

**AGREEMENT BETWEEN
FISHBECK, THOMPSON, CARR & HUBER, INC.
AND THE CITY OF ANN ARBOR
FOR PROFESSIONAL SERVICES**

The City of Ann Arbor, a Michigan municipal corporation, having its offices at 301 E. Huron Street, Ann Arbor, Michigan 48104 ("City"), and Fishbeck, Thompson, Carr & Huber, Inc. ("Consultant") a Michigan Corporation with its address at 39255 Country Club Drive, Suite B-25, Farmington Hills, MI 48331 agree as follows on this 6th day of June, 2011.

The Consultant agrees to provide professional services to the City under the following terms and conditions:

I. DEFINITIONS

Administering Service Area/Unit means Management Services Unit.

Contract Administrator means Homayoon Pirooz, P.E., Manager, acting personally or through any assistants authorized by the Administrator/Manager of the Administering Service Area/Unit.

Deliverables means all Plans, Specifications, Reports, Recommendations, and other materials developed for or delivered to City by Consultant under this Agreement

Project means General Civil Engineering, Inspection, and Project Management Services, RFP 792.

II. DURATION

This Agreement shall become effective on June 6, 2011, and shall remain in effect until satisfactory completion of the Services specified below unless terminated as provided for in this Agreement.

III. SERVICES

- A. The Consultant agrees to provide professional engineering services ("Services") in connection with the Project as described in Exhibit A. The City retains the right to make changes to the quantities of service within the general scope of the Agreement at any time by a written order. If the changes add to or deduct from the extent of the services, the contract sum shall be adjusted accordingly. All such changes shall be executed under the conditions of the original Agreement.
- B. Quality of Services under this Agreement shall be of the level of professional quality performed by experts regularly rendering this type of service. Determination of acceptable quality shall be made solely by the Contract Administrator.

- C. The Consultant shall perform its Services for the Project in compliance with all statutory, regulatory and contractual requirements now or hereafter in effect as may be applicable to the rights and obligations set forth in the Agreement.
- D. The Consultant may rely upon the accuracy of reports and surveys provided to it by the City except when defects should have been apparent to a reasonably competent professional or when it has actual notice of any defects in the reports and surveys.

IV. COMPENSATION OF CONSULTANT

- A. The Consultant shall be paid in the manner set forth in Exhibit B. Payment shall be made monthly, unless another payment term is specified in Exhibit B, following receipt of invoices submitted by the Consultant, and approved by the Contract Administrator.
- B. The Consultant will be compensated for Services performed in addition to the Services described in Section III, only when those additional Services have received prior written approval of the Contract Administrator. Compensation will be on the basis of reasonable time spent and reasonable quantities of materials used, according to the schedule of rates in Exhibit B. The Contract Administrator shall be the sole arbitrator of what shall be considered “reasonable” under this provision.
- C. The Consultant shall keep complete records of time spent and materials used on the Project so that the City may verify invoices submitted by the Consultant. Such records shall be made available to the City upon request and submitted in summary form with each invoice.

V. INSURANCE/INDEMNIFICATION

- A. The Consultant shall procure and maintain during the life of this contract, such insurance policies, including those set forth below, as will protect itself and the City from all claims for bodily injuries, death or property damage which may arise under this contract; whether the acts were made by the Consultant or by any subcontractor or anyone employed by them directly or indirectly. The following insurance policies are required:
 - 1. Professional Liability Insurance protecting the Consultant and its employees in an amount not less than \$1,000,000.
 - 2. Worker's Compensation Insurance in accordance with all applicable state and federal statutes. Further, Employers Liability Coverage shall be obtained in the following minimum amounts:

Bodily Injury by Accident - \$500,000 each accident

Bodily Injury by Disease - \$500,000 each employee
Bodily Injury by Disease - \$500,000 each policy limit

3. Commercial General Liability Insurance equivalent to, as a minimum, Insurance Services Office form CG 00 01 07 98. The City of Ann Arbor shall be an additional insured. There shall be no added exclusions or limiting endorsements including, but not limited to: Products and Completed Operations, Explosion, Collapse and Underground Coverage or Pollution. Further, the following minimum limits of liability are required:

\$1,000,000	Each occurrence as respect Bodily Injury Liability or Property Damage Liability, or both combined
\$2,000,000	Per Job General Aggregate
\$1,000,000	Personal and Advertising Injury

4. Motor Vehicle Liability Insurance, including Michigan No-Fault Coverages, equivalent to, as a minimum, Insurance Services Office form CA 00 01 07 97. The City of Ann Arbor shall be an additional insured. There shall be no added exclusions or limiting endorsements. Coverage shall include all owned vehicles, all non-owned vehicles and all hired vehicles. Further, the limits of liability shall be \$1,000,000 for each occurrence as respects Bodily Injury Liability or Property Damage Liability, or both combined.
5. Umbrella/Excess Liability Insurance shall be provided to apply in excess of the Commercial General Liability, Employers Liability and the Motor Vehicle coverage enumerated above, for each occurrence and for aggregate in the amount of \$1,000,000.

B. Insurance required under V.A.3 and V.A.4 of this contract shall be considered primary as respects any other valid or collectible insurance that the City may possess, including any self-insured retentions the City may have; and any other insurance the City does possess shall be considered excess insurance only and shall not be required to contribute with this insurance. Further, the Contractor agrees to waive any right of recovery by its insurer against the City.

C. In the case of all contracts involving on-site work, the Consultant shall provide to the City, before the commencement of any work under this contract, documentation demonstrating it has obtained the above mentioned policies. Documentation must provide and demonstrate an unconditional 30 day written notice of cancellation in favor of the City of Ann Arbor. Further, the documentation must explicitly state the following: (a) the policy number; name of insurance company; name and address of the agent or authorized representative; name and address of insured; project name; policy expiration date; and specific coverage amounts; (b) any deductibles or self-insured retentions which shall be

approved by the City, in its sole discretion; (c) that the policy conforms to the requirements specified. An original certificate of insurance may be provided as an initial indication of the required insurance, provided that no later than 21 calendar days after commencement of any work the Consultant supplies a copy of the endorsements required on the policies. Upon request, the Consultant shall provide within 30 days a copy of the policy(ies) to the City. If any of the above coverages expire by their terms during the term of this contract, the Consultant shall deliver proof of renewal and/or new policies to the Administering Service Area/Unit at least ten days prior to the expiration date.

- D. Any insurance provider of Consultant shall be admitted and authorized to do business in the State of Michigan and shall carry and maintain a minimum rating assigned by A.M. Best & Company's Key Rating Guide of "A-" Overall and a minimum Financial Size Category of "V". Insurance policies and certificates issued by non-admitted insurance companies are not acceptable unless approved in writing by the City.
- E. To the fullest extent permitted by law, for any loss not covered by insurance under this contract, the Consultant shall indemnify, defend and hold the City, its officers, employees and agents harmless from all suits, claims, judgments and expenses including attorney's fees resulting or alleged to result, to its proportionate extent, from any negligent, grossly negligent, reckless and/or intentional wrongful or tortious acts or omissions by the Consultant or its employees and agents occurring in the performance of this Agreement.

VI. COMPLIANCE REQUIREMENTS

- A. Nondiscrimination. The Consultant agrees to comply with the nondiscrimination provisions of Chapter 112 of the Ann Arbor City Code and to assure that applicants are employed and that employees are treated during employment in a manner which provides equal employment opportunity and tends to eliminate any inequality based upon race, national origin or sex. The Consultant agrees to comply with the provisions of Section 9:161 of Chapter 112 of the Ann Arbor City Code, Exhibit C.

- B. Living Wage. The Consultant is a “covered employer” as defined in Chapter 23 of the Ann Arbor City Code and agrees to comply with the living wage provisions of Chapter 23 of the Ann Arbor City Code. The Consultant agrees to pay those employees providing Services to the City under this Agreement a “living wage,” as defined in Section 1:815 of the Ann Arbor City Code, as adjusted in accordance with Section 1:815(3) and specified in Exhibit D; to post a notice approved by the City of the applicability of Chapter 23 in every location in which regular or contract employees providing services under this Agreement are working; to maintain records of compliance; if requested by the City, to provide documentation to verify compliance; to take no action that would reduce the compensation, wages, fringe benefits, or leave available to any employee or person contracted for employment in order to pay the living wage required by Section 1:815; and otherwise to comply with the requirements of Chapter 23. A copy of selected provisions of Chapter 23 of the Ann Arbor City Code is attached as Exhibit D.

VII. WARRANTIES BY THE CONSULTANT

- A. The Consultant warrants that the quality of its Services under this Agreement shall conform to the level of professional quality performed by experts regularly rendering this type of service.
- B. The Consultant warrants that it has all the skills, experience, and professional licenses necessary to perform the Services specified in this Agreement.
- C. The Consultant warrants that it has available, or will engage, at its own expense, sufficient trained employees to provide the Services specified in this Agreement.
- D. The Consultant warrants that it is not, and shall not become overdue or in default to the City for any contract, debt, or any other obligation to the City including real and personal property taxes.

VIII. TERMINATION OF AGREEMENT

- A. If either party is in breach of this Agreement for a period of fifteen (15) days following receipt of notice from the non-breaching party with respect to a breach, the non-breaching party may pursue any remedies available to it against the breaching party under applicable law, including but not limited to, the right to terminate this Agreement without further notice.
- B. The City may terminate this Agreement if it decides not to proceed with the Project by notice pursuant to Article XII. If the Project is terminated for reasons other than the breach of the Agreement by the Consultant, the Consultant shall be compensated for reasonable time spent and reasonable quantities of materials used prior to notification of termination.

- C. Consultant acknowledges that, if this Agreement extends for several fiscal years, continuation of this Agreement is subject to appropriation of funds for this Project. If funds to enable the City to effect continued payment under this Agreement are not appropriated or otherwise made available, the City shall have the right to terminate this Agreement without penalty at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of termination to the Consultant. The Contract Administrator shall give the Consultant written notice of such non-appropriation within thirty (30) days after it receives notice of such non-appropriation.
- D. The remedies provided in this Agreement will be cumulative, and the assertion by a party of any right or remedy will not preclude the assertion by such party of any other rights or the seeking of any other remedies.

IX. OBLIGATIONS OF THE CITY

- A. The City agrees to give the Consultant access to the Project area and other City-owned properties as required to perform the necessary Services under this Agreement.
- B. The City shall notify the Consultant of any defects in the Services of which the Contract Administrator has actual notice.

X. ASSIGNMENT

- A. The Consultant shall not subcontract or assign any portion of any right or obligation under this Agreement without prior written consent from the City. Notwithstanding any consent by the City to any assignment, Consultant shall at all times remain bound to all warranties, certifications, indemnifications, promises and performances, however described, as are required of it under the Agreement unless specifically released from the requirement, in writing, by the City.
- B. The Consultant shall retain the right to pledge payment(s) due and payable under this Agreement to third parties.

XI. NOTICE

All notices and submissions required under this Agreement shall be by personal delivery or by first-class mail, postage prepaid, to the address stated in this Agreement or such other address as either party may designate by prior written notice to the other. Notice shall be considered delivered under this Agreement when personally delivered to the Contract Administrator or placed in the U.S. mail, postage prepaid to the Administering Service Area/Unit, care of the Contract Administrator.

XII. CHOICE OF LAW

This Agreement will be governed and controlled in all respects by the laws of the State of Michigan, including interpretation, enforceability, validity and construction. The parties submit to the jurisdiction and venue of the Circuit Court for Washtenaw County, State of Michigan, or, if original jurisdiction can be established, the United States District Court for the Eastern District of Michigan, Southern Division, with respect to any action arising, directly or indirectly, out of this Agreement or the performance or breach of this Agreement. The parties stipulate that the venues referenced in this Agreement are convenient and waive any claim of non-convenience.

XIII. OWNERSHIP OF DOCUMENTS

Upon completion or termination of this Agreement, all documents (i.e., deliverables) prepared by or obtained by the Consultant as provided under the terms of this Agreement shall be delivered to and become the property of the City. Original basic survey notes, sketches, charts, drawings, partially completed drawings, computations, quantities and other data shall remain in the possession of the Consultant as instruments of service unless specifically incorporated in a deliverable, but shall be made available, upon request, to the City without restriction or limitation on their use. The City acknowledges that the documents are prepared only for the Project. Prior to completion of the contracted Services the City shall have a recognized proprietary interest in the work product of the Consultant.

Unless otherwise stated in this Agreement, any intellectual property owned by Consultant prior to the effective date of this Agreement (i.e., preexisting information) shall remain the exclusive property of Consultant even if such Preexisting Information is embedded or otherwise incorporated in materials or products first produced as a result of this Agreement or used to develop Deliverables. The City's right under this provision shall not apply to any Preexisting Information or any component thereof regardless of form or media.

XIV. CONFLICT OF INTEREST

Consultant certifies it has no financial interest in the Services to be provided under this Agreement other than the compensation specified herein. Consultant further certifies that it presently has no personal or financial interest, and shall not acquire any such interest, direct or indirect, which would conflict in any manner with its performance of the Services under this Agreement.

XV. SEVERABILITY OF PROVISIONS

Whenever possible, each provision of this Agreement will be interpreted in a manner as to be effective and valid under applicable law. However, if any provision of this Agreement or the application of any provision to any party or circumstance will be prohibited by or invalid under applicable law, that provision will be ineffective to the extent of the prohibition or invalidity without invalidating the remainder of the provisions of this Agreement or the application of the provision to other parties and circumstances.

XVI. EXTENT OF AGREEMENT

This Agreement, together with any affixed exhibits, schedules or other documentation, constitutes the entire understanding between the City and the Consultant with respect to the subject matter of the Agreement and it supersedes, unless otherwise incorporated by reference herein, all prior representations, negotiations, agreements or understandings whether written or oral. Neither party has relied on any prior representations, of any kind or nature, in entering into this Agreement. This Agreement may be altered, amended or modified only by written amendment signed by the Consultant and the City.

**For Fishbeck, Thompson, Carr
& Huber, Inc.**

By _____

Its _____

For City of Ann Arbor

By _____

John Hieftje, Mayor

By _____

Jacqueline Beaudry, City Clerk

Approved as to form and content

By _____

Stephen K. Postema, City Attorney

Approved as to substance

By _____

Tom Crawford, Interim City Administrator

By _____

Sue F. McCormick,
Public Services Area Administrator

EXHIBIT A
SCOPE OF SERVICES

A. OBJECTIVE

Fishbeck, Thompson, Carr & Huber, Inc. (FTC&H) is capable of providing a variety of engineering services required by the City of Ann Arbor and to assist the Project Management Services Unit as needed. The engineering services desired include but are not limited to traffic engineering analysis, preparation of plans, specifications and estimate of costs for construction projects, detailed studies on specific items, conducting investigations, preparation of reports, land surveying activities, construction inspection, construction contract administration and private development plan reviews.

B. DESCRIPTION

The engineering services to be provided may include:

1. Preparation of plans and specifications for capital improvement projects varying in complexity, for a portion or the entire project. Services may include preliminary plans and cost estimates, necessary field work, drafting, design, surveying, construction inspection, project management and more.
2. Preparation of applications for grants.
3. Special engineering reports and studies on a variety of subjects including but not limited to traffic engineering studies and road pavement condition evaluations.
4. Detailed review of plans submitted by private developers in conjunction with a variety of private developments to determine that they are consistent with the standards of the City and to provide approval and certification to this effect.
5. Review of public utility, sidewalk and road construction plans for compliance with the Public Services Area Standard Specifications.
6. Prepare private development construction plan review and approval letters
7. Preparation of the MDEQ Act 399 and Part 41 Permit Applications for public water main and sanitary sewers, respectively.
8. Calculation of Project Management plan review, inspection, testing and as-built fees, as well as final project financial closure.
9. Coordinate, facilitate and/or attend project-related meetings, such as the pre-construction meeting.

10. Construction administration, including, but not limited to, review and approval of material submittals, handling of Grading, Building and/or Certificate of Occupancy permit requests, development agreement administration, drafting of developer pay-back agreements and administration, calculation of utility maintenance bonds, and file and record maintenance.
11. Construction engineering, including, but not limited to, review and approval of cut sheets, field conflicts, etc.
12. Coordinate with other city service areas, local agencies, etc.
13. Review and preparation of right-of-way licensing agreements.

C. REQUIREMENTS

1. Ability to work effectively with the City's Project Management staff with respect to any of the civil engineering services required by the City.
2. Ability to work effectively with the public and the public agencies.
3. The ability to function in a support role to the Project Management Services Unit. The consultants' services will be utilized for the civil engineering activities that exceed the staffing level or the expertise of the Project Management Services Unit.
4. The ability to work with private developers, other consulting engineers, builders, contractors, and owners of property to assist and accommodate orderly development within the City while minimizing inconveniences and delays.
5. The selected consultant will demonstrate a working knowledge of the City of Ann Arbor's private development process and the Public Services Department Standard Specifications, in order to manage a private development project on behalf of Project Management Services Unit.

D. TASKS

1. Municipal Improvements Program

Participate in the establishment of needs, preparation of estimates of cost and construction schedules as requested. The City has recently updated its Capital Improvements Plan for 2012-2017. However, each year project categories will be updated, new projects incorporated, and additional information utilized in the development and implementation of the Capital Improvements Plan.

2. Construction Projects

Engineering or Project Management services as requested on public works projects including but not limited to sanitary sewer, storm sewer, street paving, street resurfacing, water mains, sidewalks, and bridges in accordance with City Standards and procedures.

3. Topographic Survey

Perform various topographical surveying tasks as requested for the preparation of civil engineering construction plans. The desired surveying services will include but not be limited to the gathering of topographical survey data and providing digital submissions. It is understood that the final work product will be a complete survey that will contain all known site features and will be ready for use as a base drawing for final engineering plans.

a) Data collection:

- 1) Topographic data for 1" = 20' scale plans.
- 2) All Right-of-Way (ROW) lines and monumentation to be located and shown.
- 3) Location of all planimetric features within ROW, and 10' outside of the ROW.
- 4) Minimum of 1 on-site bench mark for every 600' of utility shall be shown and described (minimum of 2 per project).
- 5) All (public and private) utilities shall be located (overhead and underground).
Overhead information shall include:
 location and type of utility
Underground information shall include:
 type of structure
 location and type of utility
 size of structure
 measured casting elevation
 measured invert(s) elevation of pipe/top of pipe elevation
- 6) All trees within the project area, described in item A.iii. above, are to be located and include trunk diameter at breast height (DBH) and canopy diameter. There will be no minimum tree size limits within the ROW, however, outside of the ROW only trees 6" DBH or greater need be located along with trees whose canopy may impact the project area.
- 7) Datum to be in the City's official vertical datum of NAVD88 and

horizontal datum of NAD83 (Michigan State Plane coordinates, international feet).

8) Sufficient ground elevations for digital terrain model (DTM) generation for 1' contours, including around curb radii and through intersections. Curb ramps should have all 4 corners of the "level landing" and 10 adjacent flags of the walk transition located.

9) Where there is the potential of utilities crossing the project area, obtain utility information outside the project limits (i.e. locate downstream/upstream sanitary manholes that tie into manholes within project area).

b) Digital submission:

The City of Ann Arbor currently uses AutoCAD Civil 3D 2011 (C3D) design software for surface, profile and cross section generation.

1) If using C3D, a template drawing, provided by us, is to be used for importing survey data. Due to the fact that this template is frequently being updated, be sure to request this file upon award of survey.

2) If not using C3D, point files and 3D breaklines must be compatible with this software. The preferred formats are a ".fbk" or ".txt" file (PNEZD comma delimited) for points (description key to be provided), and a ".dwg" file containing only the 3D polylines used to create breaklines and the TIN lines for computing contours. Planimetrics to be AutoCAD 2011 or earlier, (layering standards to be provided). All linework in "base topographic drawing" to be comprised of polylines with an elevation of 0. Text heights for labels to be 1.6 pt.

3) Coordinate with other city service areas, local agencies, etc.

4. Plans and Specifications

Preparation of plans and specifications shall include preliminary reports, identification of alternatives, cost estimates, and contract documents. The consultants shall also secure all necessary permits from all approving agencies including but not limited to the Michigan State Department of Environmental Quality and Michigan Department of Transportation

5. Supervision and Administration

Contract administration shall require the performance of all general field services required on construction projects such as construction staking, continuous monitoring of the project, coordination and supervision of testing services, approval and correction of shop drawings, attendance at meetings and

conferences, final inspection and measurement, periodic reporting of progress, preparation of progress payments, review and recommendation of claims, preparation of change orders and preparation of final payment.

6. Supervision and Inspection

Engineering supervision and full time inspection services shall be provided on all construction work on which this task is assigned to the consulting engineer. Sufficient personnel as agreed upon by the City shall be assigned to the construction project to assure that each element of the project is constructed in keeping with the plans and specifications approved by the City.

Activities associated with this task will be dedicated to verifying that all materials provided and work performed is in conformance with the project plans and specifications, and they include:

- a) providing inspection personnel that possess the necessary, current, accreditations consistent with the current edition of the City of Ann Arbor Public Services Department Standard Specifications;
- b) thorough review of the plans and specifications and other project related documents prior to construction start up;
- c) daily communication with contractor supervision to coordinate inspection activities and to properly inspect, test, measure, and document the work;
- d) daily communication with the contractor, advising of needed corrections to the work, i.e. traffic control or soil erosion device maintenance, etc.;
- e) daily communication with the survey crew(s) to obtain proper interpretation of stakes and coordinate daily staking needs;
- f) daily communication with testing personnel to properly sample and test the materials and work;
- g) attend the weekly progress/planning meeting;
- h) inspect materials to be used in the work, verifying they meet the project specifications;
- i) document material usage and quantities on the IDR using FieldBook;
- j) review/inspect the Contractor's equipment to confirm it meets the project specifications, and document the specific type and amount of equipment used on the IDR;

- k) inspect the contractor's workmanship to verify that it meets the methods, tolerances, time requirements, temperature requirements etc., of the specifications, and document this on the IDR;
- l) inspect and document that the work is performed and completed to the lines, grades, and elevations required by the project plans and specifications;
- m) document the contractor workforce and weather conditions on the IDR;
- n) document daily contractor activities, including any description and explanation of downtime, damage to the work, any actions taken by others including private utilities, City forces, adjacent property owners, etc. on the IDR;
- o) where possible final measure work as it's done by the contractor, calculate quantities and document this on the IDR or in field books as appropriate;
- p) conduct daily review/inspection of temporary traffic control devices and the maintenance of traffic throughout the construction influence area;
- q) conduct periodic nighttime review/inspection of temporary traffic control devices and the maintenance of traffic throughout the construction influence area, as needed;
- r) provide certified storm water operators and conduct daily inspection of all soil erosion and sedimentation control devices for proper maintenance and effectiveness as placed;
- s) perform and document NPDES inspections at the required frequencies; suspend any work and/or reject any materials not conforming to the contract requirements;
- t) perform and document wage rate interviews;
- u) document changes, extra work, "revisions to" notes etc. on the plans kept in the office trailer to assist in the preparation of "as built" plans;
- v) develop and maintain the project "punch list";
- w) keep all needed force account documentation, as required.

The Consultant shall furnish its inspectors with equipment and materials as necessary to properly perform their work. This will include, but is not limited to, laptop computers equipped with FieldBook, cell phones, proposal, plans, MDOT Standard Specifications for Construction, City of Ann Arbor standard plans and specifications, MDOT standard plans, a Nikon AP-5 Auto Level with tri-pod legs

or equivalent, eye level, right angle prism, plumb bob with gammon reel, 25 foot grade pole, 6 foot level, 1 torpedo level, 1-100 foot cloth tape, 1-25 foot steel tape, measuring wheel, pick axe, road point shovel, 8# sledge hammer, paint, first-aid kit, and any other hand tools needed to inspect the work.

Once assigned to the project, inspection personnel will not be removed from, or added to, the project without the written authorization of the City's Project Manager.

7. As-Build Construction Plans

The specific tasks associated with the development of the "as-built" plans include:

- a) obtain "original" (electronic format) contract plans from the City;
- b) document all plan changes, extra work, "revisions to" notes, etc. as project work progresses;
- c) collect and confirm all field changes; develop the appropriate "as-constructed" notes;
- d) develop/draft the "as-built" drawings; review and approve the "as-built" plans.

The "as-built" plans will conform to the City's Standard Specifications and the Public Services Department's AutoCAD drafting standards and will be provided to the City on CD or other approved media. As-build plans shall be provided within one month of completion of the project.

E. MINIMIUM REQUIREMENTS

In keeping with the objective, the description, the requirements, and the consultant's tasks as previously indicated in this Request for Proposal, the consultants submitting proposals shall outline in detail the manner in which the consultant shall work with the City to fulfill the City's needs.

The outline at a minimum shall address:

1. Staffing and personnel.
2. Communication and coordination.
3. Compatibility with city's standards, goals, and objectives.
4. Working relationship between consultant and City staff.
5. Information which will assist the City to determine the consultant's capability of performing the work.

6. Detailed scope of services to demonstrate the Consultant's understanding of the City's private development system based on the assumption that the consultant will be responsible for the complete implementation of a proposed project from construction plan submittal through issuance of the certificate of occupancy.

EXHIBIT B
FEE SCHEDULE

**FTC&H Fee Schedule
City of Ann Arbor
General Civil Engineering, Construction Inspection, and Surveying Services**

Name	Project Role	Hourly Rate	Overhead (185%)	Fixed Fee (11%)	Total Hourly Rate	City Defined Positions
Christopher E. Wall, P.E., PTOE, PTP	Primary Client Contact/Municipal Services Project Manager/Traffic Engineer/Traffic and Safety Studies	\$45.20	\$83.62	\$14.17	\$142.99	Project Manager
Stephen C. Nichols, P.E.	Principal-in-Charge	\$49.94	\$92.39	\$15.66	\$157.99	
Kamran Qadeer, P.E.	QA/QC	\$45.20	\$83.62	\$14.17	\$142.99	
Nazeeh Oudeh, P.E.	Roads, Bridges, and Utilities Design Project Manager	\$49.94	\$92.39	\$15.66	\$157.99	
Christian J. Sikkema, P.E.	Roads and Utilities Design	\$37.46	\$69.30	\$11.74	\$118.50	Pavement Engineer
Kyle A. Patrick, P.E.*	Roads and Utilities Design	\$26.13	\$48.34	\$8.19	\$82.66	Utility Engineer
Vincent D. Guadagni, P.E.	Bridge Inspection and Design	\$44.89	\$83.05	\$14.07	\$142.01	
Elizabeth J. Westrate, P.E.	Bridge Inspection and Design	\$27.88	\$51.58	\$8.74	\$88.20	
Claire E. Schwartz, P.E.	Hydrogeology, Storm Drainage, and Hydraulics/Drainage Studies	\$42.09	\$77.87	\$13.20	\$133.16	
Robert J. Hoeksema, Ph.D.	Hydrogeology, Storm Drainage, and Hydraulics	\$26.63	\$49.27	\$8.35	\$84.25	
Kerri A. Miller, P.E., LEED AP BD+C	Sustainable Storm Design/Green Infrastructure	\$36.61	\$67.73	\$11.48	\$115.82	
Stephen L. Deak, RLA, ASLA, LEED AP	Sustainable Storm Design	\$25.00	\$46.25	\$7.84	\$79.09	Storm Specialist
Andrew T. Peters, P.E.	Erosion/Sedimentation Control	\$23.01	\$42.57	\$7.21	\$72.79	Road Engineer
Thomas L. Gray II, P.E.	Roads, Bridges, and Utilities Construction Project Manager	\$49.94	\$92.39	\$15.66	\$157.99	
John T. LaVoy, P.E.	Road/Utility Construction and Administration	\$46.12	\$85.32	\$14.46	\$145.90	
Marc A. Hagerman	Bridge Construction and Administration	\$38.90	\$71.97	\$12.20	\$123.07	
Graham B. Blaxton	Construction/Permit Inspection	\$20.50	\$37.93	\$6.43	\$64.86	Senior Inspector**
Steve J. Ellens	Construction/Permit Inspection	\$23.50	\$43.48	\$7.37	\$74.35	Senior Inspector**
Ryan M. Jones	Construction/Permit Inspection	\$25.50	\$47.18	\$7.99	\$80.67	Senior Inspector**
Regan D. Jeter	Construction/Permit Inspection	\$18.00	\$33.30	\$5.64	\$56.94	Support Inspector**
Jeffrey J. Brown, P.E.	Sanitary Sewers	\$40.76	\$75.41	\$12.78	\$128.95	
David J. Baar, P.E.	Water Mains	\$36.71	\$67.91	\$11.51	\$116.13	
Sarah M. Looney	Environmental Services	\$20.70	\$38.30	\$6.49	\$65.49	
Michelle C. Lazar, P.E., GISP	GIS	\$27.99	\$51.78	\$8.77	\$88.54	
Fred E. Cowles, P.E.	Regulatory Assistance	\$40.35	\$74.65	\$12.65	\$127.65	
Jerald O. Thaler, P.E.	Regulatory Assistance	\$49.94	\$92.39	\$15.66	\$157.99	
Thomas R. Smith, RA	Municipal Facilities/Architectural	\$43.16	\$79.85	\$13.53	\$136.54	
Douglas L. VanDyke, P.E.	Commissioning	\$41.69	\$77.13	\$13.07	\$131.89	
Erick R. Friestrom, P.S.	Surveys Project Manager/Construction Staking/Topographic, Hydraulic, Property, and Boundary Surveys	\$26.31	\$48.67	\$8.25	\$83.23	
Gregory J. Carlson, C.S.T.	Topographic, Hydraulic, Property, and Boundary Surveys	\$30.55	\$56.52	\$9.58	\$96.65	
					\$135.00	Topo 2-Man Crew
					\$135.00	Staking 2-Man Crew

Subconsultant - Mansell

Name	Project Role	Hourly Rate	Overhead (140%)	Fixed Fee (11%)	Total Hourly Rate
Robert D. Mansell	Signal Design	\$45.00	\$63.00	\$11.88	\$119.88

*Kyle Patrick added to rate sheet.

**The City can draw upon FTC&H's vast pool of over 40 inspectors to service project needs.

EXHIBIT C
FAIR EMPLOYMENT PRACTICE

The consultant, its agents or sub-contractors, shall comply with all requirements of Chapter 112 of Title IX of the Code of the City of Ann Arbor and in particular the following excerpts therefrom:

9:161 NONDISCRIMINATION BY CITY CONTRACTORS

- (1) All contractors proposing to do business with the City of Ann Arbor shall satisfy the nondiscrimination administrative policy adopted by the City Administrator in accordance with the guidelines of this section. All contractors shall receive approval from the Director prior to entering into a contract with the City, unless specifically exempted by administrative policy. All City contractors shall take affirmative action to insure that applicants are employed and that employees are treated during employment in a manner which provides equal employment opportunity and tends to eliminate inequality based upon race, national origin or sex.
- (2) Each prospective contractor shall submit to the City data showing current total employment by occupational category, sex and minority group. If, after verifying this data, the Director concludes that it indicates total minority and female employment commensurate with their availability within the contractor's labor recruitment area, i.e., the area from which the contractor can reasonably be expected to recruit, said contractor shall be accepted by the Director as having fulfilled affirmative action requirements for a period of one year at which time the Director shall conduct another review. Other contractors shall develop an affirmative action program in conjunction with the Director. Said program shall include specific goals and timetables for the hiring and promotion of minorities and females. Said goals shall reflect the availability of minorities and females within the contractor's labor recruitment area. In the case of construction contractors, the Director shall use for employment verification the labor recruitment area of the Ann Arbor-Ypsilanti standard metropolitan statistical area. Construction contractors determined to be in compliance shall be accepted by the Director as having fulfilled affirmative action requirements for a period of six (6) months at which time the Director shall conduct another review.
- (3) In hiring for construction projects, contractors shall make good faith efforts to employ local persons, so as to enhance the local economy.
- (4) All contracts shall include provisions through which the contractor agrees, in addition to any other applicable Federal or State labor laws:
 - (a) To set goals, in conference with the Human Resources Director, for each job category or division of the work force used in the completion of the City work;

- (b) To provide periodic reports concerning the progress the contractor has made in meeting the affirmative action goals it has agreed to;
 - (c) To permit the Director access to all books, records and accounts pertaining to its employment practices for the purpose of determining compliance with the affirmative action requirements.
- (5) The Director shall monitor the compliance of each contractor with the nondiscrimination provisions of each contract. The Director shall develop procedures and regulations consistent with the administrative policy adopted by the City Administrator for notice and enforcement of non-compliance. Such procedures and regulations shall include a provision for the posting of contractors not in compliance.
- (6) All City contracts shall provide further that breach of the obligation not to discriminate shall be a material breach of the contract for which the City shall be entitled, at its option, to do any or all of the following:
- (a) To cancel, terminate, or suspend the contract in whole or part and/or refuse to make any required periodic payments under the contract;
 - (b) Declare the contractor ineligible for the award of any future contracts with the City for a specified length of time;
 - (c) To recover liquidated damages of a specified sum, said sum to be that percentage of the labor expenditure for the time period involved which would have accrued to minority group members had the affirmative action not been breached;
 - (d) Impose for each day of non-compliance, liquidated damages of a specified sum, based upon the following schedule:

<u>Contract Amount</u>	<u>Assessed Damages Per Day of Non-Compliance</u>
\$ 10,000 - 24,999	\$25.00
25,000 - 99,999	50.00
100,000 - 199,999	100.00
200,000 - 499,999	150.00
500,000 - 1,499,999	200.00
1,500,000 - 2,999,999	250.00
3,000,000 - 4,999,999	300.00
5,000,000 - and above	500.00

- (e) In addition the contractor shall be liable for any costs or expenses incurred by the City of Ann Arbor in obtaining from other sources the work and services to be rendered or performed or the goods or properties to be furnished or delivered to the City under this contract.

EXHIBIT D
LIVING WAGE REQUIREMENTS

If a "covered employer," Contractor will comply with all the requirements of Chapter 23 of the Ann Arbor City Code (Sections 1:811 B 1:821), in particular but not limited to the following sections thereof:

1:813. Definitions.

For purposes of this Chapter, the following definitions shall apply:

- (1) "Contractor/vendor" is a person or entity that has a contract with the City primarily for the furnishing of services where the total amount of the contract or contracts with the City exceeds \$10,000 for any 12month period. "Contractor/vendor" does not include a person or entity that has a contract with the City primarily for the purchase of goods or property, or for the lease of goods or property to or from the City.
- (2) "Covered Employee" means a person employed by a covered employer to perform services which are covered or funded by the contract with or grant from the City; provided, however, that persons who are employed pursuant to federal, state or local laws relating to prevailing wages shall be exempt from this Chapter.
- (3) "Covered Employer" means a contractor/vendor or grantee that has not been granted an exemption from this Chapter pursuant to Section 1:817.
- (4) "Employee" means an individual who provides personal services performed for wages under any contract calling for the performance of personal services, whether written or oral, express or implied. The term "employee" does not include any individual who volunteers to perform services for an employer if
 - (a) The individual receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered; and
 - (b) Such services are not the same type of services which the individual is employed to perform for such employer.
- (5) "Employee Health Benefits" or "Health Benefits" means providing health care benefits for employees (or employees and their dependents) at employer cost or making an employer contribution toward the purchase of such health care benefits for employees (or employees and their dependents), provided that the employer cost or contribution equals no less than \$1 an hour for the average work week of such employee, and provided further that any employee payment or contribution

toward health care shall not exceed 50 cents an hour for the average work week for such employee.

- (6) "Grant" means any form of financial assistance to a "Grantee" as set forth and defined in Section 1:813(7). "Grant" does not include financial assistance used for the purchase or lease of property or other nonpersonnel costs.
- (7) "Grantee" is a person or entity that is a recipient of any financial assistance from the City in the form of any federal, state or local grant program administered by the City, revenue bond financing, tax increment financing, tax abatement, tax credit, direct grant, or any other form of financial assistance that exceeds \$10,000 for any 12month period, including any contractors, subcontractors, or leaseholders of the grantee whose contract, subcontract or lease with the grantee exceeds \$10,000 for any 12month period.
- (8) "Living Wage" means a wage equal to the levels established in Section 1:815.
- (9) "Person" means any individual, copartnership, corporation, association, club, joint adventure, estate, trust, and any other group or combination acting as a unit, and the individuals constituting such group or unit.
- (10) "\$10,000 for any 12 month period" is computed by taking the total amount of the contract, grant or loan and dividing it by the number of months the contract, grant or loan covers.

1:814. Applicability.

- (1) This Chapter shall apply to any person that is a contractor/vendor or grantee as defined in Section 1:813 that employs or contracts with five (5) or more individuals; provided, however, that this Chapter shall not apply to a nonprofit contractor/vendor or nonprofit grantee unless it employs or contracts with ten (10) or more individuals.
- (2) This Chapter shall apply to any grant, contract, or subcontract or other form of financial assistance awarded to or entered into with a contractor/vendor or grantee after the effective date of this Chapter and to the extension or renewal after the effective date of this Chapter of any grant, contract, or subcontract or other form of financial assistance with a contractor/vendor or grantee.

1:815. Living Wages Required.

- (1) Every contractor/vendor or grantee, as defined in Section 1:813, shall pay its covered employees a living wage as established in this Section.

- (a) For a covered employer that provides employee health care to its employees, the living wage shall be \$8.70 an hour, or the adjusted amount hereafter established under Section 1:815(3).
 - (b) For a covered employer that does not provide health care to its employees, the living wage shall be \$10.20 a hour, or the adjusted amount hereafter established under Section 1:815(3).
- (2) In order to qualify to pay the living wage rate for covered employers providing employee health care under subsection 1:815(1)(a), a covered employer shall furnish proof of said health care coverage and payment therefor to the City Administrator or his/her designee.
 - (3) The amount of the living wage established in this Section shall be adjusted upward no later than April 30, 2002, and every year thereafter by a percentage equal to the percentage increase, if any, in the federal poverty guidelines as published by the United States Department of Health and Human Services for the years 2001 and 2002. Subsequent annual adjustments shall be based upon the percentage increase, if any, in the United States Department of Health and Human Services poverty guidelines when comparing the prior calendar year's poverty guidelines to the present calendar year's guidelines. The applicable percentage amount will be converted to an amount in cents by multiplying the existing wage under Section 1.815(1)(b) by said percentage, rounding upward to the next cent, and adding this amount of cents to the existing living wage levels established under Sections 1:815(1)(a) and 1:815(1)(b). Prior to April 1 of each calendar year, the City will notify any covered employer of this adjustment by posting a written notice in a prominent place in City Hall, and, in the case of a covered employer that has provided an address of record to the City, by a written letter to each such covered employer.

1:816. Employees Covered.

A covered employer shall pay each of its employees performing work on any covered contract or grant with the City no less than a living wage as defined in Section 1:815.

1:817. Exemptions.

Notwithstanding any other provisions in this Chapter, the following exemptions shall apply:

- (1) Sweat equity contracts for home construction or rehabilitation grant will not subject the grantee to coverage under this Chapter. Housing construction or rehabilitation grants or contracts that are passed through to a contractor in their entirety are exempt from the provisions of this Chapter, even when the City participates in the selection of the contractor.

- (2) For any contract or grant, the City Council may grant a partial or complete exemption from the requirements of this Chapter if it determines one of the following:
 - (a) To avoid any application of this Chapter that would violate federal, state or local law(s); or
 - (b) The application of this Chapter would cause demonstrated economic harm to an otherwise covered employer that is a nonprofit organization, and the City Council finds that said harm outweighs the benefits of this Chapter; provided further that the otherwise covered nonprofit employer shall provide a written plan to fully comply with this Chapter within a reasonable period of time, not to exceed three years, and the City Council then agrees that granting a partial or complete exemption is necessary to ameliorate the harm and permit the nonprofit organization sufficient time to reach full compliance with this Chapter.
- (3) A loan shall be considered a grant under this ordinance only to the extent that a loan is provided at below market interest rates and then only the difference between the amount of the loan and the present value of the payments thereunder, discounted over the life of the loan, shall be treated as financial assistance under this ordinance.
- (4) A payment of funds for the purpose of purchasing services, property, or goods on behalf of individuals being assisted by a covered employer or potentially covered employer (sometimes known as a "pass through" grant) that is used for said purchases shall not be considered a grant; such funds shall be considered a grant only to the extent that any such funds are retained by the covered employer or potentially covered employer to provide financial assistance and support to its own operations.

1:818. Monitoring and Enforcement.

- (1) Every covered employer shall agree to the payment of a living wage as a condition of entering into or renewing a covered contract or grant with the City, shall agree to post a notice regarding the applicability of this Chapter in every work place or other location in which employees or other persons contracted for employment are working, and shall agree to provide payroll records or other documentation as deemed necessary within ten (10) business days from the receipt of the City's request. All City contracts and grants covered by this Chapter shall provide that a violation of the living wage requirements of this Chapter shall be a material breach of the contract or grant. The Human Rights Office of the City shall monitor the compliance of each contractor/vendor or grantee under procedures developed by the Human Rights Office and approved by the City Administrator.

- (2) Each covered employer shall submit to the Human Rights Office of the City information regarding number of employees and applicable wage rates of its employees covered by this Chapter in such manner as requested by that office. At the request of the Human Rights Office, any contractor/vendor or grantee shall provide satisfactory proof of compliance with the living wage provisions of this Chapter.
- (3) Any person may submit a complaint or report of a violation of this Chapter to the Human Rights Office. Upon receipt of such a complaint or report, the Human Rights Office shall investigate to determine if there has been a violation.

1:819. Penalties and Enforcement.

- (1) A violation of any provision of this Chapter is a civil infraction punishable by a fine of not more than \$500.00 plus all costs of the action. The Court may issue and enforce any judgment, writ, or order necessary to enforce this Chapter, including payment to the affected employee or employees of the difference between wages actually paid and the living wage that should have been paid, interest, and other relief deemed appropriate.
- (2) Each day upon which a violation occurs shall constitute a separate violation.
- (3) In addition to enforcement under Subsections (1) and (2), the City shall have the right to modify, terminate, and/or seek specific performance of any contract or grant with an affected covered employer or to cancel, terminate or suspend the contract in whole or in part and/or to refuse any further payments under the contract or grant;
- (4) Nothing contained in this Chapter shall be construed to limit in any way the remedies, legal or equitable, which are available to the City or any other person for the correction of violations of this Chapter

* * * * *

1:821. Other Provisions.

- (1) No affected covered employer shall reduce the compensation, wages, fringe benefits, or leave available to any covered employee or person contracted for employment in order to pay the living wage required by this Chapter.

* * * * *

- (3) No employee covered by a federal, state or local law requiring the payment of prevailing wages shall be covered by this Chapter.
- (4) This Chapter shall not be construed to apply to any person or entity that is a tax exempt religious, educational or charitable organization under state or federal law, but is not a contractor/vendor or grantee as defined in Section 1:813.

- (5) This Chapter shall not be applicable to the establishment and/or continuation of the following if developed specifically for high school and/or college students:
- (a) A bona fide training program;
 - (b) A summer or youth employment program;
 - (c) A work study, volunteer/public service, or internship program.

* * * * *