

**AGREEMENT BETWEEN
NORTHWEST CONSULTANTS, 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 St., Ann Arbor, Michigan 48104 ("City"), and Northwest Consultants, Inc. ("Consultant") an Ohio Corporation with its address at 3220 Central Park West, Toledo, Ohio 43617 agree as follows on this _____ day of _____, 2013.

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

I. DEFINITIONS

Administering Service Area/Unit means Pubic Services Area, Project Management Services Unit.

Contract Administrator means Nicholas Hutchinson, P.E., 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 Stone School Road Reconstruction Project; City File No. 2011-029.

II. DURATION

This Agreement shall become effective on _____, 20____, 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. 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 CONSULTANT

By _____
Jie Luo, P.E.
Vice-president

FOR THE CITY OF ANN ARBOR

By _____
John Hieftje, Mayor

By _____
Jacqueline Beaudry, City Clerk

Approved as to substance

Steven D. Powers, City Administrator

Craig A. Hupy, P.E.
Public Services Area Administrator

Approved as to Form and Content

Stephen K. Postema, City Attorney

EXHIBIT "A"
STONE SCHOOL ROAD RECONSTRUCTION PROJECT
MALLETT'S CREEK HYDRAULIC ANALYSIS, SCOUR EVALUATION, MDEQ
PERMITTING, AND CONSTRUCTION PLAN PREPARATION (PHASE B)
SCOPE OF SERVICES

GENERAL PROJECT REQUIREMENTS

The CONSULTANT (Northwest Consultants, Inc. (NCI)) shall provide Mallett's Creek Hydraulic Analysis, Scour Evaluation, MDEQ Permitting, Construction Plan Preparation and other services as detailed for the City of Ann Arbor designed Stone School Reconstruction Project. This work shall comprise Phase B of the total project work. It will follow Phase A and include the completion of *Task 1 – Base Plans* as well as the follow-on tasks of Preliminary Plans and Final Plans.

The CONSULTANT shall coordinate efforts with the CITY, Washtenaw County Water Resources Commission (WCWRC), and Michigan Department of Transportation (MDOT) to ensure a timely and cost-effective submittal of the project deliverables. The Consultant Project Manager shall provide oversight, review, and coordination of the CONSULTANT derived project deliverables with that of the CITY's so that a seamless product is provided.

The CONSULTANT shall attend progress meetings as needed to ensure that proper coordination of the work and that of the CITY's is taking place throughout the entire design process. CONSULTANT shall coordinate the efforts with any other needed agency(ies), various CITY service units, private utility companies, other formal and informal committees, and the public in general.

The CONSULTANT shall prepare complete, detailed, and accurate construction drawings and specifications in accordance with CITY/MDOT/WCWRC or other appropriate design standards. The format of the drawings shall be completely compatible with the CITY's drawing preparation standards and layout(s). It is understood that the CITY is currently using AutoCAD 2013 and it is expected that all drawings will be provided in a compatible format without the need to reconfigure drawings for plotting or other purposes. All project plans shall be prepared at a scale of 1"=20' (horizontal) and 1"=2' (vertical) or larger. Other scales may be used with prior approval by the CITY.

The CONSULTANT shall provide the needed design services for the installation of the proposed replacement culvert (either box or circular) under Old Stone School Road and the replacement of the culvert (either box or circular) under Stone School Road.

The CONSULTANT shall complete the Level I and/or II Scour Analysis and provide the design of scour counter-measures needed to armor the Stone School Road and the Old Stone School Road culverts. This work shall consist of finalizing the initial investigation efforts previously performed in Phase A.

The CONSULTANT shall provide the design for the cleaning, dredging, re-shaping, and stream bank stabilization associated with the drainage ditch between Stone School Road and Mallet's Creek, as well as, Mallet's Creek itself. This shall include, but not be limited to; establishment of the horizontal and vertical alignments and control points; cross-sections at 25' intervals along the affected length of the ditch and/or Mallet's Creek; establishment and delineation of grading limits and needed working areas on the project plans; earth work calculations detailing the anticipated cut/fill volumes; proposed re-grading, if any, around the top of slope areas to the established grading limits; and, any other information needed to detail all required work associated with this activity. This work shall consist of finalizing the initial investigation efforts previously performed in Phase A.

The CONSULTANT shall prepare complete soil erosion and sedimentation control drawings for the ditch and creek improvements. The CONSULTANT shall also prepare drawings for the restoration and stream bank stabilization of all ditch and creek improvements including the potential bio-swales along Stone School Road.

The CONSULTANT shall complete the hydraulic analyses and written report preparation needed to obtain a WCWRC Permit and the MDEQ Joint Permit for the design and construction of the storm water improvements. The CONSULTANT shall coordinate with these agencies and obtain any needed information from them that is required for the performance of their design activities. This work shall consist of finalizing the draft report and application efforts previously performed in Phase A.

The CONSULTANT shall perform the hydraulic analysis and preliminary layout design for the proposed stormwater system along Stone School Road within the proposed project limits including sizing and locating the storm sewer, above (or underground) detention facilities, and sizing potential stormwater quality structures. The CONSULTANT shall coordinate this work with the CITY. The CITY will produce the final design plans, specifications, and cost estimates for the Stone School Road stormwater system.

The CONSULTANT shall establish all needed pay items for the CONSULTANT designed proposed work. The CITY reserves the right of final determination regarding specific Items of Work and if Special Provisions will be required to the satisfactorily detail and describe the work.

The CONSULTANT shall prepare complete quantity take-offs and earthwork calculations of all items of work for which the CONSULTANT is responsible. This information shall be provided to the CITY in Excel spreadsheet format.

The CONSULTANT shall prepare written specifications meeting the requirements of the CITY, MDOT, and WCWRC for all CONSULTANT designed proposed work.

The CITY shall provide the topographical survey and initial utility solicitation. The CONSULTANT shall review the utility information and participate in coordinating with the CITY on potential utility conflict resolutions pertaining to the CONSULTANTS' work.

DESIGN REQUIREMENTS

All improvements shall be designed in accordance with the applicable AASHTO, City of Ann Arbor, MDOT, MDEQ, and any other relevant standards.

All drawings shall be prepared to City of Ann Arbor Public Services Area Drafting Standards or MDOT Standards as approved by the City of Ann Arbor. All drawings shall be prepared using AutoCad Civil 3D 2013, or newer, software. The CITY shall be provided with CD ROM disks of all drawings, specifications, and cost estimates.

In general, the CONSULTANT shall prepare to City of Ann Arbor Standards, plan and profile sheets, at a horizontal scale of 1"=20' and a vertical scale of 1"=2' for all work. This shall include, but not be limited to, Mallett's Creek re-alignment, ditch, and sewer plans. Other plans, such as culvert plans, cross-sections, details, etc. shall be drawn at scales as approved by the CITY in order to properly complete the work of the project.

MEETINGS

The CONSULTANT shall attend and document the following meetings through the course of the project:

- Four (4) Project Coordination Meetings with the City of Ann Arbor
- One (1) Coordination Meetings with the WCWRC
- One (1) Base Plan Review Meeting with the City of Ann Arbor
- One (1) Preliminary Plan Review Meeting with the City of Ann Arbor
- One (1) Preliminary Plan (GI) Review Meeting with the City of Ann Arbor and MDOT
- One (1) Final Plan Review Meeting with the City of Ann Arbor

HYDRAULIC ANALYSIS OF MALLETT'S CREEK AND STONE SCHOOL ROAD

Phase B shall consist of all work associated with following up on this item of work completed in Phase A. This includes all work under Task 2 & 3 (Preliminary and Final Plans).

The CONSULTANT will conduct interviews with the CITY, WCWRC, and local property owners to help identify areas of flooding, scour, and other issues with the Creek, the crossings, and the ditch.

The scour analysis will be performed as shown in HEC-18, HEC-20, and HEC-23. The hydraulic analysis will be performed to meet MDEQ, MDOT, and relevant HEC standards using HEC-RAS software.

The CONSULTANT will complete the drainage study for the waterways and crossings. This will include:

1. The known waterway crossings for Mallett's Creek including the crossings at:
 - a. Stone School Road
 - b. Old Stone School Road
2. Executive summary, highlighting the principal findings and recommendations of the Drainage Study.
3. Introduction
4. Background
5. Basis of Design/Standards
6. Evaluation of the Existing Drainage System, including existing discharge points, flow rates at major waterway crossings, discussion on the evidence of scour, undersized structures, and impacts that the proposed roadway improvements might have on the drainage system. As part of the evaluation, the CONSULTANT will review the identified drainage issues to determine possible determining factors such as ditch grades, creek alignments, and capacity for culverts.
7. Evaluation of the existing waterway crossings and ditches within the project limits. This is to provide a baseline of the existing conditions to compare with the proposed improvements.
8. Development and Evaluation of Drainage improvements. This includes the hydraulic analysis of all crossings including Hec-Ras modeling and scour analysis. The two Mallett's Creek crossings will also be analyzed (Stone School Road and Old Stone School Road). The analysis for the Old Stone School Road crossing will include:
 - a. One alternative keeping the existing circular culvert while replacing the three-sided culvert.
 - b. A second alternative replacing both (with sub-options of either twin structures or one single structure) while re-aligning Mallett's Creek.
 - c. A third alternative replacing the culvert under Stone School Road while re-aligning Mallett's Creek. Old Stone School Road will be re-aligned as a driveway north of the crossing so that the crossing can be eliminated and left open.
9. Recommendations for Implementation, including basis for recommendations.
10. Design calculations
11. Drainage maps (showing the proposed drainage improvements schematically including drainage area boundaries).
12. Preliminary cost estimate for drainage improvements.

The CONSULTANT will complete the review of the three possible improvements for the Mallett's Creek crossing previously begun in Phase A including:

1. Option 1: Retain the existing crossing of Stone School Road, replace the jack-arch culvert under Old Stone School Road (the circular culvert may or may not be replaced – both options will be reviewed).
2. Option 2: Re-align Mallett's Creek and replace the culvert crossings of both Stone School Road and Old Stone School Road.
3. Option 3: Re-align Mallett's Creek and replace the culvert crossing of Stone School Road. Old Stone School Road will be re-aligned as a driveway north of the crossing so that the crossing can be eliminated and left open.

The CONSULTANT will perform the hydraulic analysis for the Stone School Road storm sewer system including sizing and locating of the system. The CONSULTANT will prepare a preliminary design of the storm sewer system including layout of the system. The CITY will prepare the final design plans of the proposed storm sewer to be located within Stone School Road. As part of the hydraulic analysis for the Stone School Road storm sewer system, the CONSULTANT will size and locate the detention facilities (above or below ground) including possible stormwater treatment structures.

STRUCTURAL DESIGN

CONSULTANT shall prepare all structural design in accordance with current AASHTO and MDOT standards. The Load and Resistance Factor Design (LRFD) method using HL-93 Modified live load shall be utilized for all structural design. HL-93 Modified loading shall be as defined in the MDOT Bridge Design Manual.

GEOTECHNICAL INVESTIGATION

As part of the soil investigation, the CONSULTANT shall review the soils within certain portions the project limits for contamination that could require special handling during construction. This will include non-hazardous contaminated material that requires special disposal. The different locations for sampling include:

Old Stone School Road at the location of the Jack-arch and drainage ditch requiring cleaning:

- The total volume to be dredged within Mallett's Creek (near the Old Stone School Road and Stone School Road crossings) and the drainage ditch between Stone School Road and Mallett's Creek is approximately 250 cubic yards. According to the *Michigan Department of Environmental Quality (MDEQ) Sediment Testing for Dredging* document, a minimum of six samples are required for the first 10,000 cubic yards. Since the total volume to be dredged is expected to be significantly smaller than 10,000 cubic yards, six (6) sediment samples will be collected.
 - Four sediment samples will be collected in the drainage ditch between Stone School Road and Mallets Creek.
 - Two sediment samples will be collected in the vicinity of the culvert on Old Stone School Road (failed jack-arch culvert area).
- Sediment samples will be submitted for the following analyses:
 - 12 Metals (arsenic, barium, cadmium, chromium, copper, lead, manganese, mercury, nickel, selenium, silver, and zinc),
 - Polychlorinated biphenyls (PCBs), and
 - Polynuclear aromatic hydrocarbons (PNAs).
- The CONSULTANT will analyze samples for totals as an initial screening and a cost savings strategy. If the total concentration for a given parameter exceeds 20 times the Type B groundwater value or the Type A Default Background Criteria for metals, then the Toxicity Characteristic Leaching Procedure (TCLP) will be required. Samples will be over-collected to reduce the possibility of a second sampling event. Costs have not been included for additional TCLP sampling, should it be necessary.

Potential Realignment Area:

- The CONSULTANT will collect two (2) soil samples along the potential realignment portion of Mallett's Creek. A sample will be collected in the grassy area on either side of Stone School Road. The CONSULTANT will determine the depth based on potential realignment depth of the creek.
- Samples will be collected for the following:
 - Ten Michigan metals (arsenic, barium, cadmium, chromium, copper, lead, mercury, selenium, silver and zinc)
 - PNAs
 - Volatile organic compounds (VOCs)

Soil Sampling between Ellsworth Road and Interstate 94:

- The CONSULTANT will complete soil borings along the utility corridor to 5 feet bgs. Soil samples will be screened with a photoionization detector (PID). If the PID identifies volatiles or if visual or olfactory impacts are observed, soil samples will be biased; otherwise samples will be collected at random depths.
- The CONSULTANT will submit nine (9) soil samples for laboratory analysis of the Michigan metals. Data will be compared to Part 201 generic cleanup criteria. In the event concentrations are about applicable criteria, a statistical analysis can be completed on the metals by the CONSULTANT. A separate cost for completing this item by the CONSULTANT has been included.
- At least three of the nine samples will also be analyzed for PNAs and VOCs. If site observations indicate the presence of volatiles or semi-volatile compounds, the CONSULTANT will collect an additional three (3) samples for testing.

Additional Tasks:

- The CONSULTANT will complete a waste characterization and a profile for the sediment samples collected.
- The CONSULTANT will produce a letter report of the findings.

Assumptions:

- The CITY will stake in the field the location of the realigned Mallett's Creek based on coordinates provided by the CONSULTANT. The CONSULTANT will sample for the realigned Mallett's Creek along this staked alignment.
- Sediment sampling basis and sampling parameters are based on the MDEQ guidance documents.
- Nine (9) samples are required to complete a statistical analysis for metals analysis of soil. A total of nine samples are assumed along the utility corridor to complete statistical analysis if necessary. The cost estimate will include a separate item for completing the statistical analysis should it be required.
- Field work assumes two CONSULTANT staff level personnel on-site for one day for sediment sampling/realignment sampling and one day for soil sampling with a hand auger along the utility corridor.

- MISS-DIG and CITY utility personnel will be contacted by the CONSULTANT prior to field work to complete staking in the utility corridor along Stone School Road between I-94 and Ellsworth Road.

During field operations the CONSULTANT shall provide traffic control in accordance with the current edition of the Michigan Manual of Uniform Traffic Control Devices (MMUTCD) that will include signs, cones, a flashing arrow board and flagmen. In addition, the CONSULTANT shall conduct his field operations such that lane closures will be limited to the hours between 9:00 am and 3:30 pm. The CONSULTANT will submit all necessary paperwork to obtain any required permits. The fees associated with the right-of-way permits will be waived by the CITY.

Hazardous material drilling conditions are not anticipated to be encountered for this project. Should suspect environmental conditions be encountered during drilling, the CONSULTANT shall stop fieldwork and return to any potential contaminated soil or groundwater areas with the appropriate level of personal protection, decontamination equipment, field environmental professional, and photo-ionization detector (PID) instrumentation. Should conditions such as this be encountered, the CONSULTANT shall notify the CITY as soon as possible upon discovery of such conditions. The CONSULTANT shall perform environmental sampling and collect up to eight (8) samples to be tested in the laboratory for metal and volatile organic compounds (VOC's).

LANDSCAPE ARCHITECTURE

Phase B shall consist of all work associated with following up on this item of work completed in Phase A. This includes all work under Task 2 & 3 (Preliminary and Final Plans).

CONSULTANT shall provide CITY with Natural Features/Site Analysis Plan to communicate natural features quality information as it relates to the design steps.

CONSULTANT shall coordinate with CITY in development of hardscape and spillway strategies for bioswales as they relate to planting and hydrology; and hydrology strategies as they relate to grading, planting and hardscape. This will include reviewing and refining the vegetation concepts as they relate to the CITY designed hardscape and spillways. The CONSULTANT will provide vegetation concepts and plans for each submittal (Preliminary and Final).

CONSULTANT shall complete the Concept Vegetation Strategy plan for landscape restoration, bioswales and site stabilization zones. CONSULTANT will develop landscape plans, specifications, and cost estimates for the Preliminary Plan and Final Plan submissions.

CONSULTANT shall provide general cost opinion/quantity take-offs for use in determining overall project costs; Final Planting Plans with species, quantities and related details; final specifications in MDOT format related to planting; and bid list items as they relate to planting.

EXHIBIT "B"
FEE PROPOSAL
STONE SCHOOL ROAD RECONSTRUCTION PROJECT (PHASE B)
CITY OF ANN ARBOR
April 17, 2013

Northwest Consultants, Inc.
44978 Ford Road, Suite A
Canton, MI 48187
(734) 454-7566
(734) 454-7536 - Fax

<u>Personnel Category</u>	<u>Hourly Rate</u>
Project Manager	\$124.03
QA/QC Engineer	\$151.60
Project Engineer	\$96.47
Design Engineer	\$68.91

DERIVATION OF HOURLY RATES

Overhead Rate: 146.10%
Profit: 12%

NAME	TITLE	SALARY RATE	HOURLY RATE *
Andrew Kilpatrick, PE	Project Manager	\$45.00	\$124.03
Tong Luo, PE; Jonathan Drummond, PE	QA/QC Engineer	\$55.00	\$151.60
Paul Kammer, PE; Steve Reschke, PE; Gary Schmitt, PE	Project Engineer	\$35.00	\$96.47
Various, EI	Design Engineer	\$25.00	\$68.91

* Hourly Rate = Salary Rate x (1+Overhead Rate) x (1+Profit)

PHASE B TASK 1 - BASE PLANS	HOURS BY PERSONNEL CATEGORY				Total Hours	DIRECT COSTS	TOTAL COST
	Project Manager	QA/QC	Project Engineer	Design Engineer			
Kickoff Meeting	0	0	0	0	0	\$0	\$0
Initial Investigation and Research	0	0	0	0	0	\$0	\$0
Draft Hydrologic & Hydraulic Analysis	0	0	0	0	0	\$0	\$0
Stone School Stormwater Hydraulics & Preliminary Layout	24	0	32	24	80	\$0	\$7,718
Base Plans (Creek re-align, Ditch, Scour, and SESC)	12	0	24	32	68	\$0	\$6,009
Base Cost Estimate	4	0	4	0	8	\$0	\$882
QA Review	0	8	0	0	8	\$0	\$1,213
Base Plan Review Meeting	8	8	0	0	16	\$0	\$2,205
MDEQ Pre-Application Meeting (Assume 1)	0	0	0	0	0	\$0	\$0
WCWRC Coordination Meeting (Assume 1)	0	0	0	0	0	\$0	\$0
Local Property Owner Meeting (Assume 1)	0	0	0	0	0	\$0	\$0
Coordination Meetings (Assume 2)	0	0	0	0	0	\$0	\$0
Subtotal - Task 1 (Phase B)	48	16	60	56	180	\$0	\$18,026

PHASE B TASK 2 - PRELIMINARY PLANS	HOURS BY PERSONNEL CATEGORY				Total Hours	DIRECT COSTS	TOTAL COST
	Project Manager	QA/QC	Project Engineer	Design Engineer			
Final Hydrologic & Hydraulic Analysis	4	0	24	0	28	\$0	\$2,811
Stone School Stormwater Hydraulics & Preliminary Layout	16	0	16	16	48	\$0	\$4,631
Preliminary Plans (Creek re-align, Ditch, Scour, and SESC)	24	0	24	40	88	\$0	\$8,048
Prelim. Culvert Plans (Stone School & Old Stone School)	0	4	16	48	68	\$0	\$5,458
Preliminary Cost Estimate	4	0	4	0	8	\$0	\$882
Preliminary Special Provisions	4	2	12	0	18	\$0	\$1,957
QA Review	0	8	0	0	8	\$0	\$1,213
Preliminary Plan Meeting (City)	8	8	0	0	16	\$0	\$2,205
MDOT GI Meeting	8	8	0	0	16	\$0	\$2,205
WCWRC Coordination Meeting (Assume 1)	4	0	0	0	4	\$0	\$496
Coordination Meetings (Assume 2)	8	8	0	0	16	\$0	\$2,205
Subtotal - Task 2 (Phase B)	80	38	96	104	318	\$0	\$32,111

PHASE B TASK 3 - FINAL PLANS	HOURS BY PERSONNEL CATEGORY				Total Hours	DIRECT COSTS	TOTAL COST
	Project Manager	QA/QC	Project Engineer	Design Engineer			
Final Hydrologic & Hydraulic Analysis	8	0	8	0	16	\$0	\$1,764
Stone School Stormwater Hydraulics	8	0	8	0	16	\$0	\$1,764
Final Plans (Creek re-align, Ditch, Scour, and SESC)	8	0	24	24	56	\$0	\$4,961
Final Culvert Plans (Stone School & Old Stone School)	0	16	32	80	128	\$0	\$11,025
Final Pay Items/Quantities/Estimate	2	0	8	4	14	\$0	\$1,351
Final Special Provisions	4	2	12	0	18	\$0	\$2,067
QA Review	0	8	0	0	8	\$0	\$1,213
Final Review Meeting (City)	8	8	0	0	16	\$0	\$2,205
Coordination Meetings (Assume 2)	8	8	0	0	16	\$0	\$2,205
Subtotal - Task 3 (Phase B)	46	42	92	108	288	\$0	\$28,555

NORTHWEST CONSULTANTS PROJECT TOTALS (PHASE B)	174	96	248	268	786	\$0	\$78,693
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SUBCONSULTANT FEES (PHASE B)

Tetra Tech	(Geotechnical Investigation - contamination) - see attached documentation	\$10,962
InSite Design Studio	(Landscape Architecture) - see attached documentation	\$11,485

COMPLETE PROJECT TOTAL (PHASE B)	\$101,140
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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

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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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