

AGREEMENT BETWEEN THE CITY OF ANN ARBOR AND THE DOWNTOWN
DEVELOPMENT AUTHORITY OF THE CITY OF ANN ARBOR REGARDING
RESPONSIBILITIES AND COST ALLOCATION FOR
THE NORTH FIFTH AVENUE RECONSTRUCTION PROJECT

This Agreement (“Agreement”) is made and entered into this _____date of _____, 2018, by and between the City of Ann Arbor, a Michigan municipal corporation with its principal offices at 301 E. Huron Street, Ann Arbor, Michigan 48104 (“City”), and the Downtown Development Authority of the City of Ann Arbor, a public corporation organized and existing pursuant to the authority of Act 197, Public Acts of Michigan, 1975, MCL 125.1651 *et seq.* with its principal offices at 150 South Fifth Avenue, Suite 301, Ann Arbor, Michigan 48104 (“DDA”), for the purpose of fixing the rights and obligations of the parties relative to the construction of the North Fifth Avenue Reconstruction Project (the “Project”). Relevant details and the scope of the Project are set forth in Exhibit A.

Whereas, the City and the DDA have expressed interest in working cooperatively on the North Fifth Avenue Reconstruction Project;

Whereas, the City and the DDA have agreed that the City should award a contract to Fonson Company, Inc. hereinafter referred to as “Contractor,” to perform construction work for the Project;

Whereas, the DDA will be responsible for funding a portion of the Project as established in Exhibit B; and

Whereas, the City and the DDA have reached an understanding with each other regarding their respective responsibilities for the payment of the construction costs for the Project, and desire to enter into this Agreement to memorialize that understanding.

Therefore, in consideration of the premises and of the mutual undertakings of the parties and in conformity with applicable law, the City and the DDA agree:

1. The City and the DDA shall undertake and complete the construction phase of the Project in accordance with the terms of this Agreement. Exhibit A to this describes generally the scope of the construction phase of the Project. Exhibit B to this Agreement lists the work items for the construction phase, with the allocation of costs between the City and the DDA for each. As set forth in Exhibit B, the estimated total dollar amount for the work the Contractor will perform, plus testing and engineering oversight work related to the Contractor’s work, is \$4,417,376.39, of which the estimated total dollar amount of the DDA’s share is \$1,869,018.78. The cost estimate total does not include additional work items, shaded in gray on Exhibit B, and those items are not within the scope of work to be performed by the Contractor. The City and DDA agree to the cost allocation for each of those additional work items, and the City and DDA each agrees to pay the entity that performs those work items according to the allocation of shares in Exhibit B.

2. The City will enter into a contract with the Contractor for the Project. The City will administer the contract and related work necessary for the completion of the Project. In its contract with the Contractor, the City must require that the Contractor indemnify the DDA for any claims or lawsuits by third parties arising from the Contractor's work, and must require the Contractor to cover the DDA as additionally insured on its general liability policy.
3. The DDA is responsible for funding its identified share of each work item of the Project as defined in Exhibit B.
4. For payment of the Project costs, the City will contract directly with the Contractor, and finance the complete cost of the construction, including the DDA's share of the costs. The DDA will reimburse the City for the DDA's share of amounts paid by the City according to the allocation of costs for each cost category in Exhibit B.
5. As the City pays for construction services and incurs costs on the Project, the City will invoice the DDA at a frequency no more than monthly. The DDA shall reimburse the City for the DDA's share of incurred costs within 30 days of receipt of an invoice from the City.
6. Notwithstanding the DDA's funding of a share of the Project, the parties agree that responsibility for management of the Project, including all aspects of the contract with the Contractor, rests with the City.
7. The parties understand and agree that the dollar amounts in Exhibit B are estimates of Project costs and that the actual costs may differ. However, the percentages for cost allocation between the City and the DDA for each work item identified in Exhibit B are agreed to between the parties and cannot be changed except by Amendment to this Agreement. The DDA's obligation to fund its share of the Project includes the obligation to fund change orders authorized in writing prior to the work being performed for any work item of the Project that the DDA is funding in whole or in part, including the Community High School landscaping work item listed in Exhibit B without an estimated dollar amount. All change orders that relate to a work item whose cost is covered in whole or in part by the DDA must be approved by the DDA prior to the work being done. The DDA's approval shall not be unreasonably withheld, and the DDA shall respond promptly to requests for approval. The parties agree that any change order that affects one or more work items of the Project will be paid by the City and the DDA in proportion to the percentages identified in Exhibit B for the work item(s), including both increases and decreases in Project costs.
8. In the event a claim is brought against the DDA and/or the City by the Contractor, or a subcontractor, vendor or supplier for the construction phase of the North Fifth Avenue Reconstruction Project and arising out of the construction or related work on the Project, costs incurred by the City in defending or resolving such claims shall be considered Project costs and will be funded in the same manner and proportion as the work to which the claim pertains. Any change order that results from a claim shall be funded as provided in Paragraph 7.

CITY OF ANN ARBOR, a Michigan
municipal corporation

By: _____
Christopher Taylor, Mayor

By: _____
Jacqueline Beaudry, City Clerk

Approved as to substance:

Howard S. Lazarus, City Administrator

Craig Hupy, Public Services Area Administrator

Approved as to form:

Stephen K. Postema, City Attorney

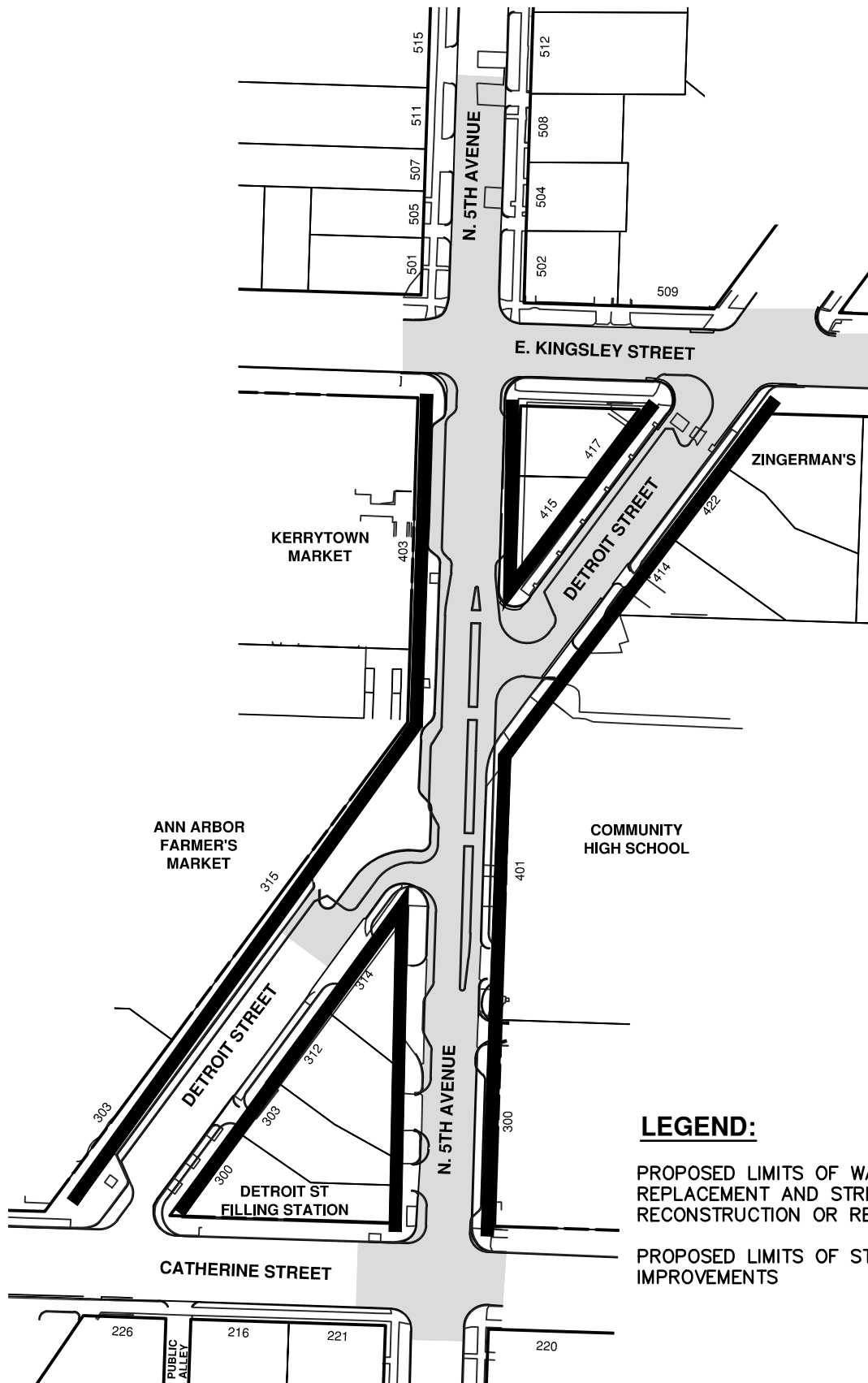
ANN ARBOR DOWNTOWN
DEVELOPMENT AUTHORITY, a public
corporation

By: _____
Susan Pollay, DDA Executive Director

By: _____
Phillip Weiss, DDA Board Chair

EXHIBIT A
Scope of the North Fifth Avenue Reconstruction Project

As detailed in the work items listed in Exhibit B, and as shown on the attached map dated January 11, 2018, the North Fifth Avenue Reconstruction Project will reconstruct North Fifth Avenue from Catherine Street to Kingsley Street, and Detroit Street from North Fifth Avenue to Kingsley Street, and will resurface Kingsley Street from North Fifth Avenue to Detroit Street. Work will include replacement of the bricks in North Fifth Avenue and Detroit Street, replacement of approximately 2,000 feet of 6" water main with 12" water main within the limits of the reconstruction, and in Kingsley Street between North Fifth Avenue and Detroit Street. Work also will include storm water infiltration and storm sewer replacement; sidewalk and ramp replacement; streetlight replacement; and extensive streetscape improvements on North Fifth Avenue and Detroit Street. Additional services associated with the Project include field inspection of all elements and operations related to construction; surveying services for field layout; and testing services for quality assurance of all construction items.



LEGEND:

PROPOSED LIMITS OF WATER MAIN
REPLACEMENT AND STREET
RECONSTRUCTION OR RESURFACING

PROPOSED LIMITS OF STREETScape
IMPROVEMENTS



**CITY OF ANN ARBOR
PUBLIC SERVICES**
301 EAST HURON STREET
P.O. BOX 8647
ANN ARBOR, MI 48107-8647
734-794-6410
www.a2gov.org

REV. NO.	DATE	DRAWN BY	CHECKED BY
NORTH FIFTH AVE RECONSTRUCTION			
DR. ARG	CH. JN	DRAWING NO.	
SCALE 1"=100'	DATE 1/11/2018	2015037	

EXHIBIT B
Estimated Costs and Cost Allocations

Attached as Exhibit B are the cost summary for the construction phase work items to be performed by the Contractor, the funding responsibilities of the DDA and the City for each of those work items, and the funding responsibilities of the DDA and the City for each of the other work items that are part of the North Fifth Avenue Reconstruction Project, including engineering and testing costs.

North Fifth Avenue Reconstruction Project

City of Ann Arbor/DDA

Work by others

Pay Item #	Pay Item Description	Unit	Quantity		City %	DDA %
SITE PREPARATION						
102	Audiovisual Tape Coverage	LS	1		50%	50%
101	General Conditions, Max \$	LS	1		50%	50%
104	Certified Payroll Compliance and Reporting	LS	1		50%	50%
120	Project Supervision, Max \$	LS	1		50%	50%
135	Tree Removal (8" and Larger)	Ea	25		0%	100%
207	Plaza Amenities, Rem and Salvage	LS	1		0%	100%
386	Sewer Structure Abandonment	Ea	10		100%	0%
385	Sewer Pipe Abandonment	Lft	730		100%	0%
230	Remove Concrete Curb or Curb & Gutter - Any Type	Lft	2,160		100%	0%
227	Remove Concrete Sidewalk and Driveways - Any Thickness	Syd	2,529		0%	100%
228	Road Pavement, Rem	Syd	4,347		100%	0%
229-1	Brick Pavers, Rem, Sort and Salvage, Roadway	Syd	2,168		100%	0%
229-2	Brick Pavers, Rem, Sort and Salvage, Sidewalk	Syd	343		0%	100%
140	Exploratory Excavation (0-10' deep)	Lft	400	*	100%	0%
522	Subgrade Undercutting, Type II	Cyd	200	*	100%	0%
205	Machine Grading, Modified,	Sta	27	*	60%	40%
204	Non-hazardous Contaminated Material Handling and Disposal	Cyd	550	*	100%	0%
702	Inlet Filter	Ea	40		50%	50%
703	Silt Fence	Lft	1,200		50%	50%
260	Sand Subbase Course, Class II - C.I.P.	Cyd	350	*	50%	50%
510	Cold Milling Bituminous Pavement	Syd	450		100%	0%
527	Aggregate Base Course - 21AA - C.I.P.	Syd	6,000	*	100%	0%
STORM DRAINAGE and SANITARY SEWER LEADS						
250	Drain Pipe, 6 Inch	Lft	60	*	0%	100%
251	Landscape Inlet	Ea	2	*	0%	100%
252	Sewer Bulkhead, 4-inch Through 18-inch diameter	Ea	4	*	100%	0%
392	Pipe Undercut & Refill	Cyd	70	*	100%	0%
320	RCP, 12 inch, CI E, Tr Det I	Lft	505	*	100%	0%
321	RCP, 15 inch, CI E, Tr Det I	Lft	240	*	100%	0%
322	12 inch Infiltration Pipe	Lft	145	*	100%	0%
305	SDR 35 PVC Pipe, 8 inch, Tr Det VII	Lft	18	*	100%	0%
566	Adjust Structure Cover	Ea	16		100%	0%
563	Structure Covers	lbs	1,600		100%	0%
215	Infiltration Inlet	Ea	4	*	100%	0%
367	Single Inlet, 4 ft. dia.	Ea	14	*	100%	0%
368	Single Inlet, 5 ft. dia.	Ea	1	*	100%	0%
369	Single Inlet, 6 ft. dia.	Ea	1	*	100%	0%
208	Geotextile	Syd	450		100%	0%
209	Geogrid	Syd	200		100%	0%
360	Type 1 Manholes	Ea	2	*	100%	0%
564	Reconstruct Structure	Ea	2		100%	0%
210	Stone Reservoir	Cyd	250	*	100%	0%
305	SDR 35 PVC Sanitary Service Pipe, (4-8 inch, Tr Det I)	Lft	160	*	100%	0%
516	6" Wrapped Edge Drain	Lft	2,100	*	100%	0%
PAVING						
220	HMA Base Course	Ton	530	*	100%	0%
221	HMA Leveling	Ton	360	*	100%	0%
222	HMA Wearing	Ton	315	*	100%	0%
223	Temporary Pavement/Pedestrian Access	Syd	1,200		50%	50%
224	Hand Patching	Ton	100	*	100%	0%
234	Concrete Curb & Gutter - Any Type	Lft	2,162	*	100%	0%
231	Concrete Curb, 6 inch Straight	Lft	795	*	100%	0%
233	Salvage and Reset Stone Curb	Lft	60	*	100%	0%
235	8 inch Concrete Ramp	Sft	2,716	*	100%	0%
236	6-Inch Concrete Sidewalk	Sft	20,224	*	0%	100%
237	8-Inch Concrete Drive Approach (TYPE L or M)	Sft	5,595	*	100%	0%
240	Detectable Warning Surface	Sft	322		100%	0%
242	Brick, Install Salvaged Brick	Sft	2,970		0%	100%

Pay Item #	Pay Item Description	Unit	Quantity		City %	DDA %
238-1	Concrete Pavement Base, 8 inch (under pavers)	Sft	14,851	*	100%	0%
238-2	Concrete Pavement Base, 6 inch (under sidewalk pavers)	Sft	3,200	*	0%	100%
239	Concrete Crosswalk, 12 inch	Sft	3,764	*	100%	0%
241-1	Brick Pavers, New	Sft	11,881		0%	100%
241-2	Brick Pavers, New (sidewalk)- BID ALTERNATE	Sft	3,200		0%	100%
SITE FURNISHINGS						
283	Bike Hoops, Surface Mount	Ea	6		0%	100%
245	Concrete Seat Wall	Lft	179	*	0%	100%
246	Concrete Unit Retaining Wall, Rem, Salvage, and Re-install	Lft	30	*	0%	100%
232	Concrete Planter Curb	Lft	409	*	0%	100%
282-1	Urban Table and Benches, Standard	Ea	6		0%	100%
282-2	Urban Table and Benches, ADA	Ea	3		0%	100%
281	Urban Bench	Ea	8		0%	100%
284	Reinstall Plaza Amenities	LS	1		0%	100%
285	Remove Parking Meter	Ea	25		0%	100%
286	Install Parking Meter	Ea	24		0%	100%
PAVEMENT MARKING and TRAFFIC CONTROL						
582	Temporary Pavement Marking (Type R)-In Place	Lft	500		100%	0%
920	Pavt Mrkg, Wet Retrflc Polyurea, 4 inch, White	Lft	1,000		100%	0%
921	Pavt Mrkg, Wet Retrflc Polyurea, 6 inch, White	Lft	810		100%	0%
922	Pavt Mrkg, Wet Retrflc Polyurea, 4 inch, Yellow	Lft	300		100%	0%
923	Pavt Mrkg, Wet Retrflc Thermopl, 12 inch, Crosswalk	Lft	1,850		100%	0%
924	Pavt Mrkg, Wet Retrflc Thermopl, 12 inch, Cross Hatching, White	Lft	40		100%	0%
925	Pavt Mrkg, Wet Retrflc Thermopl, 24 inch, Stop Bar	Lft	210		100%	0%
926	Pavt Mrkg, Wet Retrflc Thermopl, Symbol	Lft	5		100%	0%
927	Pavt Mtkg, Type R, 4 inch, Black	Lft	200		100%	0%
226	Recessing Pavt Mrkg, Transv	Sft	2,110		100%	0%
270	No Parking Sign	Ea	20		100%	0%
271	Sign, Portable Changeable Message	Ea	1		100%	0%
272	Channelizing Device, 42 Inch	Ea	80		100%	0%
273	Barricade Type III - Lighted	Ea	40		100%	0%
275	Temporary Sign - Type B	Ea	80		100%	0%
276	Temporary Sign - Type A	Ea	10		100%	0%
278	Lighted Arrow, Type C, Furnish & Operate	Ea	2		100%	0%
279	Temporary Pedestrian Type II Barricade	Ea	20		100%	0%
280	Temporary Pedestrian Type II Channelizer	Ea	1,200		100%	0%
203	Minor Traf Devices	LS	1		100%	0%
	Pedestrian Crossing Controls (BY CITY)	LS	1		100%	0%
	Regulatory Signs (BY CITY)	Ea	1		100%	0%
LANDSCAPE						
810	Acer Griseum	Ea	10		0%	100%
811	Amelanchier Canadensis 'Autumn Brilliance'	Ea	5		0%	100%
812	Cercis canadensis	Ea	3		0%	100%
813	Celtis Occidentalis	Ea	2		0%	100%
814	Quercus Macrocarpa	Ea	2		0%	100%
815	Syringa reticula 'Ivory Silk'	Ea	10		0%	100%
816	Ulmus Japonica 'Discovery'	Ea	14		0%	100%
817	Ulmus x. 'Prospector'	Ea	8		0%	100%
818	Arctostaphylos uva-ursi	Ea	61		0%	100%
819	Hemerocallis 'Stella d'Oro'	Ea	169		0%	100%
820	Iris siberica 'Baby Sister'	Ea	73		0%	100%
821	Liriope Muscari 'Variegata'	Ea	416		0%	100%
822	Narciuss x' Dutch Master'	Ea	455		0%	100%
823	Sesleria Autumnalis	Ea	304		0%	100%
824	Carex Vulpinoidea	Ea	49		0%	100%
825	Panicum Virgatum 'Shenandoah'	Ea	175		0%	100%
826	Pachysandra Terminalis	Ea	213		0%	100%
827	Calamagrostis X 'Karl Foerster'	Ea	6		0%	100%
261	Planting Soil	Cyd	150		0%	100%
262	Composite Planting Mix	Cyd	20		0%	100%
263	Riprap, Fieldstone	Cyd	2		0%	100%
266	Tree Grate, 3 ft. X 5 ft.	Ea	4		0%	100%
267	Tree Grate, 3 ft. X 10 ft.	Ea	32		0%	100%
	Community High Plaza	LS	1		0%	100%
264	Landscape Maintenance	Month	14		0%	100%

Pay Item #	Pay Item Description	Unit	Quantity	City %	DDA %
LIGHTING AND ELECTRICAL					
290	Street Light, Rem	Ea	28	0%	100%
	Light fixture, Rem (by DTE)	Ea	4	0%	100%
291	Special Trench Detail	Lft	215	0%	100%
287	2" Schedule 80 PVC Electrical Conduit	Lft	1,296	0%	100%
288	3" Schedule 80 PVC Electrical Conduit	Lft	6,631	31%	69%
289	4" Schedule 80 PVC Electrical Conduit	Lft	648	0%	100%
297	Handhole Assembly, 12 inch x 18 inch	Ea	46	0%	100%
298	Handhole Assembly, 17 inch x 30 inch	Ea	14	71%	29%
630-1	Street Light Foundation, Type 1	Ea	39	0%	100%
630-2	Street Light Foundation, Type 2	Ea	10	0%	100%
292	Luminaire Installation	Ea	51	0%	100%
293	Pole Installation	Ea	39	0%	100%
295	Special Plaza Lighting	LS	1	0%	100%
296.8	Electrical Wiring - 8 Gauge	Lft	4000	0%	100%
296.10	Electrical Wiring - 10 Gauge	Lft	4800	0%	100%
	Provide Street Pole (by DDA)	Ea	39	0%	100%
	Provide Luminaire (by DDA)	Ea	43	0%	100%
	New Street Light Panel and Control (By City)	LS	1	0%	100%
	Relocate Overhead Communications (BY OTHERS)	LS	1	0%	100%
	Relocate Existing Farmer's Market Electrical Panel (BY OTHERS)	LS	1	0%	100%
WATER MAIN					
567	Adjust Monument Box or Gate Valve Box	Ea	4	100%	0%
481	Water Main Pipe Abandonment	Lft	1,970	* 100%	0%
901	Class 50 DIP w/Polyethylene Wrap, 12 inch, Tr Det I	Lft	1,560	* 100%	0%
902	Class 50 DIP w/Polyethylene Wrap, 8 inch, Tr Det I	Lft	50	* 100%	0%
903	Class 50 DIP w/Polyethylene Wrap, 6 inch, Tr Det I	Lft	115	* 100%	0%
915	Excavate and Backfill Water Service Trench Tap and Lead	Lft	140	* 100%	0%
482	Gate Valve-in-Box, Remove or Abandon	Ea	3	* 100%	0%
483	Gate Valve-in-Well, Remove or Abandon	Ea	3	* 100%	0%
249	Hydrant Assembly Abandonment	Ea	3	100%	0%
255	Temporary 6 Inch Water Main Line Stop	Ea	2	* 100%	0%
256	Temporary 8 Inch Water Main Line Stop	Ea	2	* 100%	0%
257	Temporary 12 Inch Water Main Line Stop	Ea	2	* 100%	0%
904	Bends and Reducers, 12 inch	Ea	40	* 100%	0%
905	Bends and Reducers, 8 inch	Ea	10	* 100%	0%
906	Bends and Reducers, 6 inch	Ea	10	* 100%	0%
907	Tees & Crosses	Ea	13	* 100%	0%
910	Fire Hydrant Assembly	Ea	4	* 100%	0%
908	Gate Valve-in-Well, 12 inch	Ea	11	* 100%	0%
	Total Construction from Bid Tab			\$ 2,196,748.80	\$ 1,650,269.00
	Construction Engineering (12%)			\$ 265,409.86	\$ 198,032.28
	*Testing (5%)			\$ 86,198.95	\$ 20,717.50
	Total Estimated Project Cost			\$ 2,548,357.61	\$ 1,869,018.78