimbursable Expenses, as calculated above, less a Retainage of 0%. The Retainage will be withheld until 30 days after final audits have been made and amounts due verified or adjusted according to audit findings.

The Consultant shall pay a subconsultant's invoice within 5 business days of receiving payment from the City for the Consultant invoice which included the billing for the subconsultant's invoice. The Consultant shall permit the City to review records related to subconsultant agreements, services, and billings; to verify payment of subconsultant invoices; and to adjust payments to the Consultant based upon such reviews and verifications.

7. Hourly Rates Approval

All hourly rates for technical personnel, and the identity of project managers and principals shall be approved by the City's Authorized Agent prior to the Notice to Proceed. No changes may be made without approval by the City.

Section 1.403 Fee for Additional Services

- A. The City agrees to pay the Consultant for additional services performed by the Consultant within the maximum set forth in Section 1.401.A on the following basis:
 - 1. Adjustments to the Basic Services fee for extra work due to unanticipated change of scope of the project, or other extra work approved by the City's Authorized Agent, shall be made at the rate of 100% times actual payroll expenses for the consultant's technical and professional personnel, plus an overhead allowance as authorized in Section 1.402, plus a fixed fee subject to approval;
 - 2. Adjustments to the Basic Services fee for additional work which is within the original or amended scope of the agreement may be approved at the sole discretion of the City's Authorized Agent; such adjustment will be calculated as above, however, no fixed fee adjustment will be allowed.
- B. The City shall pay the Consultant as an expert witness at the rate of \$400.00 per day for any day or portion thereof for which the Consultant is required to appear as a witness.
- C. Should anticipated payments for additional services calculated on these bases, cause the total of the agreement to exceed the maximum set forth in Section 1.401.A the City will seek approval to issue the Consultant an amendatory agreement describing the additional services and providing compensation therefor from any necessary City, State, and Federal authorities.

Section 1.404 Fee Administration

- A. The Authorized Agents can mutually agree to amend Schedule A in writing for phase changes, allocation modifications or for Additional Services within the maximum authorized amount set forth in Section 1.401.A.
- B. The City's Authorized Agent is authorized to request in writing such additional services as the Agent deems necessary, within the maximum authorized amount set forth in Section 1.401.A.

ART. I, Part 5. Term

This Agreement shall commence upon execution by the parties and shall terminate six (6) months after completion and acceptance of the construction of the Project designated herein. In the event that the Project construction is not undertaken, the Agreement shall terminate one year after the completion of the contract documents by the Consultant and the acceptance by the City of such contract documents. However, no such termination shall relieve the Consultant of any outstanding duties imposed by the Agreement, including the requirement to hold the City harmless and to maintain insurance coverage insuring against loss arising out of the Project, and requirements for audits and recovery of disallowed costs.

ART. I, Part 6. Time of Performance

- A. For each phase of the work, the Consultant shall not commence work until receipt of a written Notice to Proceed from the City's Authorized Agent and shall prepare documents for that phase of the work for review by the City within the periods as set forth in Schedule B.
- B. The Consultant shall not be held responsible for delays caused by the City of Rochester or by other parties not directly under its control.
- C. The time limits set forth in Schedule B may be amended only by mutual written agreement of the Authorized Agents. It is understood that it is the intention of the City to have the services performed under this Agreement carried out as expeditiously as possible.

ART. I Part 7 Authorized Agent

- A. The City hereby designates the:

City Engineer
300B - City Hall
30 Church Street
Rochester, New York 14614

- B. The Consultant hereby designates:

Brian Dougherty P.E., Principal
Bergmann Associates
200 First Federal Plaza
28 East Main Street
Rochester, NY 14614

or an authorized representative in case of absence, as Authorized Agents for the receipt of all notices, demands, vouchers, orders, permissions, directions, and other communications pursuant to this Agreement, if dispatched by registered or certified mail, postage prepaid, or delivered personally to the Authorized Agents designated herein.

The parties reserve the right to designate other or additional Authorized Agents upon written notice to the other.

ART. I, Part 8 Ownership of Documents

A. Documents and Delivery

All original design notes, drawings, specifications and survey maps prepared by the consultant under this Agreement, upon completion of the work required herein, will become the property of the City and shall be delivered to the City's Authorized Agent. The Consultant may provide a complete reproducible set of drawings, specifications, survey maps and all other documents in lieu of the originals.

B. Digital Format

1. Project Drawings shall also be submitted in Digital format conforming to the City Digital Standards (as provided by Bureau of Engineering Street Design Division).
2. The Consultant shall provide two digital as-built products. The first shall be a complete compilation of all digital files created for the project. The second digital product shall be one file organized to update the City's GIS map. All digital files are to be based on actual field measurements taken during construction, the project survey, and conform to the City's digital standards.

The complete as-built digital file and the digital file to update the GIS map shall include a Transmittal letter and labeled disks or CD-ROM with the following information:

Project Code, Project Name and Project Limits;
Designer's Name and Firm Name;
Software and Version;
Disks numbered # of Total # of disks.

A Readme.txt file shall be placed on the #1 disk and include all the label information plus the following:

File Index with a description of each file;
Layer/Level name and description.

The digital as-built files submitted to update the City's GIS map shall consist of only the as-built features. All other data shall be deleted from the project's digital design files prior to submission to the City of Rochester. The file to update the GIS map shall have the entire project length on one file. The pa, wl, and dr layers shall contain no labels or text, and only contain new features constructed as part of the project. The features shall be on 10 separate layers and indexed for retrieval, as follows:

<u>Layer Name</u>	<u>Definition</u>
pa	New Curb Line -a single line at the edge of pavement; New Gutter -a single line at the edge of pavement, and single line at outside edge of gutter;
wl	New Sidewalks -single line at edges of concrete including outside edges of handicap ramp;
dr	New Driveway Aprons -a single line from outside edge of aprons from pavement line to R.O.W. line;
li	New or Relocated Street Lights -defined as a point;
tr	New Street Trees -defined as a point;
mon	All Control Monumentation (RCS, USC&GS, etc.) within project limits as defined as points;
row	Streetlines (determined by survey methods);
ne	Grid or Grid Tics (100' spacing) with NAD '83 coordinate values labeled on grid;
wm	Water Mains (if constructed as part of the project) -single line for new water main;

sm

Sewer Mains (if constructed as part of the project) -single line for new water main.

The layer names are case sensitive. All layer names shall use lower case letters.

Both mylar and digital as-built records must be checked to ensure contract compliance prior to issuing the final payment to the Design Consultant.

3. The consultant shall provide digital copies of the engineer's estimate, share breakdown, bid tabulation and low bidder share breakdown in a format specified by the City.

ARTICLE II

ARTICLE II, Part 1. Qualifications, Indemnity and Insurance

Section 2.101 Consultant's Qualifications for Duties, Compliance and Permits

- A. The Consultant hereby agrees that it has, or will have, on its staff and will retain during the performance of this service under this Agreement, all appropriate professional personnel necessary to completely and accurately perform the work and services under this Agreement.
- B. The Consultant further agrees that the design of architectural or engineering features of the work shall be accomplished by professionals licensed to practice in New York State.
- C. The Consultant further agrees to insure that its subcontractors, agents or employees shall possess the experience, knowledge and character necessary to qualify them individually for the particular duties they perform.

Section 2.102 Consultant's Liability

The Consultant hereby agrees to defend, indemnify and save harmless the City of Rochester against any and all liability, loss, damage, detriment, suit, claim, demand, cost, charge, attorney's fees and expenses of whatever kind or nature which the City may directly or indirectly incur, suffer or be required to pay by reason or in consequence of the carrying out of any of the provisions or requirements of this Agreement, where such loss or expense is incurred directly or indirectly by the City, its employees, subcontractors or agents, as a result of the negligent act or omission, breach or fault of the Consultant, its employees, agents or subcontractors. Such indemnification shall specifically exclude any claims or actions brought against the City for losses, damages or injuries caused by or related to pollution or contamination (as those terms are defined by statute or federal or state regulation) at the subject property, to the extent that such losses, damages or injuries are not a result of the Consultant's negligence or intentional wrongdoing, or that of its employees agents or subcontractors. If a claim or action is made or brought against the City and for which the Consultant may be responsible hereunder in whole or in part, then the Consultant shall be notified and shall be required to handle or participate in the handling of the portion of the claim for which it may be responsible as a result of this section.

Section 2.103 Professional Liability Insurance

The Consultant shall procure at its own expense professional liability insurance for services to be performed pursuant to this Agreement, insuring the Consultant against malpractice or errors and omission of the Consultant. The amount of said insurance coverage shall be in the amount One Million Dollars per incident and Two Million Dollars aggregate. The Consultant shall provide the City with a certificate of insurance from an authorized representative of a financially responsible insurance company evidencing that such an insurance policy is in force. The certificate shall contain a thirty (30) day cancellation clause which shall provide that the City shall be notified not less than thirty (30) days prior to the cancellation, assignment or change of the insurance policy. The Consultant shall also give at least thirty (30) days notice to the City of such cancellation, amendment or change, and of any lapse of insurance coverage under this Agreement.

Section 2.104 General Liability Insurance

The Consultant shall obtain at its own expense general liability insurance in the amount of at least One Million Dollars, for protection against claims of personal injury, including death, or damage to property, arising out of the Project. Said insurance shall be issued by a reputable insurance company, authorized to do business in

the State of New York. Said insurance shall also name the City of Rochester as an insured. The Consultant shall provide the City with a certificate of insurance from an authorized representative of a financially responsible insurance company evidencing that such an insurance policy is in force. Furthermore, the consultant shall provide a listing of any and all exclusions under said policy. The insurance shall stipulate that, in the event of cancellation or modification the insurer shall provide the City with at least thirty (30) days written notice of such cancellation or modification. In no event shall such liability insurance exclude from coverage any municipal operations or municipal property related to this Agreement.

Section 2.105 Workers' Compensation and Disability Benefits Insurance

This Agreement shall be void and of no effect unless the Consultant shall require all the Consultant's subcontractors to keep insured, during the life of this Agreement, all employees of said subcontractors as are required to be insured under the provisions of the Workers' Compensation Law of the State of New York. In the event the Consultant hires its own employees to do any work called for by this Agreement, then the Consultant agrees to so insure its own employees. The Consultant shall provide proof to the City, duly subscribed by an insurance carrier, that such Workers' Compensation and Disability Benefits coverage has been secured. In the alternative, Consultant shall provide proof of self-insurance or shall establish that Workers' Compensation and/or Disability Benefits coverage is not required by submitting a completed New York State Workers' Compensation Board's form WC/DB-100.

Section 2.106 Copyright or Patent Infringement

The Consultant shall defend actions or claims charging infringement of any copyright or patent by reason of the use of adoption of any designs, drawings or specifications supplied by it, and it shall hold harmless the City from loss or damage resulting therefrom, providing however, that the City within ten days after receipt of any notice of infringement or of summons in any action therefor shall have forwarded the same to the Consultant in writing.

Section 2.107 No Individual Liability

Nothing contained in the Agreement shall be construed as creating any personal liability on the part of any officer or agent of the City.

ARTICLE II, Part 2. Specific Design Restrictions

Section 2.201 Environmental Policy

The City has an obligation to assess the environmental impact of the Project and to prepare any necessary state, federal, and/or local environmental impact statements under the State Environmental Quality Review Act and the national Environmental Protection Act. The City wishes to enhance the environment by minimizing environmental degradation and by maximizing the Project benefits.

The Consultant, therefore, shall assist the City in determining whether environmental impact statements ("EIS") should be prepared and shall assist the City or the City's Environmental Specialist in preparing any necessary EIS. The Consultant shall not be required to prepare an EIS, unless specifically required by Article I of this Agreement.

ARTICLE II, Part 3. Employment Practices

Section 2.301 Equal Employment Opportunity

A. General Policy

The City of Rochester, New York reaffirms its policy of Equal Opportunity and its commitment to require all contractors, lessors, vendors and suppliers doing business with the City to follow a policy of Equal Employment Opportunity, in accordance with the requirements set forth herein. This policy is adopted pursuant to the City's Affirmative Action Plan, Article XV - Contract Compliance. The City further does not discriminate on the basis of handicap status in admission, or access to, or treatment or employment in its programs and activities. The City is including these policy statements in all bid documents, contracts, and leases. Contractors, lessors, vendors and suppliers shall agree to comply with State and Federal Equal Opportunity laws and regulations and shall submit documentation regarding Equal Opportunity upon the City's request.

B. Definitions

GOOD FAITH EFFORT - shall mean every reasonable attempt to comply with the provisions of this policy by making every reasonable effort to achieve a level of employment of minority groups and female workers that is consistent with their presence in the local work force.

MINORITY GROUP PERSONS - shall mean a person of Black, Spanish surname American, Asian American or American Indian ethnic or racial origin and identity.

C. Compliance

The Consultant shall comply with all of the following provisions of this Equal Opportunity Requirement:

1. The Consultant agrees that he will not discriminate against any employee for employment because of age, race, creed, color, national origin, sex, sexual orientation, disability, or marital status in the performance of services or programs pursuant to this Agreement, or in employment for the performance of such services or programs, against any person who is qualified and available to perform the work in which the employment relates. The Consultant agrees to take affirmative action to ensure that applicants are employed, and that applicants are hired and that employees are treated during their employment, without regard to their age, race, creed, color, national origin, sex, sexual orientation, disability, or marital status.
2. If the Consultant is found guilty of discrimination in employment on the grounds of age, race, creed, national origin, sex, sexual orientation, disability or marital status by any court or administrative agency that has jurisdiction pursuant to any State or Federal Equal Opportunity laws or regulations, such determination will be deemed to be a breach of contract, and this Agreement will be terminated in whole or part without any penalty or damages to the City on account of such cancellation or termination and the Consultant shall be disqualified from thereafter selling to, submitting bids to, or receiving awards of contract with the City of Rochester for goods, work, or services until such time as the Consultant can demonstrate its compliance with this policy and all applicable Federal and State Equal Opportunity laws and regulations.

3. The Consultant shall cause the foregoing provisions to be inserted in all subcontracts, if any, for any work covered by this Agreement so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to subcontracts for standard commercial supplies or raw materials.

Section 2.302 The MacBride Principles

The Consultant agrees that it will observe Ordinance No. 88-19 of the City of Rochester, which condemns religious discrimination in Northern Ireland and requires persons contracting to provide goods and services to the City to comply with the MacBride principles. A copy of the MacBride principles is on file in the Office of the Director of Finance.

Section 2.303 Compliance with Labor Laws

The Consultant specifically agrees to comply with the labor law requirements of Articles 8 and 9 of the Labor Law of the State of New York, and, more specifically, with the requirements of Sections 220, 220-a, 220-d and 220-e of the Labor Law. These provisions require the payment of prevailing wages and supplements to, the verification of payment of wages of, and require preference in the employment of New York residents, and prohibit discrimination based on race, creed, color, sex, national origin, or age, and prohibit the permitting or requiring of more than eight hours per day and forty hours per week from laborers, mechanics, or workers on a public works construction project. The foregoing requirements do not generally apply to professional staff, draftsmen, or clerical help or most other employees of an engineer or architect who is performing design, research, or inspection work only. The Consultant shall, however, comply with all state, federal and local non-discrimination and equal employment opportunity laws and rules and will be subject under this Agreement to fines, penalties and contract termination when the City reasonably determines that the Consultant has unlawfully discriminated because of the race, color, creed, national origin, sex or age of any applicant for employment or any employees.

Section 2.304 Living Wage Requirements

A. Applicability of Living Wage Requirements

This section shall apply and the Consultant shall comply with the requirements of Section 8A-18 of the Municipal Code of the City of Rochester, known as the "Rochester Living Wage Ordinance", in the event that payments by the City to the Consultant under this Agreement shall exceed fifty thousand dollars (\$50,000) during a period of one year. If this Agreement is amended to increase the amount payable hereunder to more than fifty thousand dollars (\$50,000) during a period of one year, then any such amendment shall be subject to Section 8A-18.

B. Compliance

The Consultant shall pay no less than a Living Wage to any part-time or full-time Covered Employee, as that term is defined in Section 8A-18B, who directly expends his or her time on this Agreement, for the time said person actually spends on this Agreement. Living Wage, as set forth in this Agreement, shall be the hourly amount set forth in Section 8A-18^(c)(2), and any adjustments thereto, which shall be made on July 1 of each year and shall be made available in the Office of the City Clerk and on the City's website, at www.cityofrochester.gov. Consultant shall also comply with all other provisions of Section 8A-18, including but not limited to all reporting, posting and notification requirements and shall be subject to any compliance, sanction and enforcement provisions set forth therein.

C. Exemption

This section shall not apply to any of Consultant's employees who are compensated in accordance with the terms of a collective bargaining agreement.

ARTICLE II, Part 4. Operations

Section 2.401 Compliance with Air and Water Acts

The Consultant and any and all subcontractors agree as follows:

- A. The Consultant, and its subcontractors warrant that any facility to be utilized in the performance of any non-exempt contract or subcontract is not listed on the list of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR 15.20.
- B. The Consultant promises to comply with all of the requirements of Sections 144 of the Clean Air Act, as amended (47 USC 1857c-8) and Section 308 of the Federal Water Pollution Control Act, as amended (33 USC 1318) relating to the inspection, monitoring, entry, reports and information as well as all other requirements specified in Section 114 and Section 308, and all regulations and guidelines issued thereunder.
- C. A condition for the award of the Agreement is that prompt notice will be given to the City of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized or to be utilized for the Agreement is under consideration to be listed on the EPA list of Violating Facilities.
- D. The Consultant warrants to the City that it has not been convicted under Section 113⁽⁹⁾(1) of the Clean Air Act or Section 309⁽⁹⁾ of the Federal Water Pollution Control Act.

Section 2.402 Political Activity Prohibited

None of the funds, materials, property, or services provided directly or indirectly under this Agreement shall be used during the performance of the Agreement for any partisan political activity, or to further the election or defeat of any candidate for public office.

Section 2.403 Lobbying Prohibited

None of the funds provided under this Agreement shall be used for publicity or propaganda purposes designed to support or defeat legislation pending before the United States Congress, the Legislature of the State of New York or the Council of the City of Rochester.

Section 2.404 Anti-Kickback Rules

Salaries of employees performing work under this Agreement shall be paid unconditionally and not less often than once a month without deduction or rebate on any account except only such payroll deductions that are mandatory by law or permitted by the applicable regulations issued by the Secretary of Labor pursuant to the "Anti-Kickback Act" of June 13, 1934 (48 Stat. 948; 62 Stat. 108; title 18 U.S.C., section 874; and title 40 U.S.C., section 276c). The Consultant shall comply with applicable "Anti-Kickback" regulations and shall insert appropriate provisions in all subcontracts covering work under this Agreement to insure compliance by subcontractors with such regulations and shall be responsible for the submission of affidavits required of

subcontractors thereunder except as the Secretary of Labor may specifically provide for variations of or exemptions from the requirements thereof.

Section 2.405 Withholding of Salaries

If, in the performance of this Agreement, there is notice to the City of any underpayment of salaries by the Consultant or by any subcontractor thereunder, the City shall withhold from the Consultant out of payments due to it an amount sufficient to pay the employees underpaid the difference between the salaries required hereby to be paid and the salaries actually paid such employees for the total number of hours worked. The amounts withheld may be disbursed by the City for and on account of the Consultant or subcontractor to the respective employees to whom they are due.

Section 2.406 Discrimination Because of Certain Labor Matters

No person employed on the work covered by this Agreement shall be discharged or in any way discriminated against because the person has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify at any proceeding relating to the labor standards applicable hereunder to that person's employer.

Section 2.407 Status as Independent Contractor

The Consultant, in accordance with its status as an independent contractor, covenants and agrees that it shall conduct itself in a manner consistent with such status, that it will neither hold itself nor its employees out as, nor claim to be an officer or employee of the City by reason hereof, and that it and its employees will not by reason hereof, make any claim, demand or application for any right or privilege applicable to an officer or employee of the City, including but not limited to Workers' Compensation coverage, unemployment insurance benefits, social security coverage, and retirement membership or credit.

ARTICLE II, Part 5. Documents

Section 2.501 Patents and Copyrights

The Consultant agrees that, in the event it, or any of its employees' develop any material for which a copyright can be obtained which material was developed as a result of or in connection with the work required pursuant to this Agreement, the City shall be granted a royalty-free, non-exclusive license to use, reproduce and distribute such copyrightable material. The Consultant further agrees that in the event it, or any of its employees, develops any process, machinery or product for which a patent would be obtainable, the Consultant shall provide the necessary information to the City, so that the City can apply for such patent at its own expense. Such patent shall become the property of the City; provided, however, that the Consultant shall acquire a royalty-free, non-exclusive license to produce or reproduce such patented product. The benefits of either a patent or a copyright shall also inure to any public agency which finances, in whole or in part, this project and such agency shall receive a royalty-free, non-exclusive license to use, reproduce, manufacture and distribute the product or mater which has been patented or copyrighted.

Section 2.502 Audit

The Consultant agrees to maintain sufficient on-site records and information necessary for the documentation of any and all facets of program operation specified by this Agreement. The Consultant shall maintain all books, documents, papers and other evidence pertinent to the performance of work under this Agreement in accordance with generally acceptable accounting principles, and 40 CFR Part 30 in effect during the term of

this Agreement. The Consultant agrees to permit on-site inspection and auditing of all records, books, papers and documents associated with this Agreement by authorized representatives of the City and further agrees to provide necessary staff support to the performance of such audit. The Consultant agrees to maintain for a period of six (6) consecutive years following termination of this Agreement any and all records, reports and other documentation arising from the performance of this Agreement; however, this period shall be extended beyond six years for any and all records and information pertaining to unresolved questions, which have been brought to the Consultant's attention by written notice by the City. The Consultant agrees to furnish to the City data to include but not be limited to, intake records, status change notices, termination notices, and follow-up records. Said reports will be submitted periodically as required by the City.

Section 2.503 Content of Sub-Agreements

The Consultant agrees that all sub-agreements authorized by this Agreement shall be in written form. The Consultant shall require all subcontractors to comply with any of the following sections which may be in this Agreement: "Equal Employment Opportunity; Affirmative Action and Employment of Local Labor; Compliance with Labor Laws; Certifications Regarding Conflicts of Interest; Anti-Kickback Rules; Interest of City and Contractor in Contract." It is the purpose of this section to insure that all Agreements obligate all parties performing work under this Agreement to comply with necessary governmental programs and policies. The City may require the Consultant to submit copies of such sub-agreements to the City. If such copies are not submitted upon request, the City may have the right to withhold any and all payments to the Consultant to those items of work which have not complied with this section.

ARTICLE II, Part 6. Termination

Section 2.601 Termination for Convenience of the City

- A. This Agreement may be terminated by the City in accordance with this section in whole, or from time to time, in part, whenever for any reason, the City shall determine that such termination is in the best interest of the City. Any such termination shall be effective upon written notice to the Consultant. However, no such termination shall relieve the Consultant of any outstanding duties imposed by the Agreement, including the requirement to hold the City harmless and to maintain insurance coverage insuring against loss arising out of the Project.
- B. If the Agreement is so terminated, the City may take over the work and services and prosecute the same to completion by contract or otherwise. The Consultant, upon such termination, shall transfer title, and in the manner directed by the City, shall deliver to the City the completed or partially completed, plans, drawings information, other property and records of work being performed, which, if this Agreement had been completed, would be required to be furnished to the City.
- C. After receipt of written notice of termination, the Consultant shall promptly submit to the City its termination claim in a form acceptable to the City. Such claim shall in no event be submitted later than one year from the effective date of termination.
- D. In the event that the parties cannot agree, in whole or in part, as to the amount due by reason of the termination of the Agreement pursuant to this clause, the City shall pay the Consultant the amount determined as the total of the following:
 1. The cost of all work performed prior to the effective date of termination.

2. The cost of settling and paying claims arising out of and as a direct result of the termination;
3. A sum as profit on subdivision 1. above, determined to be fair and reasonable, provided however, that if the Consultant would have sustained a loss on the entire Agreement had it been completed, no profit shall be included or allowed under this subdivision 3., and an appropriate adjustment shall be made reducing the amount of settlement to reflect the indicated rate of loss. The total sum to be paid under this section shall not exceed the total price of this Agreement specified hereinabove, reduced by the amount of payments otherwise made, and further secured by the value of work remaining incomplete at the time of the termination of this Agreement.

Section 2.602 Termination for Default

- A. The performance of work under this Agreement may be terminated by the City in accordance with this clause in whole, or, from time to time, in part, whenever the Consultant shall default in performance of this Agreement in accordance with its terms (including in the term "default" any failure by the Consultant to make progress in the prosecution of the work hereunder which endangers such performance) and shall fail to cure diligently such default within a period of ten days or (or such longer period as the City may allow) after delivery by the City of a notice specifying the default.
- B. If this Agreement is to be terminated, the City may take over the work and services and prosecute the same to completion by contract or otherwise, and the Consultant shall be liable to the City for any excess cost occasioned thereby.
- C. The total fee payable shall be such proportionate part of the fee as the value of the actual work completed and delivered bears to the value of the work required or contemplated by this Agreement.
- D. This Agreement may not be so terminated if the failure to perform arises from unforeseeable causes beyond the control and without the fault or negligence of the Consultant.
- E. If, after notice of termination of this Agreement under the provisions of this section, it is determined for any reason that the Consultant was not in default or that the default was excusable the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the clause of this Agreement entitled "Termination for the Convenience of the City."
- F. The rights and remedies of the City provided in this clause are in addition to any other rights and remedies provided by law or under this Agreement.

ARTICLE II, Part 7. General

Section 2.701 Prohibition Against Assignment

- A. The Consultant agrees that it is prohibited from assigning or otherwise disposing of this Agreement or any of its contents, or of its right, title or interest therein, or of its power to execute such contract to any other person or corporation without the previous consent in writing of the City.
- B. The Consultant shall be permitted to contract with other professions (particularly in the fields of forestry, horticulture or landscape architecture) for portions of the Project provided, however,
 1. The City approves, in writing, the selection of the individual, firm or firms contracted with.

2. The Consultant shall remain responsible to the City for all provisions of this Agreement pertaining to services by other professionals.

Section 2.702 Compliance with All Laws

The Consultant agrees that during the performance of the work required pursuant to this Agreement, the Consultant, and all employees working under its direction, shall strictly comply with all local, state or federal laws, ordinances, rules or regulations controlling or limiting in any way their actions during their said performance of the work required by this Agreement. Furthermore, each and every provision of law, and contractual clause required by law to be inserted in this Agreement shall be deemed to be inserted herein. If, through mistake or otherwise, any such provision is not inserted or is not correctly inserted, then upon the application of either party this Agreement shall be forthwith physically amended to make such insertion or correction.

Section 2.703 Successors

The City and the Consultant each bind their successors, executors, administrators and assigns in respect of all covenants of this Agreement.

Section 2.704 Interest of City and Consultant in Contract

The City and the Consultant agree that no member, officer, or employee of the City or of the Consultant or assignees agents shall have any interest, direct or indirect, in any contract or subcontract or the proceeds thereof, for work to be performed in connection with the program assisted under the Agreement.

Section 2.705 Permits, Laws and Taxes

- A. In the event that services performed by the Consultant for the City are subject to taxation under Article 28 of the Tax Law (sales and compensating use tax) the Consultant shall receive from the City the material necessary to obtain a tax exempt certificate upon written request.
- B. The Consultant shall pay all taxes, applicable to the work and materials supplied under this Agreement, it being understood that in no case shall any such tax be borne by the City, except as provided in subparagraph A. above.

Section 2.706 Obligations Limited to Funds Available

The parties specifically agree that the Consultant's duty to perform work under this Agreement and the City's obligation to pay for that work, including any out-of-pocket and subcontracting expenses of the Consultant, shall be limited to the amount of money actually appropriated by the City Council and encumbered (i.e., certified as being available) for this Project by the City Director of Finance (or his authorized deputy). This provision shall limit the parties' obligation to perform even though this Agreement may provide for the payment of a fee greater than the appropriated and encumbered amount.

Section 2.707 Extent of Agreement

This Agreement constitutes the entire and integrated Agreement between and among the parties hereto and supersedes any and all prior negotiations, Agreements, and conditions, whether written or oral. Any modification or amendment to this Agreement shall be void unless it is in writing and subscribed by the party to be charged or by its authorized agent.

Section 2.708 Law and Forum

This Agreement shall be governed by and under the laws of the State of New York and the Charter of the City of Rochester. The parties further agree that Supreme Court of the State of New York, held in and for the County of Monroe shall be the forum to resolve disputes arising out of either this Agreement or work performed according thereto. The parties waive all other venue or forum selections. The parties may agree between themselves on alternative forums.

Section 2.709 No Waiver

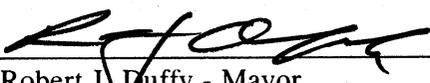
In the event that the terms and conditions of this Agreement are not strictly enforced by the City, such non-enforcement shall not act as or be deemed to act as a waiver or modification of this Agreement, nor shall such non-enforcement prevent the City from enforcing each and every term of this Agreement thereafter.

Section 2.710 Severability

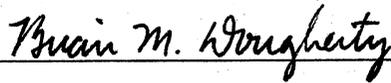
If any provision of this Agreement is held invalid by a court of law, the remainder of this Agreement shall not be affected thereby, if such remainder would then continue to conform to the laws of the State of New York.

IN WITNESS WHEREOF, the parties have duly executed this Agreement on the day first written above.

THE CITY OF ROCHESTER

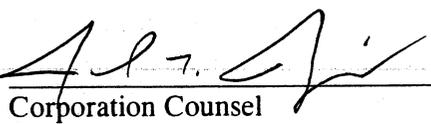
By: 
Robert J. Duffy - Mayor

(CONSULTANT)

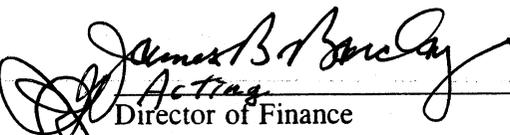
By: 

BERGMANN ASSOCIATES
Federal Tax Payer Id. No. 25-1407718

Approved As to Form:

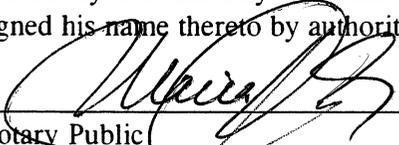

Corporation Counsel
City of Rochester

Approved for Funds:


James B. Barclay
Director of Finance
City of Rochester

STATE OF NEW YORK
COUNTY OF MONROE

On this 10 day of October, 2007 before me, the subscriber, personally came ROBERT J. DUFFY, to me known, who being by me duly sworn, did depose and say that he resides in the City of Rochester, that he is the Mayor of the City of Rochester, the municipal corporation described in the above Agreement; that he signed his name thereto by authority of Ordinance No.



Notary Public
Commission Expires:

MARIA CALABRESE
NOTARY PUBLIC, STATE OF NEW YORK
NO. 01CA6117153
QUALIFIED IN RICHMOND COUNTY
COMMISSION EXPIRES 10-18-2008

STATE OF NEW YORK
COUNTY OF MONROE

On this 21st day of Sept, 2007 before me, the undersigned, a Notary Public in and for said State, personally appeared Brian M. Dugherly personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.



Notary Public
Commission Expires:

JANICE A. FREDERICKS
Notary Public, State of New York
No. 01FR5064761
Qualified in Monroe County
Commission Expires Aug. 26, 2010

**University Avenue (Union St. - Goodman St.) Improvements
& ARTWalk II Enhancements**

AGREEMENT NO.

SCHEDULE A - FEE SCHEDULE

BASIC SERVICES ¹	<u>STREET</u> 73%	<u>WATER</u> 18%	<u>TRAFFIC</u> 9%	<u>TOTAL</u> 100%
A. Design Approval Document	<u>\$ 79,570</u>	<u>\$ 19,620</u>	<u>\$ 9,810</u>	<u>\$ 109,000</u>
TOTAL I	\$ 79,570	\$ 19,620	\$ 9,810	\$ 109,000
II. <u>REIMBURSABLE EXPENSE</u>				
Reproduction	\$ 511	\$ 126	\$ 63	\$ 700
Postage	\$ 146	\$ 36	\$ 18	\$ 200
Owner's Protective Ins.	\$ 219	\$ 54	\$ 27	\$ 300
Subsurface Investigations	\$ 4,599	\$ 1,134	\$ 567	\$ 6,300
Subconsultants:				
Shumaker Engineers ²	\$ 11,899	\$ 2,934	\$ 1,467	\$ 16,300
William Cochran Studios	<u>\$ 30,806</u>	<u>\$ 7,596</u>	<u>\$ 3,798</u>	<u>\$ 42,200</u>
TOTAL II	\$ 48,180	\$ 11,880	\$ 5,940	\$ 66,000
TOTAL I & II	\$ 127,750	\$ 31,500	\$ 15,750	\$ 175,000
III. <u>ADDITIONAL SERVICES</u>				
Reserve	<u>\$ 25,550</u>	<u>\$ 6,300</u>	<u>\$ 3,150</u>	<u>\$ 35,000</u>
TOTAL III	\$ 25,550	\$ 6,300	\$ 3,150	\$ 35,000
TOTAL I, II, & III	\$ 153,300	\$ 37,800	\$ 18,900	\$ 210,000

¹ Basic services not-to-exceed fees based upon staff salaries times 2.47 multiplier.

² Reimbursable sub-consultant (Schumaker) not-to-exceed fees based upon staff salaries times 2.50 multiplier

**University Avenue (Union St. - Goodman St.) Improvements
& ARTWalk II Enhancements**

AGREEMENT #:

SCHEDULE B - TIME SCHEDULE

<u>PHASE</u>	<u>Days From Notice to Proceed</u>
A. Draft Design Approval Document	210 days
B. Final Design Approval Document	<u>60</u> days
Total	270 days

EXHIBIT A -- STAFFING AND FEE ANALYSIS

NYSDOT "Shell" Spreadsheet

BERGMANN ASSOCIATES

JOB TITLE	ASCE (A) OR NICET (N) GRADE	AVERAGE HOURLY RATES			MAX. HOURLY RATES			OVERTIME CATEGORY
		PRESENT	PROJECTED					
		March , 2007	Jan, 2008	2007	2008	2009		
Principal	IX (A)	\$68.00	\$68.91	\$68.00	\$70.72	\$73.55	A	
Project Manager	VIII (A)	\$61.91	\$63.95	\$68.00	\$70.72	\$73.55	A	
Sr. Project Engineer	VII (A)	\$47.59	\$49.16	\$54.97	\$57.17	\$59.46	A	
Project Engineer	VI (A)	\$44.42	\$45.89	\$45.11	\$46.91	\$48.79	A	
Senior Engineer	V (A)	\$39.50	\$40.80	\$43.81	\$45.56	\$47.38	A	
Engineer	IV (A)	\$37.05	\$38.27	\$39.05	\$40.61	\$42.24	B	
Design Engineer	III (A)	\$31.01	\$32.03	\$36.15	\$37.60	\$39.10	B	
Junior Engineer	I/II (A)	\$23.93	\$24.72	\$28.89	\$30.05	\$31.25	B	
Sr. Designer/CADD	IV (N)	\$39.02	\$40.31	\$42.54	\$44.24	\$46.01	C	
Sr. Engineer Tech/CADD	IV (N)	\$31.35	\$32.38	\$34.33	\$35.70	\$37.13	C	
Sr. Engineer Tech/CADD	III (N)	\$28.22	\$29.15	\$31.32	\$32.57	\$33.88	C	
Engineer Tech/CADD	II (N)	\$22.73	\$23.48	\$26.22	\$27.27	\$28.36	C	
Engineer Tech/CADD	I (N)	\$18.29	\$18.89	\$22.84	\$23.75	\$24.70	C	
Sr. Land Surveyor/Party Chief Lic	IV (N)	\$37.82	\$39.07	\$39.23	\$40.80	\$42.43	C	
Party Chief Unlicensed (Office)	III (N)	\$21.15	\$21.85	\$24.22	\$25.19	\$26.20	C	
Instrument Person (Office)	II (N)	\$19.80	\$20.45	\$24.49	\$25.47	\$26.49	C	
Trainee	NA	\$12.20	\$12.60	\$12.20	\$12.69	\$13.20	C	
Technical Typist	NA	\$17.39	\$17.96	\$21.59	\$22.45	\$23.35	C	
Party Chief Licensed (Field)	IV (N)	\$37.82	\$39.07	\$39.23	\$40.80	\$42.43	C	
Party Chief Unlicensed (Field)	III (N)	\$21.15	\$21.85	\$24.22	\$25.19	\$26.20	C	
Instrument Person (Field)	II (N)	\$19.80	\$20.45	\$24.49	\$25.47	\$26.49	C	

NOTES:

Hourly rates shall not exceed those shown above or the current NYS DOT Maximum Allowable, as described in Exhibit E of the original agreement.

OVERTIME POLICY

Category A - No overtime compensation.

Category B - Overtime compensated at straight time rate.

Category C - Overtime compensated at straight time rate x 1.50.

Overtime applies to hours worked in excess of the normal working hours of 8 hours per day.

*Prevailing Wage Rates - The difference between the required prevailing wage rate and the normal hourly rate is considered a direct cost:

		Prevailing Rate	Projected Rate	Normal Rate	Difference	Payroll Additive	Total
Party Chief Licensed (Field)	IV (N)	\$28.00	\$28.92	\$39.07	\$0.00	\$0.00	\$0.00
Party Chief Unlicensed (Field)	III (N)	28.00	28.92	21.85	7.07	0.64	7.71
Instrument Person (Field)	II (N)	25.50	26.34	20.45	5.89	0.53	6.42

Supplemental Benefits are also considered direct costs. The net benefit is the difference between required amounts and deductions made through existing plans (overhead):

		Prevailing Benefit	Normal Rate	Difference (Net)	Wage Adjustment	Payroll Additive	Total
Party Chief Licensed (Field)	IV (N)	\$13.60	\$7.70	\$5.90	(\$10.15)	(\$0.38)	\$0.00
Party Chief Unlicensed (Field)	III (N)	13.60	8.85	4.75	0.00	0.43	\$5.18
Instrument Person (Field)	II (N)	13.60	8.85	4.75	0.00	0.43	\$5.18

JOB TITLE	ASCE (A) OR	T A S K S										Total Hours	HOURLY RATE	TECHNICAL LABOR				
		1.202 A 1	1.202 A 2	1.202 A 3	1.202 A 4	1.202 B 1	1.202 B 2	1.202 B 3	1.202 B 3	1.202 B 4	1.202 B 5				1.202 B 7	1.202 B 9	1.202 B 10	
GRADE	Mapping	Survey	Sub surface	Familiarization	Plans/Profiles	Traffic Analysis	Lighting	Street	Artwalk Concepts	Estimate	Dft. Des. Rpt	Env. Invest.	Comm. Coord.	Final Rpt				
Principal	IX (A)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$68.91	\$0.00	
Project Manager	VIII (A)	2	0	0	4	16	4	0	0	0	0	8	0	0	12	106	\$61.95	\$6,778.70
Sr. Project Engineer	VII (A)	0	0	0	0	16	4	0	20	4	0	0	40	0	0	40	\$49.16	\$1,966.40
Project Engineer	VI (A)	0	0	0	8	0	0	0	0	0	40	0	0	24	208	\$45.89	\$9,545.12	
Senior Engineer	V (A)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$40.80	\$0.00
Engineer	IV (A)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$38.27	\$0.00
Design Engineer	III (A)	0	0	0	8	60	0	16	24	8	80	0	12	20	228	\$32.03	\$7,302.84	
Junior Engineer	I/II (A)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$24.72	\$0.00
Sr. Designer/CADD	IV (N)	0	0	0	0	24	0	0	16	32	24	0	16	24	136	\$40.31	\$5,482.16	
Sr. Engineer Tech/CADD	IV (N)	0	0	0	0	44	0	0	20	0	0	0	0	0	72	\$32.38	\$2,311.36	
Engineer Tech/CADD	III (N)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$29.15	\$0.00	
Engineer Tech/CADD	II (N)	4	0	0	0	96	0	12	0	0	40	0	52	0	204	\$23.48	\$4,789.92	
Sr. Land Surveyor/Party Chief Licensed (Office)	I (N)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$18.89	\$0.00
Party Chief Unlicensed (Office)	III (N)	4	0	0	0	0	0	0	0	0	0	0	0	0	4	\$39.07	\$156.28	
Instrument Person (Office)	II (N)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$21.85	\$0.00	
Trainee	NA	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$20.45	\$0.00	
Technical Typist	NA	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$12.60	\$0.00	
Party Chief Licensed (Field)	IV (N)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$17.96	\$287.36	
Party Chief Unlicensed (Field)	III (N)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$39.07	\$0.00	
Instrument Person (Field)	II (N)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$21.85	\$0.00	
TOTAL		10	0	0	12	20	256	80	36	84	40	200	196	80	1014		\$38,640.14	

BERGMANN ASSOCIATES

PIN:

EXPENDABLE COSTS

1. Travel, Lodging and Subsistence

Trips to	trips	miles per	trips	miles per
Project Sites	0	10 miles/trip	0	
Client Offices	0	0 miles/trip	0	
			0 @	\$0.445
				\$0.00

TOTAL TRAVEL, LODGING, & SUBSISTENCE

2. Owner's Protective Insurance (Estimated)

\$0.00

3 Postage (Estimated)

300.00

200.00

\$500.00

TOTAL DIRECT NON - SALARY COST

NON-EXPENDABLE COSTS

1. Reproduction, Drawings & Report*

Design Phase I & IV

each	sheets/set	sets
Pictometry Image	5	1
Drawings (11"x17"	20	30
Reports(8 1/2"x11)	100	50

\$150.00

\$288.00

\$250.00

TOTAL DRAWING, REPORT, REPRODUCTION

\$688.00

TOTAL DIRECT NON-SALARY AND NON-EXPENDABLE COSTS

\$1,188.00

Exhibit B, Page 2

Estimate of Direct Non-Salary Cost

BERGMANN ASSOCIATES

SUBCONTRACTOR COSTS

A. Studio William Cochran

Task Force Meetings	Artist (Wm Cochran)	Asst. (Teresa Cochran)	Hours		Remarks
			Cochran	Cochran	
Plan Public Participation Process	4	1			
Pre-Survey with stakeholders	16	16			
Plan Task Force Meetings	6	2			
Co-Facilitate 4 Task Force Meetings	10	2			William attend 4 meetings Teresa joins him for 1 meeting
Post-Meeting Synthesis	16	8			
Public Meetings					
Plan Public Meetings	6	6			
Develop educational presentation to be used throughout process	9	8			Used during Task Force & Public meetings
Deliver Artist talks 2X early in public pr	2	0			Talks/discussions with Artists/City as needed before or after Task Force meetings
Media & public engagement/feedback initial	24	10			
Co-Facilitate 2 Public Meetings	5	2			William attend both meetings, Teresa attend 1. Public mtgs. will be in the evening same day as Task Force Meetings
Post-Meeting Synthesis	4	4			
Prep & Attend Public Event, post-event syn	20	15			Attend special Artwalk 2 planning event
Conceptual design response to task force/p	40	20			Prepare 3 concept level plans/sketches for Artwalk2
<u>CONCEPT PLAN DEVELOPMENT</u>					
Assist with 10 project renderings	60	20			Bergmann provide rendering inside curblines (street), Cochran provide rendering outside curblines (Artwalk2)
<u>Travel Time</u>					
Travel to Rochester (4hr/Trip)	20	8			William 5 trips to Rochester, Teresa joins him for 2 trips
Total Hours	241	122			
Rate	\$125.00	\$75.00			
Total Labor Cost	\$30,125.00	\$9,150.00			
					Total Labor Cost \$39,275.00

Travel

Travel to Rochester	Artist	5 Trips @	\$400.00 Trip	\$2,000.00
Trips to Rochester	Artist Asst.	2 Trips @	\$400.00 Trip	\$800.00
			Total Travel Cost	\$2,800.00
			TOTAL STUDIO WILLIAM COCHRAN	\$42,075.00

B. Drilling subcontractor

Mobilization				\$750.00
Permits				\$250.00
Partial Depth borings	10 borings	\$100.00	per boring	\$1,000.00
Full Depth borings	10 borings	\$250.00	per boring	\$2,500.00
Rock Cores	0 borings	\$250.00	per boring	\$0.00
Maintenance of Traffic	3 Days	\$600.00	per day	\$1,800.00

TOTAL DRILLING SUBCONTRACTOR

\$6,300.00

TOTAL SUBCONTRACTOR COSTS

\$48,375.00

Exhibit B Page 3
Salary Schedule

SHUMAKER CONSULTING ENGINEERING & LAND SURVEYING, P.C.
Bergmann, University Avenue Improvements PIN 4754.18
County of Monroe

JOB TITLE	ASCE (A) OR NICET (N) GRADE		AVERAGE HOURLY RATES		2007 MAXIMUM RATES	OVERTIME CATEGORY
			Current Date January 2007	Projected Date November 2007		
Principal	IX (A)		\$68.90	\$68.90	\$68.90	A
Senior Managing Engineer	VIII (A)		50.98	52.00	\$68.90	A
Managing Engineer II	VII (A)		44.83	45.73	\$50.00	A
Land Surveyor II	VII (A)		49.50	50.00	\$50.00	A
Managing Engineer I	VI (A)		43.10	43.96	\$45.00	A
Geologist VI	VI (A)		41.00	41.82	\$45.00	B
Sr. Project Engineer	V (A)		38.67	39.44	\$42.50	B
Land Surveyor I	V (A)		32.00	32.64	\$42.00	A
Project Engineer	IV (A)		35.60	36.31	\$39.50	C
Geologist IV	IV (A)		29.75	30.35	\$38.00	B
Resident Engineer	IV (N)		38.00	38.76	\$40.00	C
Engineer	III (A)		28.63	29.20	\$35.00	C
Environmental Scientist III	III (A)		27.40	27.95	\$35.00	C
Geologist III	III (A)		23.80	24.28	\$35.00	C
Sr. Inspector	III (N)		26.50	27.03	\$30.00	C
Sr. Engineering Technician	III (N)		23.16	23.62	\$30.00	C
Technician III	III (N)		21.43	21.86	\$30.00	C
Environmental Scientist II	II (A)		26.80	27.34	\$30.00	C
Assistant Engineer	II (A)		24.85	25.35	\$30.00	C
Inspector	II (N)		25.50	26.00	\$26.00	C
Engineering Technician	II (N)		18.05	18.41	\$24.00	C
Technician II	II (N)		17.85	18.21	\$24.00	C
Jr. Engineer	I (A)		19.83	20.23	\$23.00	C
Environmental Scientist I	I (A)		18.25	18.62	\$22.00	C
Jr. Inspector	I (N)		22.00	22.00	\$22.00	C
Technician	I (N)		15.33	15.64	\$18.00	C
Technical Typist	NA		16.87	17.21	\$23.00	C
Party Chief (Field)	III (N)		24.83	25.33	\$32.00	C
Instrument Person (Field)	II (N)		18.21	18.57	\$24.00	C
Rod Person (Field)	I (N)		17.25	17.60	\$18.00	C

NOTES:
Hourly rates shall not exceed those shown above.

OVERTIME POLICY

Category A - No overtime compensation.
Category B - Overtime compensated at straight time rate.
Category C - Overtime compensated at straight time rate x 1.50
Overtime applies to hours worked in excess of the normal working hours of 40 hours per week

*Prevailing Wage Rates - The difference between the required prevailing wage rate and the normal hourly rate is considered a direct cost:

County of Monroe		Prevailing Rate	Projected Rate	Normal Rate	Difference	Payroll Additive	Total
Party Chief (Field)	III (N)	\$28.46	\$28.46	\$25.33	\$3.13	\$0.28	\$3.41
Instrument Person (Field)	II (N)	\$25.87	\$25.87	\$18.57	\$7.30	\$0.66	\$7.96
Rod Person (Field)	I (N)	\$25.87	\$25.87	\$17.60	\$8.27	\$0.74	\$9.01

Supplemental Benefits are also considered direct costs. The net benefit is the difference between required amounts and deductions made through existing plans (overhead):

		Projected Prevailing Benefit	Projected Prevailing Benefit	Normal Rate	Difference (Net)	Wage Adjustment	Payroll Additive	Total
Party Chief (Field)	III (N)	\$14.60	\$14.60	\$3.93	\$10.67	\$0.00	\$0.96	\$11.63
Instrument Person (Field)	II (N)	\$14.60	\$14.60	\$3.15	\$11.45	\$0.00	\$1.03	\$12.48
Rod Person (Field)	I (N)	\$14.60	\$14.60	\$2.47	\$12.13	\$0.00	\$1.09	\$13.22

SHUMAKER CONSULTING ENGINEERING & LAND SURVEYING, PC
Berymann, University Avenue Improvements PIN 4754.18
County of Monroe

JOB TITLE	TASK # -->										TOTAL DIRECT TECHNICAL	PROJECTED HOURLY	TOTAL
	1	2	3	4	5	6	7	8	9	10			
ASCE (A) OR NICEE (A) GRADE	Utility Mapping	Phase I Environment									Hours	SALARY RATE	LABOR
Principal													
Senior Managing Engineer											0	\$68.90	\$0.00
Managing Engineer II											0	\$52.00	\$104.00
Land Surveyor II											0	\$45.73	\$0.00
Managing Engineer I											8	\$50.00	\$400.00
Geologist VI											0	\$43.96	\$0.00
Sr. Project Engineer											0	\$41.82	\$0.00
Land Surveyor I											0	\$39.44	\$0.00
Project Engineer											20	\$32.64	\$652.80
Geologist IV											0	\$36.31	\$0.00
Resident Engineer											0	\$30.35	\$0.00
Engineer											0	\$38.76	\$0.00
Environmental Scientist III											0	\$29.20	\$0.00
Geologist III											0	\$27.95	\$0.00
Sr. Inspector											0	\$24.28	\$0.00
Technical III											0	\$27.03	\$0.00
Environmental Scientist II											80	\$23.62	\$1,889.60
Assistant Engineer											0	\$21.86	\$0.00
Inspector											40	\$27.34	\$1,093.60
Engineering Technician											0	\$25.35	\$0.00
Technician II											0	\$26.00	\$0.00
Jr. Engineer											64	\$18.41	\$1,178.24
Environmental Scientist I											0	\$18.21	\$0.00
Jr. Inspector											0	\$20.23	\$0.00
Technician											0	\$18.62	\$0.00
Technical Typist											0	\$22.00	\$0.00
-											0	\$15.64	\$0.00
-											0	\$17.21	\$0.00
Party Chief (Field)											0	\$25.33	\$0.00
Instrument Person (Field)											0	\$18.57	\$0.00
Rod Person (Field)											0	\$17.60	\$0.00
TOTAL	172	42	0	0	0	0	0	0	0	0	214		\$5,318.24

Estimate of Direct Non-Salary Cost and Subcontractor/Subconsultant Costs

SRUMAKER CONSULTING ENGINEERING & LAND SURVEYING, P.C.
 Bergmann, University Avenue Improvements PIN 4754.18
 County of Monroe

1. Travel, Lodging and Subsistence								
Travel	Trips to CI/Week	# trips	miles per					
	Asb/Haz/Surv/Wetld	1	500 miles/tr.		0			
	Meetings		400		400			
			300		0			
			Total Mileage	400 @		\$0.485	\$194.00	
Lodging/subsistence		each	dollars per day					
	lodging	1	87		87			
	per diem	1	44		44			
			Total lodging/subsistence	131			\$131.00	
TOTAL TRAVEL								\$325.00
2. Owner's Protective Insurance (Estimated)								
			Insurance				\$0.00	
3. Reproduction								
	Outsourced					\$200.00		
Internal prints	8 1/2" x 11"	500	@	0.08 /sheet		\$40.00		
	11 x 17	50	@	0.18 /sheet		\$9.00		
	oversized	60	@	0.50 /sq.ft.		\$30.00		
Internal plots	bond	0	@	0.60 /sq.ft.		\$0.00		
	mylar	0	@	2.00 /sq.ft.		\$0.00		
TOTAL REPRODUCTION								\$279.00
4. Communication								
Telephone/Fax		6	calls @	\$ 4.00 -		\$24.00		
USPS		0	letter @	\$ 0.37 -		\$0.00		
USPS		0	oversized @	\$ 1.07 -		\$0.00		
UPS		2	overnight @	\$13.00 -		\$26.00		
TOTAL COMMUNICATION								\$50.00
5. Miscellaneous								
			General Miscellaneous Costs:			\$0.00		
TOTAL MISCELLANEOUS								\$0.00
6. Survey Personnel Costs								
Wage Differential	Party Chief	III (N)	0		\$3.41	\$0.00		
	Instrument Person	II (N)	0		\$7.96	0.00		
	Rod Person	I (N)	0		\$9.01	0.00		
SUBTOTAL Wage Differential								\$0.00
Supplemental Bene	Party Chief	III (N)	0		\$11.63	\$0.00		
	Instrument Person	II (N)	0		\$12.48	0.00		
	Rod Person	I (N)	0		\$13.22	0.00		
SUBTOTAL Supplemental Benefits								\$0.00
TOTAL SURVEY PERSONNEL								\$0.00
7. Billable Supplies and Equipment Rental								\$0.00
TOTAL DIRECT COST								\$654.00
8. Subcontractor/Subconsultant Costs								
	a. Models, Rendering, Pkg/Los						\$0.00	
	b. Sub 1			LS/NTE	\$350.00			
	Sub 2							
	Sub 3							
	Sub 4							
	Sub 5							
	Sub 6							
								\$350.00
TOTAL SUBCONTRACTOR AND SUBCONSULTANT COST								\$350.00
TOTAL DNSC								\$1,004.00

Exhibit B Page 6

SHUMAKER CONSULTING ENGINEERING & LAND SURVEYING, P.C.
Bergmann, University Avenue Improvements PIN 4754.18
County of Monroe

Item IA, Direct Technical Salaries (estimated) subject to audit		\$5,318.24
Item II, Direct Non- Salary Cost (estimated) (Direct expenses)		\$654.00
Item II Direct Non- Salary Cost (estimated) subject to audit (Sub-Consultant and Sub-Contractor Cost		\$350.00
Item III, Overhead (estimated) subject to audit	1.50	\$7,977.36
Item IV, Fixed Fee (negotiated)		\$1,994.34
Total Estimated Cost		----- \$16,293.94 =====

Exhibit C

Summary

BERGMANN ASSOCIATES

Item IA, Direct Technical
Salaries (estimated)

subject to audit \$38,640

Item IB, Direct Technical
Salaries Premium Portion
of overtime subject to
audit (estimate)

\$0

Item IIA, Direct Non-Salary
and non-expendable Cost (estimated)
subject to audit

\$1,188

Item IIB Direct Non-
Salary Cost (estimated)
subject to audit
Shumaker Engineers

\$16,294

Item III, Overhead
(estimated) subject
to audit

\$56,801

Item IV, Fixed
Fee (12%)

\$11,453

Item IIC Direct Non-
Salary Cost (estimated)

Subcontractor cost
William Cochran Studio
Drilling Subcontractor

\$42,075

\$6,300

Total Estimated Cost

\$172,751

MAXIMUM AMOUNT PAYABLE

\$175,000

=====

EXHIBIT B - ASSUMPTIONS

Consultant's List of Assumptions.

University Avenue/ Artwalk II Enhancement Project

City Project No. 08101

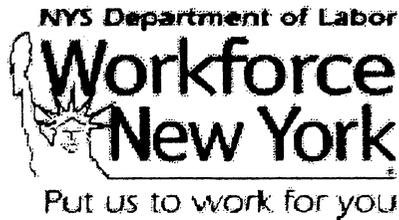
Scope of Services Assumptions:

1. One Concept Level Alternative for the street improvements will be developed and shown as a wire overlay on Aerial Photographs for the public involvement and Advisory Task Force meetings. Three conceptual drawings for Artwalk2 will be prepared for these meetings.
2. Plan and profile drawings, typical sections and preliminary design cross sections for the preferred Alternative will be included in the Design Approval Document.
3. No property acquisition maps are required. These maps will be included in later phases of the project.
4. The following meetings are included:
 - One (1) Project Kick-Off Meeting
 - Four (4) Advisory Task Force Meetings – William Cochran will attend all meetings.
 - Two (2) Neighborhood/Public Information Meetings– William Cochran will attend all meetings. Public information meeting will be in the evening the same day as the Task force meetings.
 - One (1)Traffic Control Board Meeting
 - Two (2) Miscellaneous Project Meetings as required
 - Prepare for and attend 1 special Artwalk2 planning event (event to be determined).– William Cochran will attend this event.
5. Detailed environmental studies are not required. (i.e. wetlands, historic preservation, hazardous materials, asbestos, noise, air quality, energy, critical environmental areas). A Phase 1 contaminated material Screening is all that will be required
6. A noise analysis will not be required.
7. A visual impact assessment will not be required.
8. Conceptual water main improvements, water service and fire hydrant replacements will be shown on the plans per the City Water Bureau recommendations.
9. Design of a new street lighting system is not included in this phase of the project. Approximate street light locations will be shown on the plans.

10. Official "Design Approval" for the preferred build alternative will be granted by the City Engineer.
11. Project survey, mapping and design will be in English units.
12. A traffic signal analysis using Synpro traffic modeling software will be performed for the following intersections:
 - North Union Street/University Avenue
 - Alexander St./University Avenue
 - Prince St./ University Avenue
 - North Goodman St. /University Avenue
 - North Goodman St. /East Avenue
 - 2 Mid Block Crossings (location to be determined)
13. A total of ten (10) photo-simulations will be created for the preferred alternative. (Subsequent updates of these photo-simulations are not included).

APPENDIX A

PREVAILING WAGE RATES AND SUPPLEMENTS SCHEDULE



Eliot Spitzer, Governor

M. Patricia Smith, Commissioner

CITY OF ROCH./DEPT. OF
DAVID H CROCKER, CONT ADMIN.
CITY OF ROCHESTER-DOF
CITY HALL, ROOM 106-A
30 CHURCH ST.
ROCHESTER NY 14614

Schedule Year 2007
Date Requested 07/02/2007
PRC# 0406648

Location
Project ID# NONE
Project Type CONSULTING ENGINEER SERVICE, CITY-WIDE VARIOUS LOCATIONS IN CITY OF ROCHESTER

PREVAILING WAGE SCHEDULE FOR ARTICLE 8 PUBLIC WORK PROJECT

Attached is the current schedule(s) of the prevailing wage rates and prevailing hourly supplements for the project referenced above. A unique Prevailing Wage Case Number (PRC#) has been assigned to the schedule(s) for your project.

The schedule is effective from July 2007 through June 2008. All updates, corrections, posted on the 1st business day of each month, and future copies of the annual determination are available on the Department's website www.labor.state.ny.us. Updated PDF copies of your schedule can be accessed by entering your assigned PRC# at the proper location on the website.

It is the responsibility of the contracting agency or its agent to annex and make part, the attached schedule, to the specifications for this project, when it is advertised for bids and /or to forward said schedules to the successful bidder(s), immediately upon receipt, in order to insure the proper payment of wages.

Please refer to the "General Provisions of Laws Covering Workers on Public Work Contracts" provided with this schedule, for the specific details relating to other responsibilities of the Department of Jurisdiction.

Upon completion or cancellation of this project, enter the required information and mail **OR** fax this form to the office shown at the bottom of this notice, **OR** fill out the electronic version via the NYSDOL website.

NOTICE OF COMPLETION / CANCELLATION OF PROJECT

Date Completed: _____ Date Cancelled: _____

Name & Title of Representative: _____

Phone: (518) 457-5589 Fax: (518) 485-1870
W. Averell Harriman State Office Campus, Bldg. 12, Room 130, Albany, NY 12240

General Provisions of Laws Covering Workers on Article 8 Public Work Contracts

Introduction

The Labor Law requires public work contractors and subcontractors to pay laborers, workers, or mechanics employed in the performance of a public work contract not less than the prevailing rate of wage and supplements (fringe benefits) in the locality where the work is performed.

Responsibilities of the Department of Jurisdiction

A Department of Jurisdiction (Contracting Agency) includes a state department, agency, board or commission; a county, city, town or village; a school district, board of education or board of cooperative educational services; a sewer, water, fire, improvement and other district corporation; a public benefit corporation; and a public authority awarding a public work contract.

The Department of Jurisdiction (Contracting Agency) awarding a public work contract MUST obtain a Prevailing Rate Schedule listing the hourly rates of wages and supplements due the workers to be employed on a public work project. This schedule may be obtained by completing and forwarding a "Request for wage and Supplement Information" form (PW 39) to the Bureau of Public Work. The Prevailing Rate Schedule MUST be included in the specifications for the contract to be awarded and is deemed part of the public work contract.

Upon the awarding of the contract, the law requires that the Department of Jurisdiction (Contracting Agency) furnish the following information to the Bureau: the name and address of the contractor, the date the contract was let and the approximate dollar value of the contract. To facilitate compliance with this provision of the Labor Law, a copy of the Department's "Notice of Contract Award" form (PW 16) is provided with the original Prevailing Rate Schedule.

The Department of Jurisdiction (Contracting Agency) is required to notify the Bureau of the completion or cancellation of any public work project. The Department's PW 200 form is provided for that purpose.

Hours

No laborer, worker, or mechanic in the employ of a contractor or subcontractor engaged in the performance of any public work project shall be permitted to work more than eight hours in any day or more than five days in any week, except in cases of extraordinary emergency. The contractor and the Department of Jurisdiction (Contracting Agency) may apply to the Bureau of Public Work for a dispensation permitting workers to work additional hours or days per week on a particular public work project.

Wages and Supplements

The wages and supplements to be paid and/or provided to laborers, workers, and mechanics employed on a public work project shall be not less than those listed in the current Prevailing Rate Schedule for the locality where the work is performed. If a prime contractor on a public work project has not been provided with a Prevailing Rate Schedule, the contractor must notify the Department of Jurisdiction (Contracting Agency) who in turn must request an original Prevailing Rate Schedule form the Bureau of Public Work. Requests may be submitted by: mail to NYSDOL, Bureau of Public Work, State Office Bldg. Campus, Bldg. 12, Rm. 130, Albany, NY 12240; Fax to Bureau of Public Work (518) 485-1870; or electronically at the NYSDOL website www.labor.state.ny.us.

Upon receiving the original schedule, the Department of Jurisdiction (Contracting Agency) is REQUIRED to provide complete copies to all prime contractors who in turn MUST, by law, provide copies of all applicable county schedules to each subcontractor and obtain from each subcontractor, an affidavit certifying such schedules were received. If the original schedule expired, the contractor may obtain a copy of the new annual determination from the NYSDOL website www.labor.state.ny.us.

The Commissioner of Labor makes an annual determination of the prevailing rates. This determination is in effect from July 1st through June 30th of the following year. The annual determination is available on the NYSDOL website www.labor.state.ny.us.

Payrolls and Payroll Records

Every contractor and subcontractor MUST keep original payrolls or transcripts subscribed and affirmed as true under penalty of perjury. Payrolls must be maintained for at least three (3) years from the project's date of completion. At a minimum, payrolls must show the following information for each person employed on a public work project: Name, Classification(s) in which the worker was employed, Hourly wage rate(s) paid, Supplements paid or provide, and Daily and weekly number of hours worked in each classification.

Every contractor and subcontractor shall submit to the Department of Jurisdiction (Contracting Agency), within thirty (30) days after issuance of its first payroll and every thirty (30) days thereafter, a transcript of the original payrolls, subscribed and affirmed as true under penalty of perjury. The Department of Jurisdiction (Contracting Agency) shall receive and maintain such payrolls.

In addition, the Commissioner of Labor may require contractors to furnish, with ten (10) days of a request, payroll records sworn to as their validity and accuracy for public work and private work. Payroll records include, but are not limited to time cards, work description sheets, proof that supplements were provided, cancelled payroll checks and payrolls. Failure to provide the requested information within the allotted ten (10) days will result in the withholding of up to 25% of the contract, not to exceed \$100,000.00. If the contractor or subcontractor does not maintain a place of business in New York State and the amount of the contract exceeds \$25,000.00, payroll records and certifications must be kept on the project worksite.

The prime contractor is responsible for any underpayments of prevailing wages or supplements by any subcontractor.

All contractors or their subcontractors shall provide to their subcontractors a copy of the Prevailing Rate Schedule specified in the public work contract as well as any subsequently issued schedules. A failure to provide these schedules by a contractor or subcontractor is a violation of Article 8, Section 220-a of the Labor Law.

All subcontractors engaged by a public work project contractor or its subcontractor, upon receipt of the original schedule and any subsequently issued schedules, shall provide to such contractor a verified statement attesting that the subcontractor has received the Prevailing Rate Schedule and will pay or provide the applicable rates of wages and supplements specified therein. (See NYS Labor Laws, Article 8, Section 220-a).

Determination of Prevailing Wage and Supplement Rate Updates Applicable to All Counties

The wages and supplements contained in the annual determination become effective July 1st whether or not the new determination has been received by a given contractor. Care should be taken to review the rates for obvious errors. Any corrections should be brought to the Department's attention immediately. It is the responsibility of the public work contractor to use the proper rates. If there is a question on the proper classification to be used, please call the district office located nearest the project. Any errors in the annual determination will be corrected and posted to the NYSDOL website on the first business day of each month. Contractors are responsible for paying these updated rates as well, retroactive to July 1st.

When you review the schedule for a particular occupation, your attention should be directed to the dates above the column of rates. These are the dates for which a given set of rates is effective. To the extent possible, the Department posts rates in its possession that cover periods of time beyond the July 1st to June 30th time frame covered by a particular annual determination. Rates that extend beyond that instant time period are informational ONLY and may be updated in future annual determinations that actually cover the then appropriate July 1st to June 30th time period.

Withholding of Payments

When a complaint is filed with the Commissioner of Labor alleging the failure of a contractor or subcontractor to pay or provide the prevailing wages or supplements, or when the Commissioner of Labor believes that unpaid wages or supplements may be due, payments on the public work contract shall be withheld from the prime contractor in a sufficient amount to satisfy the alleged unpaid wages and supplements, including interest and civil penalty, pending a final determination.

When the Bureau of Public Work finds that a contractor or subcontractor on a public work project failed to pay or provide the requisite prevailing wages or supplements, the Bureau is authorized by Sections 220-b of the Labor Law to so notify the financial officer of the Department of Jurisdiction (Contracting Agency) that awarded the public work contract. Such officer MUST then withhold or cause to be withheld from any payment due the prime contractor on account of such contract the amount indicated by the Bureau as sufficient to satisfy the unpaid wages and supplements, including interest and any civil penalty that may be assessed by the Commissioner of Labor. The withholding continues until there is a final determination of the underpayment by the Commissioner of Labor or by the court in the event a legal proceeding is instituted for review of the determination of the Commissioner of Labor.

The Department of Jurisdiction (Contracting Agency) shall comply with this order of the Commissioner of Labor or of the court with respect to the release of the funds so withheld.

Summary of Notice Posting Requirements

The current Prevailing Rate Schedule must be posted in a prominent and accessible place on the site of the public work project. The prevailing wage schedule must be encased in, or constructed of, materials capable of withstanding adverse weather conditions and be titled "PREVAILING RATE OF WAGES" in letters no smaller than two (2) inches by two (2) inches.

Every employer providing workers' compensation insurance and disability benefits must post notices of such coverage in the format prescribed by the Workers' Compensation Board in a conspicuous place on the jobsite.

Every employer subject to the NYS Human Rights Law must conspicuously post at its offices, places of employment, or employment training centers, notices furnished by the State Division of Human Rights.

Employers liable for contributions under the Unemployment Insurance Law must conspicuously post on the jobsite notices furnished by the NYS Department of Labor.

Apprentices

Employees cannot be paid apprentice rates unless they are individually registered in a program registered with the NYS Commissioner of Labor. The allowable ratio of apprentices to journeyworkers in any craft classification can be no greater than the statewide building trade ratios promulgated by the Department of Labor and included with the Prevailing Rate Schedule. An employee listed on a payroll as an apprentice who is not registered as above or is performing work outside the classification of work for which the apprentice is indentured, must be paid the prevailing journeyworker's wage rate for the classification of work the employee is actually performing.

NYSDOL Labor Law, Article 8, Section 220-3, require that only apprentices individually registered with the NYS Department of Labor may be paid apprenticeship rates on a public work project. No other Federal or State Agency of office registers apprentices in New York State.

Persons wishing to verify the apprentice registration of any person must do so in writing by mail, to the NYSDOL Office of Employability Development / Apprenticeship Training, State Office Bldg. Campus, Bldg. 12, Albany, NY 12240 or by Fax to NYSDOL Apprenticeship Training (518) 457-7154. All requests for verification must include the name and social security number of the person for whom the information is requested.

The only conclusive proof of individual apprentice registration is written verification from the NYSDOL Apprenticeship Training Albany Central office. Neither Federal nor State Apprenticeship Training offices outside of Albany can provide conclusive registration information.

It should be noted that the existence of a registered apprenticeship program is not conclusive proof that any person is registered in that program. Furthermore, the existence or possession of wallet cards, identification cards, or copies of state forms is not conclusive proof of the registration of any person as an apprentice.

Interest and Penalties

In the event that an underpayment of wages and/or supplements is found:

- Interest shall be assessed at the rate then in effect as prescribed by the Superintendent of Banks pursuant to section 14-a of the Banking Law, per annum from the date of underpayment to the date restitution is made.
- A Civil Penalty may also be assessed, not to exceed 25% of the total of wages, supplements, and interest due.

Debarment

Any contractor or subcontractor and/or its successor shall be ineligible to submit a bid on or be awarded any public work contract or subcontract with any state, municipal corporation or public body for a period of five (5) years when:

- Two (2) willful determinations have been rendered against that contractor or subcontractor and/or its successor within any consecutive six (6) year period.
- There is any willful determination that involves the falsification of payroll records or the kickback of wages or supplements.

Criminal Sanctions

Willful violations of the Prevailing Wage Law (Article 8 and Article 9 of the Labor Law) constitute a misdemeanor punishable by fine or imprisonment, or both.

Discrimination

No employee or applicant for employment may be discriminated against on account of age, race, creed, color, national origin, sex, disability or marital status.

No contractor, subcontractor nor any person acting on its behalf, shall by reason of race, creed, color, disability, sex or national origin discriminate against any citizen of the State of New York who is qualified and available to perform the work to which the employment relates (NYS Labor Law, Article 8, Section 220-e(a)).

No contractor, subcontractor, nor any person acting on its behalf, shall in any manner, discriminate against or intimidate any employee on account of race, creed, color, disability, sex, or national origin (NYS Labor Law, Article 8, Section 220-e(b)).

The Human Rights Law also prohibits discrimination in employment because of age, marital status, or religion.

There may be deducted from the amount payable to the contractor under the contract a penalty of \$50.00 for each calendar day during which such person was discriminated against or intimidated in violation of the provision of the contract (NYS Labor Law, Article 8, Section 220-e(c)).

The contract may be cancelled or terminated by the State or municipality. All monies due or to become due thereunder may be forfeited for a second or any subsequent violation of the terms or conditions of the anti-discrimination sections of the contract (NYS Labor Law, Article 8, Section 220-e(d)).

Every employer subject to the New York State Human Rights Law must conspicuously post at its offices, places of employment, or employment training centers notices furnished by the State Division of Human Rights.

Workers' Compensation

In accordance with Section 142 of the State Finance Law, the contractor shall maintain coverage during the life of the contract for the benefit of such employees as required by the provisions of the New York State Workers' Compensation Law.

A contractor who is awarded a public work contract must provide proof of workers' compensation coverage prior to being allowed to begin work.

The insurance policy must be issued by a company authorized to provide workers' compensation coverage in New York State. Proof of coverage must be on form C-105.2 (Certificate of Workers' Compensation Insurance) and must name this agency as a certificate holder.

If New York State coverage is added to an existing out-of-state policy, it can only be added to a policy from a company authorized to write workers' compensation coverage in this state. The coverage must be listed under item 3A of the information page.

The contractor must maintain proof that subcontractors doing work covered under this contract secured and maintained a workers' compensation policy for all employees working in New York State.

Every employer providing worker's compensation insurance and disability benefits must post notices of such coverage in the format prescribed by the Workers' Compensation Board in a conspicuous place on the jobsite.

Unemployment Insurance

Employers liable for contributions under the Unemployment Insurance Law must conspicuously post on the jobsite notices furnished by the New York State Department of Labor.

Introduction to the Prevailing Rate Schedule

Information About Prevailing Rate Schedule

This information is provided to assist you in the interpretation of particular requirements for each classification of worker contained in the attached Schedule of Prevailing Rates.

Classification

It is the duty of the Commissioner of Labor to make the proper classification of workers taking into account whether the work is heavy and highway, building, sewer and water, tunnel work, or residential, and to make a determination of wages and supplements to be paid or provided. It is the responsibility of the public work contractor to use the proper rate. If there is a question on the proper classification to be used, please call the district office located nearest the project. District office locations and phone numbers are listed below.

Paid Holidays

Paid Holidays are days for which an eligible employee receives a regular day's pay, but is not required to perform work. If an employee works on a day listed as a paid holiday, this remuneration is in addition to payment of the required prevailing rate for the work actually performed.

Overtime

Overtime holiday pay is the premium pay that is required for work performed on specified holidays. It is only required where the employee actually performs work on such holidays.

The applicable holidays are listed under HOLIDAYS: OVERTIME. The required rate of pay for these covered holidays can be found in the OVERTIME PAY section listings for each classification.

Supplemental Benefits

Particular attention should be given to the supplemental benefit requirements. Although in most cases the payment or provision of supplements is for each hour worked, some classifications require the payment or provision of supplements for each hour paid (including paid holidays on which no work is performed) and/or may require supplements to be paid or provided at a premium rate for premium hours worked.

Effective Dates

When you review the schedule for a particular occupation, your attention should be directed to the dates above the column of rates. These are the dates for which a given set of rates is effective. The rate listed is valid until the next effective rate change or until the new annual determination which takes effect on July 1 of each year. All contractors and subcontractors are required to pay the current prevailing rates of wages and supplements. If you have any questions please contact the Bureau of Public Work or visit the New York State Department of Labor website (www.labor.state.ny.us) for current wage rate information.

Apprentice Training Ratios

The following are the allowable ratios of registered Apprentices to Journey-workers.

For example, the ratio 1:1,1:3 indicates the allowable initial ratio is one Apprentice to one Journeyworker. The Journeyworker must be in place on the project before an Apprentice is allowed. Then three additional Journeyworkers are needed before a second Apprentice is allowed. The last ratio repeats indefinitely. Therefore, three more Journeyworkers must be present before a third Apprentice can be hired, and so on.

Please call Apprentice Training Central Office at (518) 457-6820 if you have any questions.

Title (Trade)	Ratio
boilermaker	1:1,1:4
Mason	1:1,1:4
Carpenter	1:1,1:4
Electrical (Outside) Lineman	1:1,1:2
Electrician (Inside)	1:1,1:3
Elevator/Escalator Construction & Modernizer	1:1,1:2
Glazier	1:1,1:3
Insulation & Asbestos Worker	1:1,1:4
Iron Worker	1:1,1:6
Laborer	1:1,1:3
Op Engineer	1:1,1:5
Painter	1:1,1:3
Plumber & Steamfitter	1:1,1:3

Roofer	1:1,1:2
Sheet Metal Worker	1:1,1:3
Sprinkler Fitter	1:1,1:2

If you have any questions concerning the attached schedule or would like additional information, please contact the nearest BUREAU of PUBLIC WORK District Office or write to:

New York State Department of Labor
Bureau of Public Work
State Office Campus, Bldg. 12
Albany, NY 12240

District Office Locations:	Telephone #	FAX #
Bureau of Public Work - Albany	518-457-2744	518-485-0240
Bureau of Public Work - Binghamton	607-721-8005	607-721-8004
Bureau of Public Work - Buffalo	716-847-7159	716-847-7650
Bureau of Public Work - Garden City	516-228-3915	516-794-3518
Bureau of Public Work - New York City	212-621-0835	212-621-0867
Bureau of Public Work - Rochester	585-258-4505	585-258-4708
Bureau of Public Work - Syracuse	315-428-4056	315-428-4671
Bureau of Public Work - Utica	315-793-2314	315-793-2514
Bureau of Public Work - White Plains	914-997-9507	914-997-9523
Bureau of Public Work - Central Office	518-457-5589	518-485-1870

Per hour worked:

Journeyman \$ 15.45 \$ 16.30

OVERTIME PAY

See (B, E, Q) on OVERTIME PAGE

HOLIDAY

Paid: See (5, 6) on HOLIDAY PAGE
 Overtime: See (5, 6) on HOLIDAY PAGE

REGISTERED APPRENTICES

(1 yr. or 1000 hrs.) terms at the following wage rates:

	1st	2nd	3rd
7/01/2007	15.86	18.51	21.15

Supplemental Benefits:

Per hour worked:

Apprentices \$ 15.45 16.30

6-545 D.H.H.

Operating Engineer - Survey Crew - Consulting Engineer

07/01/2007

JOB DESCRIPTION Operating Engineer - Survey Crew - Consulting Engineer

DISTRICT 6

ENTIRE COUNTIES

Albany, Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Erie, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Monroe, Montgomery, Niagara, Oneida, Onondaga, Ontario, Orleans, Oswego, Otsego, Rensselaer, Saratoga, Schenectady, Schoharie, Schuyler, Seneca, St. Lawrence, Steuben, Tioga, Tompkins, Warren, Washington, Wayne, Wyoming, Yates

PARTIAL COUNTIES

Dutchess: the northern portion of the county from the northern boundry line of the City of Poughkeepsie north.

WAGES

Per hour:

Feasibility and preliminary design surveying, line and grade surveying for inspection or supervision of construction when performed under a consulting

ENGINEER AGREEMENT SURVEY CLASSIFICATIONS: Party Chief- One who directs a survey party. Instrumentman- One who runs the instrument and assists the Party Chief. Rodman- One who holds the rods and in general, assists the survey party.

Survey Rates:	07/01/2007	06/01/2008
Party Chief	\$ 29.11	\$ 29.82
Instrument/Rodperson	26.43	27.05

Additional 3.00 per hr. for work in a Tunnel

Additional 2.50 per hr. for EPA or DEC certified toxic or hazardous waste work

SUPPLEMENTAL BENEFITS

Per hour worked:

\$ 15.45 \$ 16.30

OVERTIME PAY

See (B, E, Q) on OVERTIME PAGE

HOLIDAY

Paid: See (5, 6) on HOLIDAY PAGE
 Overtime: See (5, 6) on HOLIDAY PAGE

6-545 DCE

Operating Engineer - Trenchless Pipe Rehab

07/01/2007

JOB DESCRIPTION Operating Engineer - Trenchless Pipe Rehab

DISTRICT 4

ENTIRE COUNTIES

Albany, Allegany, Bronx, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Dutchess, Erie, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Kings, Lewis, Livingston, Madison, Monroe, Montgomery, Nassau, New York, Niagara, Oneida, Onondaga, Ontario, Orange, Orleans, Oswego, Otsego, Putnam, Queens, Rensselaer, Richmond, Rockland, Saratoga, Schenectady, Schoharie, Schuyler, Seneca, St. Lawrence, Steuben, Suffolk, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Westchester, Wyoming, Yates

WAGES

Per Hour

07/01/2007

DSET/DSSET Operator	\$ 30.00
Robotic Unit Operator	30.00
DDCC Injection Operator	30.00
Technician/Equipment Operator	25.50
AM Liner/Hydra Seal Installer	25.50
Hobas Pipe, Polyethylene Pipe or Pull and Inflate Liner Inst.	25.50

SUPPLEMENTAL BENEFITS

Per Hour Worked

All Classifacations	\$ 11.34
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OVERTIME PAY

See (B, H) on OVERTIME PAGE

HOLIDAY

Paid: See (5, 6, 8, 9, 15, 25) on HOLIDAY PAGE

REGISTERED APPRENTICES

At One Year Terms
 (Per Hour)

First Year	\$ 16.00
Second Year	16.75
Third Year	17.25
Fourth Year	18.00

Supplemental Benifit
 (Per Hour Worked)

All Terms	\$ 11.34
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4-138TrchPReh

Painter

07/01/2007

JOB DESCRIPTION Painter

DISTRICT 3

ENTIRE COUNTIES

Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Cortland, Delaware, Erie, Genesee, Herkimer, Jefferson, Lewis, Livingston, Madison, Monroe, Niagara, Oneida, Onondaga, Ontario, Orleans, Oswego, Otsego, Schuyler, Seneca, St. Lawrence, Steuben, Tioga, Tompkins, Wayne, Wyoming, Yates

WAGES

Per hour:	7/1/07	5/1/08	5/1/09	5/1/10	5/1/11
		Addit.	Addit.	Addit.	Addit.
Bridge*	\$ 31.00	\$ 2.00	\$ 2.00	\$ 2.00	\$ 2.00
Tunnel*	31.00	2.00	2.00	2.00	2.00
Tank*	29.00	2.00	2.00	2.00	2.00

For Bridge Painting Contracts, ALL WORKERS on and off the bridge (including Flagmen) are to be paid Painter's Rate, the contract must be ONLY for Bridge Painting

Overtime Codes

Following is an explanation of the code(s) listed in the OVERTIME section of each classification contained in the attached schedule. Additional requirements may also be listed in the HOLIDAY section.

- (A) Time and one half of the hourly rate after 7 hours per day
- (AA) Time and one half of the hourly rate after 7 and one half hours per day
- (B) Time and one half of the hourly rate after 8 hours per day
- (B1) Time and one half of the hourly rate for the 9th & 10th hours week days and the 1st 8 hours on Saturday.
Double the hourly rate for all additional hours
- (B2) Time and one half of the hourly rate after 40 hours per week
- (C) Double the hourly rate after 7 hours per day
- (C1) Double the hourly rate after 7 and one half hours per day
- (D) Double the hourly rate after 8 hours per day
- (D1) Double the hourly rate after 9 hours per day
- (E) Time and one half of the hourly rate on Saturday
- (E1) Time and one half 1st 4 hours on Saturday Double the hourly rate all additional Saturday hours
- (E3) Between November 1st and March 3rd Saturday may be used as a make-up day at straight time when a day is lost during that week due to inclement weather, provided a given employee has worked between 16 and 32 hours that week
- (E2) Saturday may be used as a make-up day at straight time when a day is lost during that week due to inclement weather
- (E4) Saturday and Sunday may be used as a make-up day at straight time when a day is lost during that week due to inclement weather
- (F) Time and one half of the hourly rate on Saturday and Sunday
- (G) Time and one half of the hourly rate on Saturday and Holidays
- (H) Time and one half of the hourly rate on Saturday, Sunday, and Holidays
- (I) Time and one half of the hourly rate on Sunday
- (J) Time and one half of the hourly rate on Sunday and Holidays
- (K) Time and one half of the hourly rate on Holidays
- (L) Double the hourly rate on Saturday
- (M) Double the hourly rate on Saturday and Sunday
- (N) Double the hourly rate on Saturday and Holidays
- (O) Double the hourly rate on Saturday, Sunday, and Holidays
- (P) Double the hourly rate on Sunday
- (Q) Double the hourly rate on Sunday and Holidays
- (R) Double the hourly rate on Holidays
- (S) Two and one half times the hourly rate for Holidays, if worked
- (S1) Two and one half times the hourly rate the first 8 hours on Sunday or Holidays One and one half times the hourly rate all additional hours
- (T) Triple the hourly rate for Holidays, if worked

- (U) Four times the hourly rate for Holidays, if worked
- (V) Including benefits at SAME PREMIUM as shown for overtime
- (W) Time and one half for benefits on all overtime hours.

NOTE BENEFITS are PER HOUR WORKED,for each hour worked, unless otherwise noted

Holiday Codes

PAID Holidays:

Paid Holidays are days for which an eligible employee receives a regular day's pay, but is not required to perform work. If an employee works on a day listed as a paid holiday, this remuneration is in addition to payment of the required prevailing rate for the work actually performed.

OVERTIME Holiday Pay:

Overtime holiday pay is the premium pay that is required for work performed on specified holidays. It is only required where the employee actually performs work on such holidays. The applicable holidays are listed under HOLIDAYS: OVERTIME. The required rate of pay for these covered holidays can be found in the OVERTIME PAY section listings for each classification.

Following is an explanation of the code(s) listed in the HOLIDAY section of each classification contained in the attached schedule. The Holidays as listed below are to be paid at the wage rates at which the employee is normally classified.

- (1) None
- (2) Labor Day
- (3) Memorial Day and Labor Day
- (4) Memorial Day and July 4th
- (5) Memorial Day, July 4th, and Labor Day
- (6) New Year's, Thanksgiving, and Christmas
- (7) Lincoln's Birthday, Washington's Birthday, and Veterans Day
- (8) Good Friday
- (9) Lincoln's Birthday
- (10) Washington's Birthday
- (11) Columbus Day
- (12) Election Day
- (13) Presidential Election Day
- (14) 1/2 Day on Presidential Election Day
- (15) Veterans Day
- (16) Day after Thanksgiving
- (17) July 4th
- (18) 1/2 Day before Christmas
- (19) 1/2 Day before New Years
- (20) Thanksgiving
- (21) New Year's Day
- (22) Christmas
- (23) Day before Christmas
- (24) Day before New Year's
- (25) Presidents' Day
- (26) Martin Luther King, Jr. Day

APPENDIX B

STANDARD NEW YORK STATE AND FEDERAL CLAUSES

Section 1. Extra Work

If the Consultant is of the opinion that any work the Consultant has been directed to perform is beyond the scope of this agreement and constitutes extra work, the Consultant shall promptly notify the City's Authorized Agent in writing of this fact prior to beginning any of the work. The City shall be the sole judge as to whether or not such work is in fact beyond the scope of this agreement and constitutes extra work. In the event that the City determines that such work does constitute extra work the City shall provide extra compensation to the Consultant in a fair and equitable manner. If necessary, an amendatory agreement providing the compensation and describing the work authorized shall be issued by the City to the Consultant for execution after approvals have been obtained from necessary City officials and, if required, from the Federal Highway Administration.

Section 2. Non-Discrimination Requirements.

The Consultant agrees to comply with all applicable Federal, State and local Civil Rights and Human Rights laws with reference to equal employment opportunities and the provision of services. In accordance with Article 15 of the Executive Law (also known as the Human rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Consultant will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, age, disability or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Consultant agrees that neither it nor its subconsultants shall, by reason of race, creed, color, disability, sex or national origin; (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Consultant agrees that neither it nor its subcontractors shall, by reason of race, creed, color, national origin, age, sex or disability; (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Consultant is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all monies due hereunder for a second or subsequent violation.

Section 3. Agreement Executory.

The Consultant specifically agrees that the Agreement shall be deemed executory only to the extent of the monies available, and no liability shall be incurred by the State or Federal governments beyond the monies available for the purpose.

Section 4. Inspection.

The duly authorized representatives of the State, and on Federally aided projects, representatives of the Federal Highway Administration, shall have the right at all times to inspect the work of the Consultant.

Section 5. Proprietary Rights.

The Consultant agrees that if patentable discoveries or inventions should result from work described herein, all rights accruing from such discoveries or inventions shall be the sole property of the Consultant. However, the Consultant agrees to and does hereby grant to the United States Government and the State of New York a non-exclusive, non-transferable, paid-up license to make, use, and sell each subject invention throughout the world by and on behalf of the Government of the United States and States and domestic municipal governments, all in accordance with the provisions of 48 CFR 1-27.

Section 6. Certification required by 49 CFR, Part 29.

The signator to this Agreement, being duly sworn, certifies that, except as noted below, its company and any person associated therewith in the capacity of owner, partner, director, officer, or major stockholder (five percent or more ownership):

- A. is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal agency;
- B. has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal agency within the past three years;
- C. does not have a proposed debarment pending; and,
- D. has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three years.

Section 7. Certificate required by 40 CFR 1506.5^o

If the work of the Project includes the preparation of an Environmental Impact Statement (EIS), the signator to this Agreement, being duly sworn, certifies that its company and any person associated therewith in the capacity of owner, partner, director, officer, or major stockholder (five percent or more ownership) does not have any financial or other interest in the outcome of the project including:

- A. an existing contract for the Project's ROW incidental work or construction engineering; or
- B. ownership of land, options to buy land, or some business enterprise which would be financially enhanced or diminished by any of the Project alternatives.

This does not preclude the Consultant from being awarded a future contract covering the work described in Item 1 of this Article or being awarded Phases V and VI Final Design after the EIS has been approved.

Section 8. Certification for Federal-Aid Contracts

The prospective participant certifies, by signing this Agreement, to the best of his or her knowledge and belief, that:

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of Member of Congress in connection with this Federal contract, grant loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty

of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such sub-recipients shall certify and disclose accordingly.

9. Records Retention

The Consultant shall establish and maintain complete and accurate books, record documents, accounts and other evidence directly pertinent to performance under this contract (collectively called the "Records"). The Records must be kept for a minimum of six (6) years after final payment is received. The City, State, Federal Highway Administration, or any authorized representatives of the Federal Government, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York, or a mutually agreeable reasonable venue within the State, for the term specified for the purposes of inspection, auditing, and copying.



City of Rochester

NOTICE TO EMPLOYEES CONCERNING CITY OF ROCHESTER LIVING WAGE ORDINANCE.

THIS SHALL SERVE AS NOTICE TO ALL EMPLOYEES THAT ANY EMPLOYER WHO IS A CONTRACTOR OR SUBCONTRACTOR DIRECTLY INVOLVED IN PROVIDING A SERVICE TO THE CITY OF ROCHESTER PURSUANT TO A SERVICE CONTRACT THAT INVOLVES THE EXPENDITURE BY THE CITY OF AT LEAST \$50,000 DURING THE PERIOD OF ONE YEAR SHALL BE SUBJECT TO THE REQUIREMENTS OF THE **ROCHESTER LIVING WAGE ORDINANCE**. COVERED EMPLOYERS SHALL PAY NO LESS THAN A LIVING WAGE TO THEIR COVERED EMPLOYEES, AS SET FORTH IN SECTION 8A-18 OF THE MUNICIPAL CODE OF THE CITY OF ROCHESTER. SUCH EMPLOYEES SHALL HAVE THE RIGHT TO FILE A COMPLAINT WITH THE CITY IF THEY BELIEVE THAT THEIR EMPLOYER IS NOT COMPLYING WITH THE REQUIREMENTS OF SECTION 8A-18, BY CALLING THE BELOW LISTED TELEPHONE NUMBER. COMPLAINTS MUST BE MADE WITHIN ONE YEAR FROM THE DATE OF VIOLATION AND WILL BE INVESTIGATED PROMPTLY BY THE CITY. ALL COMPLAINTS WILL BE TREATED AS CONFIDENTIAL AND WILL NOT BE DISCLOSED TO THE EMPLOYER WITHOUT THE CONSENT OF THE EMPLOYEE, EXCEPT WHEN REQUIRED TO ACCESS INFORMATION NECESSARY TO INVESTIGATE THE COMPLAINT.

TELEPHONE NO. 585-428-6860