

**AGREEMENT BETWEEN
ORCHARD, HILTZ & MCCLIMENT, INC.
AND
CITY OF ANN ARBOR
FOR
PROFESSIONAL SERVICES**

The City of Ann Arbor, a Michigan municipal corporation, having its offices at 100 North Fifth Avenue, Ann Arbor, Michigan 48104 ("City"), and Orchard, Hiltz & McCliment, Inc., a Michigan Corporation with its address at 34000 Plymouth Road, Livonia, Michigan 48150 ("Consultant"), agree as follows: The Consultant agrees to provide professional services to the City under the following terms and conditions:

I. DEFINITIONS

- A. Administering Service Area/Unit means Project Management Service Unit.
- B. Contract Administrator means Homayoon Pirooz, P.E., Manager, Project Management Services Unit or whomever the Contract Administrator may from time to time designate.
- C. Deliverables means all Plans, Specifications, Reports, Recommendations, and other materials developed for or delivered to City by Consultant under this Agreement.
- D. Project means Harvard Drain in Nichols Arboretum, Project ID: UT-ST-08-10; and Stadium/Iroquois Water Main Replacement, Project ID: UT-WS-06-18.

II. DURATION

This agreement shall become effective on April 21, 2008, 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 applicable laws, ordinances and regulations. Unless otherwise noted, the Consultant shall perform its Services in accordance with the City's Public Services Department Standard Specifications.

- 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 on the basis of reasonable time spent and materials used at the rates and prices specified in Exhibit B for acceptable work performed and acceptable Deliverables received. The total fee to be paid the Consultant for the Services shall not exceed \$96,538. Payment shall be made monthly 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 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 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 take affirmative action 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; 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. The current living wage rates under Section 1:815 of the Ann Arbor City Code, as adjusted in accordance with Section 1:815(3) of the Ann Arbor City Code, is \$9.91 an hour for a covered employer that provides employee health care to its employees and \$11.48 an hour for a covered employer that does not provide health care to its employees.

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 it is to provide pursuant to 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. This agreement may be terminated by either party without further notice in the case of a breach of this agreement by the other party, if the breaching party has not corrected the breach within 15 days after notice of the breach.
- 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.

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 the services 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 shall be construed, governed, and enforced in accordance with the laws of the State of Michigan. By executing this agreement, the Consultant and the City agree to venue in a court of appropriate jurisdiction sitting within Washtenaw County for purposes of any action arising under this agreement.

XIII. 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.

XIV. 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.

XV. EXTENT OF AGREEMENT

This agreement represents the entire understanding between the City and the Consultant and it supersedes all prior representations or agreements 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.

XVI. OWNERSHIP OF DOCUMENTS

Upon completion or termination of this agreement, all documents prepared by the Consultant, including tracings, drawings, estimates, specifications, field notes, investigations, studies and reports shall become the property of, and, at the option of the City, be delivered to, the City. 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.

For Consultant

For City of Ann Arbor

By _____
Russell A. Gronevelt, P.E.
Its President

By _____
John Hieftje, Mayor

By _____
Jacqueline Beaudry, City Clerk

Approved as to form and content

Approved as to substance

By _____
Stephen K. Postema, City Attorney

By _____
Roger W. Fraser, City Administrator

By _____
Service Area Administrator

EXHIBIT A SCOPE OF SERVICES

Project Understanding & Assumptions (Harvard Drain in Nichols Arboretum)

The City of Ann Arbor has requested professional engineering and consulting services for the development of bid-quality contract documents (construction plans and specifications) for the following Capital Improvement Project:

Project ID: UT-ST-08-10: Harvard Drain in Nichols Arboretum

Improvements will include the construction of new, and rehabilitation of existing, public utilities (sanitary sewers, storm sewers, and water mains) at various locations within the City of Ann Arbor. Based on the information provided in the Request for Proposal (RFP), preliminary field visits, and discussions with the City of Ann Arbor staff, the following assumptions and project understandings form the basis of our Base Proposal:

- The project will not require a public involvement process and/or submission to Planning Commission for review of applicable Private Development Standards
- All planned improvements will be performed within existing City of Ann Arbor (City) rights-of-way (ROW) and easements, and no permanent or temporary easements will be required. OHM assumes that the proposed improvements will not require the relocation of any existing franchise utilities.
- All available record drawings/as-built plans, GIS information, water service and sanitary sewer lead information, and related break or repair histories and studies will be provided to OHM by the City of Ann Arbor for review and incorporation into the design.
- OHM will request as-built information from private utility companies to incorporate into the topographical survey.
- Wetlands, as regulated by the City or the Michigan Department of Environmental Quality (MDEQ) do not exist within any portion of the proposed work, and therefore, no budgetary dollars are necessary for their delineation, permitting or construction.
- Meetings shall be conducted in accordance with the Scope of Services as described herein. Additional meetings, not described within our Scope of Services shall be considered additional services and shall be billed on a Time and Materials basis under an amendment to the contract.
- OHM staff and associated sub-consultants have permission to access all proposed work locations either through legally described jurisdiction of the City, or through an existing easement on privately owned property.
- Where referenced within our Scope of Services, a topographic survey will be performed within the project limits for the preparation of base sheets. OHM will evaluate the requirements of the survey, including reviewing existing structural features: structures, barriers, vegetation, drainage courses, utilities, and ROW. A sufficient amount of topographic information will be provided in order to construct an accurate digital terrain model (DTM) with 1' contours. Base sheets will be prepared in AutoCAD 2007 to a 1" = 40' (horizontal) and 1" = 4' (vertical) scale. OHM will develop the survey work order and assign to appropriate personnel, collect/annotate topography, investigate and describe underground utilities (i.e. pipe material, size, inverts), locate & identify trees six (6) inches diameter and larger, establish existing alignments where applicable, and compile field notes, government corner witnesses and project background report. The existing ROW and property lines will be created using existing ROW plans, tax records, subdivision Plats and/or Condominium documents. Act 74 forms will be prepared for all section corners located within the project.

- The horizontal control coordinate system will be the North American Datum of 1983, 1997 Adjustment (NAD83/97) and the vertical datum will be North American Vertical Datum of 1988 (NAVD88) as published in the Geodetic Control Manual by the City of Ann Arbor, Public Services Department, Engineering Division.
- Adjustments in horizontal and vertical road alignments will not be required as part of this project. Restoration of paved road sections will be limited to the sections disturbed during construction of new, or rehabilitation of existing, public utilities. The restored sections will be replaced in-kind.
- If removed as part of the work, paved drive approaches will be replaced in kind, e.g., concrete with concrete and HMA with HMA. Gravel approaches will be replaced with HMA. Turf areas will be replaced with seed, mulch and fertilizer meeting City requirements.
- Construction staging plans will be developed in coordination with City requirements to facilitate traffic flow. Through traffic may be diverted or detoured as required to complete the work. However, access will be maintained to all properties during the construction.
- Where referenced within our Scope of Services, geotechnical work shall be coordinated through OHM. OHM will retain TES Consultants, P.C. who will provide recommendations in accordance with the 2003 MDOT Standards for Construction and City of Ann Arbor standards.
- Permit fees and any applicable fees associated with applications, reviews, bonding or inspections will be paid for directly by the City of Ann Arbor.
- A Fee Schedule has been provided by OHM for the City of Ann Arbor to consider as a basis of individual Scope of Services and multiple contractual services as defined herein. Fees are valid for ninety (90) days, at which time OHM would be authorized to proceed with the work.
- Construction services, including attendance at pre-construction and project construction meetings, construction management, construction engineering, contract administration, construction observation, and construction layout are not included in our Scope of Services.
- Environmental impact statements/studies, wetland delineations, traffic impact study, tree tagging/tree preservation plans, landscaping plans, irrigation plans, and easement preparation and acquisition are not part of our Scope of Services, and could be coordinated through an Amendment to the Contract.

SCOPE OF SERVICES – Harvard Drain at Nichols Arboretum
Project ID: UT-ST-08-10

In our review of the existing storm sewer/roadway plans, it is apparent the existing storm sewer along Harvard Place is at a steep gradient which is most likely causing supercritical flow at its outlet in the Arboretum. Our scope of services includes an investigation and analysis to determine the existing velocities and energy in the storm sewer system and determining the most cost-effective solution to reducing outlet velocities to minimize erosion in the intermittent stream within the Nichols Arboretum. Our staff has worked on similar projects in Northville Township (Quail Ridge Drain) and in the Nichols Arboretum (near the Burhnam House) for the University of Michigan. Both projects involved a drop structure and/or innovative step-pool/native plantings to help restore the stream geomorphology. Both projects continue to have stable stream banks in the area of improvements. We envision the Harvard Drain project to be very similar to both of these previous projects.

It is our understanding that all construction work, thus the design, must take place within the City ROW and easement between lots 7 and 8 along Harvard Place. In our review of the system it appears that construction of a simple drop structure may be the most cost-effective solution to reducing velocities as much as

practical. Also, since the runoff from the area is primarily from residential areas, water quality can easily be addressed by capturing sediment with a vortex-type treatment structure (or similar structural BMP). If requested by the City, this will be accommodated in the design.

Scope of Services

Task 1 – Conceptual Plan Work and Investigation

OHM will perform the following conceptual planning and investigation work for this project:

- Review available information provided by the City of Ann Arbor. Request and review as-built information provided by private/franchised utilities.
- Obtain horizontal and vertical control, Harvard Drain pipe inverts, rim elevations and pipe sizes for the drain from Geddes Avenue to the outlet in the Arboretum.
- Obtain topographical information within and 10 feet beyond the ROW on both sides in the area of lots 7 through 11 and within the easement between lots 7 and 8 along Harvard Place. It should be noted that because of the high pipe gradients upstream of this area, we envision any above ground disturbance to take place in the downstream lower gradient pipe sections (alleviating the need for topographic information in the upstream pipe areas).
- Convert topographical information into base drawings and incorporate as-built information gathered from the City and franchise utilities.
- Conduct one (1) site visit to verify topographic survey collected and take digital photos of existing conditions.
- Delineate the drainage area to Harvard Drain and determine the 10-year peak flow rates using the rational formula and/or the MDEQ USD-21 procedures. We have assumed that the City will provide us with GIS aerial and topographic information to use as a base to prepare the watershed map and delineation.
- Perform a hydraulic analysis utilizing the procedures in the FHWA's Hydraulic Engineering Circular No. 4 to determine existing and proposed pipe hydraulics. We envision investigation into potentially three alternatives for velocity reduction including a drop or drop structures, in-pipe baffles or a combination of these. It should be noted that we anticipate that the in-pipe solutions may not be sufficient to reduce outlet velocities to acceptable levels and ultimately additional work will need to take place near the outlet.
- Prepare conceptual sketches of the feasible alternatives investigated. This will include depicting utilities to avoid conflicts with the proposed alternatives and meeting with one or several contractor's and/or suppliers to obtain additional input on the alternatives.
- Coordinate and attend one meeting with City staff to present and discuss alternatives. The desired outcome of the meeting is to obtain consensus on the most feasible alternative so OHM can commence with preliminary design details.
- Prepare minutes of the meetings and distribute to attendees. Address City's review comments and action items that result from the review meeting. OHM anticipates approximately one (1) week to complete final conceptual plans and an engineer's opinion of probable cost.

Task 2 – Preliminary Drawings

OHM will perform the following preliminary engineering and planning for this project:

- Retain TES Consultants, P.C. as the geotechnical consultant to perform one soil boring in the area of construction.
- Develop preliminary plan/profile and detail sheets of the proposed improvements. Determine potential constructability issues.
- Provide one (1) preliminary plan set of proposed design to private utility representatives.
- Prepare plans and specifications for the maintenance of traffic during construction, in accordance with MDOT, MMUTCD and City requirements.
- Prepare soil erosion control and miscellaneous project detail plan sheet for inclusion into plan set.

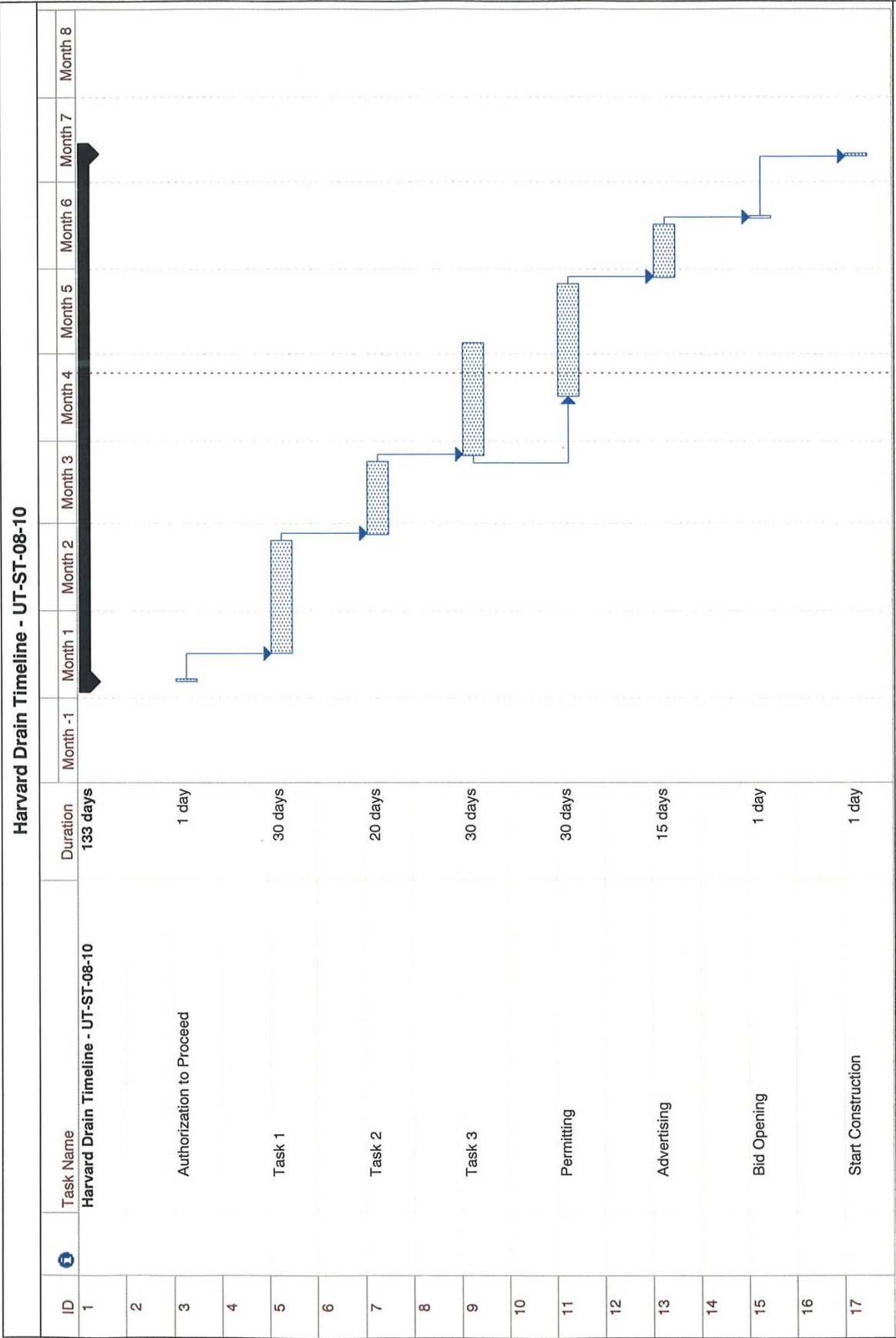
- Prepare an updated engineer's opinion of probable cost.
- Perform internal QA/QC review of 70% design plans.
- Submit three (3) preliminary construction plan sets with an updated engineer's opinion of probable cost to the City for their review and approval.
- Coordinate one (1) meeting with the City to discuss review comments and obtain substantial approval to finalize the construction plan bid set.

Task 3 – Final Construction Drawings and Specifications

OHM will perform the following final engineering and planning details for this project as follows:

- Address City's review comments and action items.
- Prepare a bid sheet detailing items of work, quantities, and specifications to supplement the City's standard pay items as detailed in the City of Ann Arbor Public Services Department Standard Specifications.
- Prepare a final engineer's opinion of probable construction cost.
- Revise and finalize schedule for proposed work including construction start, substantial completion, and final completion dates.
- Submit three (3) sets of detailed construction drawings and specifications for City review.
- Coordinate one (1) meeting with the City to discuss their review comments and obtain approval in order to finalize the bid package. Prepare minutes of the meeting and distribute to the attendees.
- Make final revisions to the plans and specifications; these will include the bidding documents, with the City of Ann Arbor as the responsible party.
- It should be noted that we have assumed that a MDEQ Inland Lakes and Streams and WCDC permits would not be required for the construction of the proposed improvements.
- Prepare bid-quality contract documents using the City's forms and assist the City during the bidding process. This shall include:
 - Preparation of an advertisement to be provided to the City Purchasing Agent.
 - Production of three (3) sets of final bid documents for the City and twenty (20) sets for distribution to bidders.
 - Attend a bid opening to be held at City Hall.
 - Evaluate the submitted bids, which includes the following responsibilities:
 - Prepare and review a project bid tab. The bid tab shall include all bidding contractors' total project bid and unit price breakdown.
 - Check references for the three (3) lowest bidding contractors.
 - Provide a recommendation of award to the City.
 - If the City Council awards the contract, OHM will assist in executing the Contract books including the following:
 - Create and send a Notice of Award letter to the awarded Contractor.
 - Coordinate the execution of two (2) copies of the contract book.
 - Supply one (1) executed copy of contract documents to the City

Harvard Drain Timeline - UT-ST-08-10



Project: Harvard Drain schedule
Date: Tue 3/25/08

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|----------|--|-----------------|--|--------------------|--|
| Task | | Milestone | | External Tasks | |
| Split | | Summary | | External Milestone | |
| Progress | | Project Summary | | Deadline | |

EXHIBIT A SCOPE OF SERVICES

Project Understanding & Assumptions (Stadium/Iroquois Water Main Replacement)

The City of Ann Arbor has requested professional engineering and consulting services for the development of bid-quality contract documents (construction plans and specifications) for the following Capital Improvement Project:

Project ID: UT-WS-06-18: Stadium/Iroquois Water Main Replacement

Improvements will include the construction of new, and rehabilitation of existing water mains along east Stadium from Packard to Iroquois and continuing along Iroquois back to Packard. Based on the information provided in the Request for Proposal (RFP), preliminary field visits, and discussions with the City of Ann Arbor staff, the following assumptions and project understandings form the basis of our Base Proposal:

- The project will not require a public involvement process and/or submission to Planning Commission for review of applicable Private Development Standards
- All planned improvements will be performed within existing City of Ann Arbor (City) rights-of-way (ROW) and easements, and no permanent or temporary easements will be required. OHM assumes that the proposed improvements will not require the relocation of any existing franchise utilities.
- All available record drawings/as-built plans, GIS information, water service and sanitary sewer lead information, and related break or repair histories and studies will be provided to OHM by the City of Ann Arbor for review and incorporation into the design.
- OHM will request as-built information from private utility companies to incorporate into the topographical survey.
- Wetlands, as regulated by the City or the Michigan Department of Environmental Quality (MDEQ) do not exist within any portion of the proposed work, and therefore, no budgetary dollars are necessary for their delineation, permitting or construction.
- Meetings shall be conducted in accordance with the Scope of Services as described herein. Additional meetings, not described within our Scope of Services shall be considered additional services and shall be billed on a Time and Materials basis under an amendment to the contract.
- OHM staff and associated sub-consultants have permission to access all proposed work locations either through legally described jurisdiction of the City, or through an existing easement on privately owned property.
- Where referenced within our Scope of Services, a topographic survey will be performed within the project limits for the preparation of base sheets. OHM will evaluate the requirements of the survey, including reviewing existing structural features: structures, barriers, vegetation, drainage courses, utilities, and ROW. A sufficient amount of topographic information will be provided in order to construct an accurate digital terrain model (DTM) with 1' contours. Base sheets will be prepared in AutoCAD 2007 to a 1" = 40' (horizontal) and 1" = 4' (vertical) scale. OHM will develop the survey work order and assign to appropriate personnel, collect/annotate topography, investigate and describe underground utilities (i.e. pipe material, size, inverts), locate & identify trees six (6) inches diameter and larger, establish existing alignments where applicable, and compile field notes, government corner witnesses and project background report. The existing

ROW and property lines will be created using existing ROW plans, tax records, subdivision Plats and/or Condominium documents. Act 74 forms will be prepared for all section corners located within the project.

- The horizontal control coordinate system will be the North American Datum of 1983, 1997 Adjustment (NAD83/97) and the vertical datum will be North American Vertical Datum of 1988 (NAVD88) as published in the Geodetic Control Manual by the City of Ann Arbor, Public Services Department, Engineering Division.
- Sanitary structures, sanitary sewers, and other associated appurtenances will be designed in accordance with the City of Ann Arbor standard details and specifications.
- Water main, fire hydrants, gate valves and other water system appurtenances will be designed in accordance with the City of Ann Arbor standard details and specifications. Fire hydrants will be placed in approximately the same locations as existing hydrants or in accordance with City requirements. Fire hydrant coverage will be checked by OHM for adequacy on new mains.
- Adjustments in horizontal and vertical road alignments will not be required as part of this project. Restoration of paved road sections will be limited to the sections disturbed during construction of new, or rehabilitation of existing, public utilities. OHM will prepare alternatives for the cost effective restoration of the pavement. For budgetary purposes, two (2) alternatives will be provided to meet current City Standards.
- Sidewalks and pathways will be replaced if disturbed within the limits of construction. Sidewalk ramps that are disturbed shall be designed in accordance with ADA requirements.
- If removed as part of the work, paved drive approaches will be replaced in kind, e.g., concrete with concrete and HMA with HMA. Gravel approaches will be replaced with HMA. Turf areas will be replaced with seed, mulch and fertilizer meeting City requirements.
- Construction staging plans will be developed in coordination with City requirements to facilitate traffic flow. Through traffic may be diverted or detoured as required to complete the work. However, access will be maintained to all properties during the construction.
- Where referenced within our Scope of Services, geotechnical work shall be coordinated through OHM. OHM will retain TES Consultants, P.C. who will provide recommendations in accordance with the 2003 MDOT Standards for Construction and City of Ann Arbor standards.
- Permit fees and any applicable fees associated with applications, reviews, bonding or inspections will be paid for directly by the City of Ann Arbor.
- A Fee Schedule has been provided by OHM for the City of Ann Arbor to consider as a basis of individual Scope of Services and multiple contractual services as defined herein. Fees are valid for ninety (90) days, at which time OHM would be authorized to proceed with the work.
- Construction services, including attendance at pre-construction and project construction meetings, construction management, construction engineering, contract administration, construction observation, and construction layout are not included in our Scope of Services.
- Environmental impact statements/studies, wetland delineations, drainage improvements, traffic impact and sewer studies/modeling, water main flow or pressure studies, tree tagging/tree preservation plans, landscaping plans, irrigation plans, and easement preparation and acquisition are not part of our Scope of Services, and could be coordinated through an Amendment to the Contract.

SCOPE OF SERVICES – Stadium/Iroquois Water Main Replacement

Project ID: UT-WS-06-18

OHM will prepare bid-quality contract documents meeting the City's standards for the construction of an 8" water main to replace approximately 3,350 feet of 4" and 6" water main that exists along East Stadium from Packard to Iroquois and continuing along Iroquois back to Packard. This project is intended to upgrade the existing water main to improve the fire flow capability in the area. Construction is anticipated to begin in summer 2008.

Scope of Services

Task 1 – Conceptual Plan Work and Investigation

OHM will perform the following conceptual planning and investigation work for this project:

- Attend kickoff meeting with City staff and review available information provided. Request and review as-built information provided by private/franchised utilities.
- Perform topographical survey.
- Convert topographical information into base drawings and incorporate as-built information gathered from the City and private utilities.
- Conduct one (1) site visit to verify topographic survey collected and take digital photos of existing conditions. This effort will include investigation of the project area to determine a conceptual horizontal layout for the new public utility. Discuss concept with the City.
- Retain TES Consultants, P.C. as the geotechnical consultant to perform soil borings and subsurface soil investigation to facilitate the proposed work.
- Initiate contact with impacted local businesses and residential property owners. We anticipate one (1) meeting for this effort.
- Conduct up to three (3) meetings with franchise utility owners to discuss potential impacts.
- Prepare plans showing horizontal layout of the proposed improvements and submit three (3) sets of plans to the City for their review.
- Coordinate and attend one (1) meeting with the City to discuss initial review comments. The desired outcome of the meeting is to obtain substantial approval of the layout so OHM can move forward with the detailed design.
- Prepare minutes of the meetings and distribute them to the attendees. Address City's review comments and action items coming out of the review meeting.
- Perform internal QA/QC review of 30% design plans.
- Submit three (3) preliminary construction plan sets with an updated engineer's opinion of probable cost to the City for their review and approval.
- Coordinate one (1) meeting with the City to discuss review comments and obtain substantial approval to continue developing the construction plan bid set.

Task 2 – Preliminary Drawings

OHM will perform the following preliminary engineering and planning for this project:

- Develop preliminary plan and profile sheets of the proposed water main design. Determine vertical design constructability conflicts.
- Provide one (1) preliminary plan set of proposed water main design to private utility representatives. Setup and facilitate one (1) utility coordination meeting to go over basis of design. Address vertical design conflicts.
- Prepare plans and specifications for the maintenance of traffic during construction, in accordance with MDOT, MMUTCD and City requirements.
- Prepare soil erosion control and miscellaneous project detail plan sheet for inclusion into plan set.
- Prepare preliminary engineer's opinion of probable construction cost.
- Perform internal QA/QC review of 70% design plans.

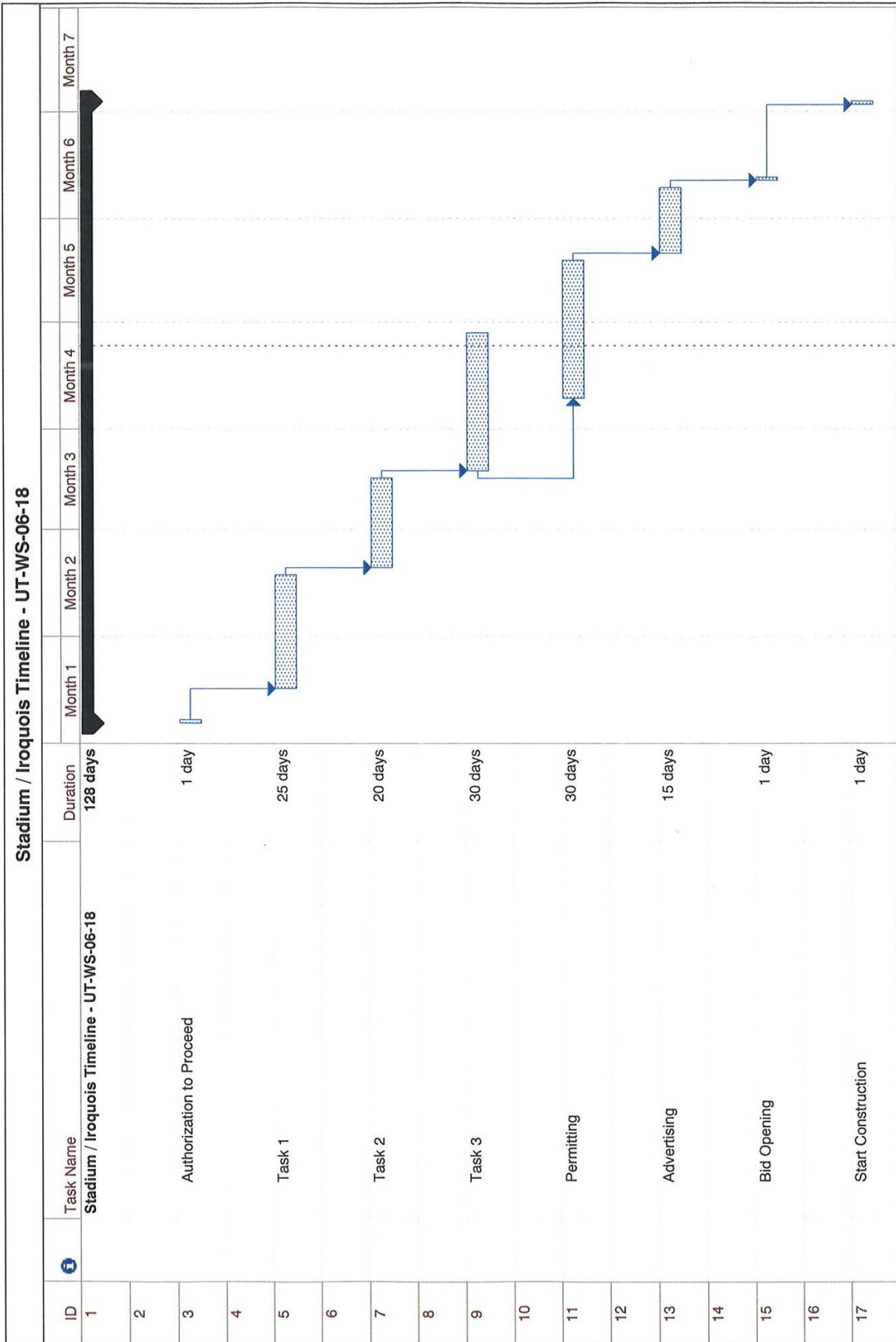
- Submit three (3) preliminary construction plan sets with an updated engineer's opinion of probable cost to the City for their review and approval.
- Coordinate one (1) meeting with the City to discuss their review comments and obtain substantial approval in order to move toward finalizing the construction plan set. Prepare minutes of the meeting and distribute them to the attendees.

Task 3 – Final Construction Drawings and Specifications

OHM will perform the following final engineering and planning details for this project as follows:

- Address City's review comments and action items coming out of the review meeting.
- Prepare a bid sheet detailing all items of work, associated quantities, and specifications to supplement the City's standard pay items as detailed in the City of Ann Arbor Public Services Department Standard Specification.
- Prepare a final engineer's opinion of probable construction cost.
- Revise and finalize schedule for proposed work including construction start, substantial completion, and final completion dates.
- Submit three (3) sets of detailed construction plans and specifications to the City for their review.
- Coordinate one (1) meeting with the City to discuss their review comments and obtain approval in order to finalize the bid package. Prepare minutes of the meeting and distribute them to the attendees.
- Make final revisions to the plans and specifications; these will include the bidding documents, with the City of Ann Arbor as the party responsible for the contract.
- Prepare the application for an Act 399 Michigan Department of Environmental Quality (MDEQ) construction permit for City to review and approve. Permit applications will be completed with the City of Ann Arbor as the responsible party and the City will be responsible for any fees associated with permit applications, reviews, and inspections by the permitting agencies.
- Address permitting agencies comments and obtain required permits.
- Prepare bid-quality contract documents using the City's forms and assist the City during the bidding process. This shall include:
 - Preparation of an advertisement to be provided to the City Purchasing Agent.
 - Production of three (3) sets of final bid documents for the City and twenty (20) sets for distribution to bidders.
 - Attend a bid opening to be held at City Hall.
 - Evaluate the submitted bids, which includes the following responsibilities:
 - Prepare and review a project bid tab. The bid tab shall include the total project bid and unit price breakdown for each bid submitted.
 - Check references for the three (3) lowest bidding contractors.
 - Provide a recommendation of award to the City.
 - If the City Council awards the contract, OHM will assist in executing the Contract books including the following:
 - Create a Notice of Award for the City to send to the awarded Contractor.
 - Coordinate the execution of two (2) copies of the contract book.
 - Supply one (1) executed copy of contract documents to the City

Stadium / Iroquois Timeline - UT-WS-06-18



Project: Stadium Iroquois schedule
Date: Tue 3/25/08

Task

Split

Progress

Milestone

Summary

Project Summary

External Tasks

External Milestone

Deadline

**EXHIBIT B
FEE SCHEDULE**

Harvard Drain (CIP Project Id: UT-ST-08-10)

| | Principal | Assoc | Grad Eng | | Tech III | Survey | Surveyor | | Clerical | Total Tasks (hrs) | Total Cost | Expenses | Grand Total |
|---|--------------|----------------|-----------------|----------------|----------------|--------------|----------------|----------------|--------------|-------------------|-----------------|----------------|-----------------|
| | \$145.00 | \$135.00 | \$85.00 | \$98.00 | \$87.00 | \$108.00 | \$80.00 | \$65.00 | \$38.00 | | | | |
| | Kramer | R. Craigmile | Droze | Kidd | Roberts | Lamus | Gardner | Pringle | Bailey | | | | |
| | Hours | Hours | Hours | Hours | Hours | Hours | Hours | Hours | Hours | Task Hours | Task Cost | | |
| Task 1 – Conceptual Plan Work and Investigation | 2 | 18 | 65 | 18 | 6 | 5 | 16 | 16 | 3 | 149 | \$13,505 | | \$13,505 |
| Review information and request franchised utility information | | 1 | 3 | | | | | | | 4 | \$390 | | \$390 |
| Obtain horizontal/vertical control and structure information (survey) | | | 2 | | | 2 | 8 | 8 | | 20 | \$1,546 | | \$1,546 |
| Obtain topographical information in area anticipated for improvements | | | 1 | | | 1 | 8 | 8 | | 18 | \$1,353 | | \$1,353 |
| Process topographical information and create base plans | | | 1 | 2 | 6 | 2 | | | | 11 | \$1,019 | | \$1,019 |
| Site visit to verify topo | | 2 | 2 | | | | | | | 4 | \$440 | | \$440 |
| Delineate drainage area and perform hydrologic analysis | | 1 | 12 | | | | | | | 13 | \$1,155 | | \$1,155 |
| Perform hydraulic analysis | | 8 | 16 | | | | | | | 24 | \$2,440 | | \$2,440 |
| Prepare conceptual sketches and meet w/contractor(s) | | | 16 | 16 | | | | | | 32 | \$2,928 | | \$2,928 |
| Meet with City and present alternatives | 2 | 4 | 4 | | | | | | 1 | 11 | \$1,208 | | \$1,208 |
| Prepare meeting minutes, final concept and cost estimate | | 2 | 8 | | | | | | 2 | 12 | \$1,026 | | \$1,026 |
| Task 2 – Preliminary Drawings | 0 | 7 | 40 | 0 | 16 | 0 | 0 | 0 | 1 | 64 | \$5,775 | \$0 | \$5,775 |
| Coordinate soil boring investigation | | | 2 | | | | | | | 2 | \$170 | | \$170 |
| Prepare plan, profile and details for improvements | | 1 | 16 | | 16 | | | | | 33 | \$2,887 | | \$2,887 |
| Contact private utilities | | | 2 | | | | | | 1 | 3 | \$208 | | \$208 |
| Prepare MOT plans | | | 8 | | | | | | | 8 | \$680 | | \$680 |
| Prepare SESC plans and misc. details | | | 4 | | | | | | | 4 | \$340 | | \$340 |
| QA/QC for 70 percent complete | | 1 | 2 | | | | | | | 3 | \$305 | | \$305 |
| Update cost estimate and submit plans to City | | 1 | 2 | | | | | | | 3 | \$305 | | \$305 |
| Meet w/City, present plans and obtain comments | | 4 | 4 | | | | | | | 8 | \$880 | | \$880 |
| Task 3– Final Construction Drawings and Specifications | 1 | 7.5 | 51 | 0 | 28 | 0 | 0 | 0 | 6 | 93.5 | \$8,157 | \$0 | \$8,157 |
| Revise plan based on City comments | | 1 | 8 | | 8 | | | | | 17 | \$1,511 | | \$1,511 |
| Prepare bid sheet/quantities | | 1 | 4 | | 4 | | | | | 9 | \$823 | | \$823 |
| Prepare contract documents | | | 16 | | 16 | | | | | 32 | \$2,752 | | \$2,752 |
| Finalize cost estimate | | 1 | 2 | | | | | | 1 | 4 | \$343 | | \$343 |
| Finalize construction schedule | | 0.5 | 2 | | | | | | 0.5 | 3 | \$257 | | \$257 |
| Submit final plans to City for review | | | 1 | | | | | | 0.5 | 1.5 | \$104 | | \$104 |
| Meet w/City, present final plans and obtain final comments | | 2 | 4 | | | | | | | 6 | \$610 | | \$610 |
| Attend bid opening | | | 2 | | | | | | | 2 | \$170 | | \$170 |
| Prepare bid tab, evaluate bids & provide a recommendation for award to the City | | 1 | 8 | | | | | | 2 | 11 | \$891 | | \$891 |
| Assist the City with compilation of Executed Contract Documents | 1 | 1 | 4 | | | | | | 2 | 8 | \$696 | | \$696 |
| SUBTOTAL | 3 | 32.5 | 156 | 18 | 50 | 5 | 16 | 16 | 10 | 306.5 | \$27,437 | \$0 | \$27,437 |
| TES Consultants, PC | | | | | | | | | | | | \$1,100 | \$1,100 |
| Survey | | | | | | | | | | | | | \$0 |
| CAD - Base Plans | | | | | | | | | | | | | \$0 |
| Printing Costs | | | | | | | | | | | | | \$0 |
| Hours | 3 | 32.5 | 156 | 18 | 50 | 5 | 16 | 16 | 10 | 306.5 | | | \$28,537 |
| Cost | \$435 | \$4,388 | \$13,260 | \$1,764 | \$4,350 | \$540 | \$1,280 | \$1,040 | \$380 | \$27,437 | \$27,437 | \$1,100 | \$28,537 |

**EXHIBIT B
FEE SCHEDULE**

Stadium/Iroquois Water Main Replacement (CIP Project Id: UT-WS-06-18)

| | Principal | Assoc | PE III | PEI | Grad Eng III | Grad Eng II | Tech III | Admin Support | Survey | Clerical | Total Tasks (hrs) | Total Cost | Expenses | Grand Total |
|---|--------------|----------------|----------------|-----------------|----------------|----------------|----------------|---------------|----------------|--------------|-------------------|-----------------|----------------|-----------------|
| | \$145.00 | \$135.00 | \$110.00 | \$95.00 | \$100.00 | \$90.00 | \$87.00 | \$48.00 | \$108.00 | \$38.00 | | | | |
| | Kramer | Craigmile | Gumper | TBD | Gumayagay | TBD | Roberts | Pringle | Lamus | Bailey | | | | |
| | Hours | Hours | Hours | Hours | Hours | Hours | Hours | Hours | Hours | Hours | Task Hours | Task Cost | | |
| Task 1 – Conceptual Plan Work and Investigation | 1 | 0 | 0 | 16 | 12 | 0 | 1 | 1 | 2 | 0 | 33 | \$3,216 | | \$3,216 |
| Preliminary Project Setup | 1 | | | 8 | 12 | | 1 | 1 | 2 | | 25 | \$2,456 | | \$2,456 |
| Existing Conditions/Field Work | | | | 8 | | | | | | | 8 | \$760 | | \$760 |
| Task 2 – Preliminary Drawings | 0 | 3 | 8 | 60 | 4 | 8 | 49 | 0 | 4 | 0 | 136 | \$12,800 | | \$12,800 |
| 30% plans | | | | 48 | 4 | 8 | 37 | | | | 97 | \$8,899 | | \$8,899 |
| 30% QA/QC & Revisions | | 3 | 8 | 12 | | | 12 | | 4 | | 39 | \$3,901 | | \$3,901 |
| Task 3– Final Construction Drawings and Specifications | 2 | 5 | 36 | 144 | 24 | 16 | 39 | 17 | 9 | 4 | 296 | \$27,778 | | \$27,778 |
| 70% Design Plans | | | | 34 | 4 | 8 | | | | | 46 | \$4,350 | | \$4,350 |
| Specifications | | | 4 | 8 | 4 | | | 8 | | | 24 | \$1,984 | | \$1,984 |
| 70% QA/QC & Revisions | | 3 | 8 | 12 | | | 25 | 4 | 4 | | 56 | \$5,224 | | \$5,224 |
| Permits: Preparation, Submittals & Meetings | | | | 16 | | | | | | | 16 | \$1,520 | | \$1,520 |
| 90% Design Plans | | | | 16 | | 8 | | | | | 24 | \$2,240 | | \$2,240 |
| 90% QA/QC & Revisions | | 2 | 8 | 8 | | | 12 | | 4 | | 34 | \$3,386 | | \$3,386 |
| Final Design | | | 8 | 16 | 8 | | 2 | 2 | 1 | 4 | 41 | \$3,730 | | \$3,730 |
| Misc Meetings | 2 | | 8 | 16 | 8 | | | | | | 34 | \$3,490 | | \$3,490 |
| Advertise for bid | | | | 4 | | | | | | | 4 | \$380 | | \$380 |
| PreBid meeting | | | | 4 | | | | | | | 4 | \$380 | | \$380 |
| Collection of bids, bid tab, recommendation of award | | | | 4 | | | | 2 | | | 6 | \$476 | | \$476 |
| Board meetings | | | | 4 | | | | | | | 4 | \$380 | | \$380 |
| Project Closeout | | | | 2 | | | | 1 | | | 3 | \$238 | | \$238 |
| SUBTOTAL | 3 | 8 | 44 | 220 | 40 | 24 | 89 | 18 | 15 | 4 | 465 | \$43,794 | | \$43,794 |
| TES Consultants, PC | | | | | | | | | | | | | \$1,670 | \$1,670 |
| Survey | | | | | | | | | | | | \$19,125 | | \$19,125 |
| CAD - Base Plans | | | | | | | | | | | | \$3,212 | | \$3,212 |
| Printing Costs | | | | | | | | | | | | | \$200 | \$200 |
| Hours | 3 | 8 | 44 | 220 | 40 | 24 | 89 | 18 | 15 | 4 | 465 | | | \$68,001 |
| Cost | \$435 | \$1,080 | \$4,840 | \$20,900 | \$4,000 | \$2,160 | \$7,743 | \$864 | \$1,620 | \$152 | \$43,794 | \$66,131 | \$1,870 | \$68,001 |

**EXHIBIT B
FEE SCHEDULE**

OHM 2008 RATE SCHEDULE

| | |
|---------------------------------|-----------|
| Principal | \$ 145.00 |
| Senior Associate | \$ 140.00 |
| Associate | \$ 135.00 |
| Manager | \$ 135.00 |
| Professional Engineer IV | \$ 131.00 |
| Professional Engineer III | \$ 110.00 |
| Professional Engineer II | \$ 104.00 |
| Professional Engineer I | \$ 95.00 |
| Graduate Engineer III | \$ 100.00 |
| Graduate Engineer II | \$ 90.00 |
| Graduate Engineer I | \$ 85.00 |
| Technician IV..... | \$ 98.00 |
| Technician III..... | \$ 87.00 |
| Technician II..... | \$ 74.00 |
| Technician I..... | \$ 60.00 |
| Engineering Aide..... | \$ 45.00 |
| Professional Surveyor..... | \$ 108.00 |
| Graduate Surveyor..... | \$ 85.00 |
| Surveyor III..... | \$ 84.00 |
| Surveyor II..... | \$ 80.00 |
| Surveyor I..... | \$ 65.00 |
| Surveyor Aide..... | \$ 45.00 |
| GIS Analyst III | \$ 120.00 |
| GIS Analyst II | \$ 100.00 |
| GIS Analyst I | \$ 85.00 |
| DB/AD Developer..... | \$ 155.00 |
| IT Technician III..... | \$ 150.00 |
| IT Technician II..... | \$ 125.00 |
| IT Technician I..... | \$ 85.00 |
| Administrative Support | \$ 48.00 |
| Clerical Aide..... | \$ 38.00 |

Rate Schedule Notes:

1. The rate schedule shown includes all overhead costs and is all inclusive for the services anticipated under this Agreement, such as mileage, computer usage, survey equipment, phone calls, miscellaneous copying, etc.
2. OHM's current overhead of 1.72 and profit of 15% are included in the hourly rates provided.
3. The rate schedule will be in effect for the life of the project.

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 non-personnel 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, co-partnership, 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

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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.

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- (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.

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