

DRAFT
CITY OF ROCHESTER
NEW YORK

Department of Environmental Services
Bureau of Engineering

DRAFT AGREEMENT FOR
PROFESSIONAL TESTING SERVICES
MATERIALS TESTING
&
EXPLORATORY DRILLING

MAY 1, 2009 THROUGH APRIL 30, 2010

AGREEMENT FOR PROFESSIONAL TESTING SERVICES

PROJECT NAME: MATERIALS TESTING AND EXPLORATORY DRILLING

TESTING FIRM NAME:

AGREEMENT #:

AUTHORIZING ORDINANCE:

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AGREEMENT

THIS AGREEMENT, entered into on the ____ day of _____, 2009 by and between the CITY OF ROCHESTER, a municipal Corporation having its principal office located at CITY HALL, 30 Church Street, Rochester, New York 14614 hereinafter referred to as the "City", and, with offices at _____ hereinafter referred to as the "Testing Firm".

WITNESSETH:

WHEREAS, the City, through the Department of Environmental Services desires to engage the Testing Firm for the purposes of providing sampling and testing of materials services required in connection with various City construction projects, and other City projects, and

WHEREAS, the Testing Firm covenants that it has the personnel, skills and expertise required and wishes to be so engaged,

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

ART. I, PART 1. DESCRIPTION OF PROJECT

General Description

The Testing Firm will provide materials testing services for the City for City projects at locations within the City of Rochester; and at certain projects and material sources outside the City limits, normally located within Monroe County, as requested by the City.

ART. I, PART 2. DESCRIPTION OF SERVICES

Section 1.201 General

The Testing Firm will perform materials testing as described below. Tests are to be performed according to Article I, Part 7., Proposal and Specifications.

Section 1.202 Extent and Periods

Sampling of materials shall be at any location within the City of Rochester, and at certain project and materials sources sites outside the City limits, as requested, e.g., stone quarries, gravel pits and asphalt concrete suppliers normally located within Monroe County.

Sampling shall be done between 7:00 A.M. and 4:30 P.M. at the regular rate Monday through Friday except the following legal holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. Sampling and testing

beyond the above limits if required by the City will be considered overtime and payment will include the overtime charge. If testing after hours is required by the City, an overtime premium charge will be paid separately from the testing procedures. Sampling shall include delivery of sample material to the destination at which testing is to be undertaken. In all cases, time starts upon arrival at the job site.

Testing shall be performed at the Testing Firm's facilities, at the plant or on the job site as required by the nature of the material to be tested.

Special Sample Pickup Charges. A special sample pickup charge will be paid the Testing Firm for picking up material outside the County of Monroe. The payment for this special pickup shall include the sampling and delivery of the material to the destination at which testing is to be undertaken.

It is understood and agreed that all quantities required by the City are to be furnished at the unit prices detailed in Section 1.7, Proposal and Specifications. The Testing Firm hereby waives any claim for damages of any nature whatsoever occasioned by the City requirements of the needed quantities in any category of testing or sampling, including cancellation of scheduled work by the City or its agents after the Testing Firm arrives on the job site.

Section 1.203 Facilities and Equipment

A. Testing Equipment

The Testing Firm must have the proper equipment, maintained in good working condition and calibration, to perform the tests as specified herein. Field communications equipment is to be supplied by the Testing Firm and used by the Testing Firm to expedite work operations as needed.

B. Facilities

The Testing Firm is to have ample facilities and supplies for performing the required tests, including at least two (2) vehicles of adequate type and condition available at all times during regular working hours to insure prompt sampling.

C. Inspection

The City Engineer or his authorized representative may inspect and report on the Testing Firm's facilities, equipment, personnel, and methods at any time during the term of this agreement. The Testing Firm shall provide free access to its facilities to the City Engineer or his authorized representative at any time requested.

Section 1.204 Notice and Response Time, Progress of Work, Reports

A. Notice and Response Time

1. General

The City will make requests for sampling and testing by 4:00 P.M. on the day preceding the testing. Cancellations of a request for testing shall be made at least one hour before the requested testing time.

2. Items T-701 through T-706.

The City will request testing items including a testing cost estimate according to the proposal and provide the Testing Firm a written Notice to Proceed. Sampling shall be made within eight (8) working days after receipt of the Notice to Proceed.

B. Progress

Sampling shall be made within 1/2 hour of the requested time for materials that have "setting" or "hardening" qualities and within the work day for other materials. If the requested test is not taken within the time limit, a charge equal to the cancellation charge of the Testing Firm shall be levied against the firm. Testing shall commence immediately upon sampling or receipt of the material to be tested and be carried on continuously in order that the results are available in the shortest time allowed by the specified methods.

C. Reports

1. General

Four copies of each separate material test, signed by the laboratory director, shall be distributed as requested by the City at the firm's expense within 24 hours of completion of the required tests. Partial test or progress reports shall be made at any time requested by the City. Reports shall include: report number, project name, date, time and location of sampling or receipt, time of completion of preliminary testing, name of person(s) involved in each phase, designation of method used, and all information required by the City specification and applicable method or specification.

2. Items T-701 through T-706

Four copies of each project testing report (including coring/boring location map and subsurface logs), signed by a professional engineer of the Firm, shall be distributed at the firm's expense within 15 working days after receipt of the Notice to Proceed. If the requested reports are not received within the time limit, a charge equal to the cancellation charge shall be levied against the firm and deducted from the City's payment for the test(s), unless a written request for extension is received and approved by the City.

Section 1.205 Engagement of Other Testing Firms to Perform Tests Required

The City retains the right to obtain these sampling and testing services as it deems necessary from other sources and the exercise of this right shall not be deemed a breach of this Agreement. This Agreement will not guarantee that the Testing Firm will be asked to undertake any or all of the City's requirements for each of the tests indicated on the Proposal.

In case the Testing Firm does not or cannot, when ordered by the City's Authorized Agent, deliver testing services complying with these specifications for any test for which the firm has submitted a price quotation, in the manner required in this agreement and at the time and

place as directed, the City may arrange for testing services with another testing firm. The Testing Firm will be responsible for any extra cost involved in the use of the other testing firm.

ART I., PART 3. CITY RESPONSIBILITIES

The City shall:

- A. Provide as complete information as is reasonably possible as to its requirements for the Project to the Testing Firm.
- B. Designate a representative (Authorized Agent, Article I, Part 6) to act as liaison between the City and the Testing Firm. The Authorized Agent will have the authority and responsibility to authorize tests, transmit instructions and to receive information with respect to the City policies and pertinent to the work covered by this Agreement, except as otherwise limited by Code or Charter of the City.
- C. Give written notice to the Testing Firm where the City observes or otherwise becomes aware of any default in the Testing Firm's performance hereunder.

ART. I, PART 4. FEE

Section 1.401General

The Testing Firm shall submit duly executed vouchers upon forms which shall be supplied by the City in order to receive payment. (See Section 1.404).

Section 1.402Fee for Basic Services

The Testing Firm shall perform the work described in the proposal and specifications only as directed by the City's Authorized Agent or his authorized representatives.

The unit price per item shall include the cost of furnishing all labor, materials and equipment necessary to satisfactorily complete the work, including travel, set-up time, and parking fees unless otherwise specified by the City in this proposal. Travel expense to sites outside of Monroe County, such as the City reservoirs at Hemlock and Canadice Lake, may be charged with the approval of the City.

The cost for maintenance and protection of pedestrian and vehicular traffic shall be included in the unit prices given for each Proposal item for all work on City Residential and Collector streets. Payment for maintenance and protection of pedestrian and vehicular traffic costs on City Arterial streets as listed in Appendix C or Expressways shall be negotiated with the City on a case by case basis. Additional payment will be for only direct costs associated with the work.

The City agrees to pay and the Testing Firm agrees to accept as full payment for the services performed, at the prices listed in Article I, Part 7, "Proposal and Specifications."

Section 1.403 Fee for Additional Services

Any testing or services required which are outside the scope of this contract will be negotiated but shall not proceed without prior approval of the City's Authorized Agent.

Section 1.404 Invoices and Payment

Separate invoices for each job for which services were rendered may be submitted for payment periodically, but not more than once a month. Invoices less than \$100 shall be submitted quarterly or at the end of the project period. Invoices for payment shall be in a form approved by the City and shall include details of all work performed for the billing period (project name and location, date of service, test number, payment units and prices, etc.) and be accompanied by a signed City claim voucher. Payment will be made within approximately 30 days after receipt of the approved invoice.

ART. I, PART 5. TERM

This Agreement shall commence on or after May 1, 2009, and shall run through April 30, 2010.

Effective May 1, 2010, the Agreement may be extended for a period of one (1) year. During this year all prices may be adjusted based on the Consumer Price Index change from January 2009 to January 2010.

ART. I, PART 6. AUTHORIZED AGENT

A. The City hereby designates:

Jim McIntosh, P.E.
City Engineer
City Hall, Room 300B
30 Church Street
Rochester, New York 14614
(585) 428-6828

B. The Testing Firm hereby designates:

Name

or their authorized representative in case of absence, as Authorized Agents of the City and of the Testing Firm for the receipt of all notices, demands, vouchers, orders, permissions, directions, and other communications pursuant to this Agreement, if dispatched by registered or certified mail, postage prepaid, or delivered personally to the Authorized Agents designated herein. The City's agent or his authorized representative is authorized to request on purchase order such additional services as the Agent deems necessary.

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

ART. I., Part 7 Proposal and Specifications

A. Specifications

Tests included in the following proposal are to be accomplished according to the specifications detailed in the latest edition of the American Society of Testing and Materials (ASTM), American Association of State, Highway, and Transportation Officials (AASHTO), American Concrete Institute (ACI), and American Welding Society (AWS) manuals, unless otherwise specified in the proposal or in writing by the City's Authorized Agent, and applicable New York State and Federal regulations.

Article I, Part 7

B. Proposal

Listing of Tests and Prices

SOIL TESTING PROPOSAL**Page 1 of 2**

<u>Item No.</u>	<u>Description</u>	<u>Units of Measure of Payment</u>	<u>Unit Price(\$)</u>
T-201	Testing of R.O.B. Gravel, crushed stone, sand, or other fill material from pit or Job Site for Approval – Complete Sieve Analysis	Each Sample	\$_____
T-201.1	Sampling and Pickup Charge for site within Monroe County	Each Trip	\$_____
T-201.2	Sampling and Pickup Charge for site Outside Monroe County	Each Hour	\$_____
T-202	Testing by standard proctor of cohesive Soils for Moisture-Density Relations using 5.5 lb. hammer and 12 in. Drop (D698)	Each Sample	\$_____
T-202.1	Sampling and pickup charge for T-202	Each Trip	\$_____
T-203	Testing by modified proctor of cohesive soils for Moisture-Density Relations using 10 lb. hammer and 18 in. Drop (D1557)	Each Sample	\$_____
T-203.1	Sampling and pickup charge for T-203	Each Trip	\$_____
T-204	Percolation Test by Monroe County Method	Each Test	\$_____
T-205.1	Permeability of Granular Soils A.S.T.M. (D2434)	Each Test	\$_____
T-205.2	Falling-head <u>in-situ</u> Permeability Test	Each Test	\$_____
T-205.3	Permeability of cohesive soils – Triaxial method	Each Test	\$_____
T-206	Soil Density by Sand Cone, Site Visit (D1556)	Each Hour	\$_____
T-206.1	Density by Nuclear Gauge	Each Hour	\$_____
T-207	Testing Topsoil Including Analysis (C136), Organic and pH (AOAC Methods)	Each Sample	\$_____
T-207.1	Sampling and pickup charge for T-207	Each Trip	\$_____

SOIL TESTING PROPOSAL**Page 2 of 2**

<u>Item No.</u>	<u>Description</u>	<u>Units of Measure of Payment</u>	<u>Unit Price(\$)</u>
T-208	Testing for bearing ratio (CBR) of laboratory-Compacted Soils (D1883)	Each Sample	\$_____
T-208.1	Sampling and pickup charge for T-208	Each Trip	\$_____
T-208.2	Field In-Place Testing for Item T-208 for Correlation with Design Moisture for Subbase and Base Course Materials	Each Test	\$_____
T209.1	Testing of Unconfined Compressive Strength of Cohesive Soil (D2166)	Each Sample	\$_____
T-210	Rock Salt Including: Sampling Sieve Analysis (C136) Chemical Composition by International Salt Co. Method	Each Sample	\$_____
T-210.1	Modified Rock Salt Analysis of Item T-210	Each Sample	\$_____
T-211	Charge for scheduled work which is Cancelled after Testing Firm arrives on job site	Each Trip	\$_____
T-212	Soil cement stabilization – Mix design	Each Set	\$_____
T-213	Maximum index density relationship (ASTM D4254)	Each Sample	\$_____
T-214	Charge for additional travel expense for Testing sites at Hemlock Lake, per vehicle	Each Trip	\$_____
T-215	10 Point DIPRA Test (A674) Testing Soil for Corrosiveness to cast iron and ductile iron Pipe measuring Resistivity, pH, Redox, Sulfides And moisture content	Each Sample	\$_____
T-215.1	Resistivity (A674) Testing soil for corrosiveness to cast iron and ductile iron pipe measuring resistivity in ohm – cm.	Each Sample	\$_____

ASPHALT TESTING PROPOSAL**Page 1 of 2**

<u>Item No.</u>	<u>Description</u>	<u>Units of Measure of Payment</u>	<u>Unit Price(\$)</u>
T-401	Sampling Asphaltic Mixtures at Plant or Pavement (D979)	Each Sample	\$_____
T-401.1	Additional Samples of Item T-401 Ordered at the same time and place	Each Sample	\$_____
T-402	Sampling Asphaltic Mixture from Finished Pavement, Min. 5 Samples per set (D979), Includes restoration of pavement	Each Set	\$_____
T-402.1	Additional Single Samples of Item T-402	Each Sample	\$_____
T-403	Extraction of Bitumen (D2172) and Grading of Aggregate (C136)	Each Sample	\$_____
T-404	Density of Asphaltic Mixtures (D1188)	Each Sample	\$_____
T-405	Water in Asphaltic Mixtures (D95)	Each Sample	\$_____
T-406	4" Diam. core from finished pavement to determine the thickness of each layer of pavement down to the subbase up to <u>12</u> inches depth. Includes restoration of pavement and digital photo files of each core. Min. of 5 Cores.	Each Core	\$_____
	Additional depth:	Per Inch	\$_____
T-406.1	4" Diam. core from finished pavement to determine the thickness of each layer of pavement down to the subbase up to <u>12</u> inches depth. Includes restoration of pavement and digital photo files of each core. Individual cores may be taken at various and multiple locations within the City limits. Min. of 20 Cores.	Each Core	\$_____
	Additional depth:	Per Inch	\$_____
T-407	Los Angeles Abrasion Test for Small Size Course Aggregate (C131)	Each Sample	\$_____
T-408	5 Cycle Sodium Sulfate Soundress (C88)	Each Sample	\$_____

ASPHALT TESTING PROPOSAL**Page 2 of 2**

<u>Item No.</u>	<u>Description</u>	<u>Units of Measure of Payment</u>	<u>Unit Price(\$)</u>
T-409	Cut Back Asphalt (AASHTO M81-70) Sampling (AASHTO T40) Water (AASHTO T55) Flash Point (AASHTO T79) Kinematic Viscosity (AASHTO T201) Distillation (AASHTO T78) Penetration (AASHTO T49) Ductility (AASHTO T51) Solubility (AASHTO T44) Spot Test (AASHTO T102) Total of above per sample	All Tests For	\$_____
T-410	Marshall Method Asphalt Mix Design (D1559)	Each Design	\$_____
T-411	Asphalt Plant Inspection, per man per hour – Overtime beyond regular working hours will Be paid at 33-1/3% premium of the unit price	Each Hour	\$_____
T-412	Charge for scheduled work which is cancelled After Testing Firm arrives on job site	Each Trip	\$_____
T-413	Testing by Nuclear Density Gauge	Per ½ Day Per Day	\$_____ \$_____
T-414	Charge for additional travel expense for testing sites at Hemlock Lake, per vehicle	Each Trip	\$_____

CONCRETE AND MASONRY TESTING PROPOSAL**Page 1 of 4**

<u>Item No.</u>	<u>Description</u>	<u>Units of Measure of Payment</u>	<u>Unit Price(\$)</u>
T-501	Field Concrete Inspection by ACI-certified Technician Including: Sampling (C172) Slump Test (C143) Air Content (C173) Wet Unit Wt.*(C567) Fabrication of Flexural Beams* Cured Unit Wt. Cylinders *(C567) Splitting Tensile Strength Cylinders *(C496) Comprehensive Strength Cylinders (C31 or C192)	Each Hour	\$_____
	*For lightweight concrete only		
	Overtime beyond regular working hours will be paid at a 33-1/3% premium of unit price.	Each Hour	\$_____
T-501.1	Pick-up of Concrete Cylinders from Site to Laboratory (C31), if Testing Firm needs to make special trip. Unit price includes trip to one or two adjacent locations.	Each Trip	\$_____
T-501.2	Compressive Strength of Concrete Cylinder-includes Capping, Curing, Cylinder Molds (C31 and C39). Scheduled Breaks (unless directed otherwise): 1 7-day, 3 28-day, 1 56-day. If the First 2 of the 3 28-day breaks are low, Hold the third 28-day break for an additional 56-day break.	Each Cylinder	\$_____
T-501.3	Discarding Cylinders taken during T-501 and not tested for Compressive Strength T-501.2	Each Cylinder	\$_____
T-501.4	Splitting Tensile Strength of Lightweight Concrete Cylinders Including Curing (C496), 3 Cylinders @ 28 days	Each Cylinder	\$_____

CONCRETE AND MASONRY TESTING PROPOSAL**Page 2 of 4**

<u>Item No.</u>	<u>Description</u>	<u>Units of Measure of Payment</u>	<u>Unit Price(\$)</u>
T-501.5	Loss on ignition testing of concrete Admixtures to determine percent liquids/ Solids for non-polymeric base admixtures Tested at 950 degrees F.	Per Sample	\$_____
T-502	Confirmation Mix (design by others) Including: Unit Weights Air Content Slump Compressive Strength on 6 Cylinders (C192, C617, C39, C173, C143)	Each Mix	\$_____
T-503	Obtaining and Testing 4" Diameter Conc. Cores on horizontal surface, 4 Cores per Set, 6" to 10" thick (C42) Standard Core Depth _____ (See NOTE at End of Section)	Each Set	\$_____
T-503.1	Additional Cores 6" to 10" Thick (C42) for Item T-503	Each Set	\$_____
T-503.2	Add to Item T-503 or T-503.1 for Each Additional Inch over 10" Thick	Each Inch Per Core	\$_____
T-503.3	Perform Chloride Impermeability Test on 4" Cores (AASHTO T277)	Per Core	\$_____
T-503.4	Technician to sample powdered concrete Samples from <u>in situ</u> concrete or from drilled Concrete cores for chloride content analysis, Including equipment and sample containers.	Per Hour	\$_____
T-503.5	Perform water soluble chlorides testing of Powdered samples of hardened ready mix Concrete, including preparation, by Potentiometric titration with silver nitrate.	Per Sample	\$_____
T-503.6	Charge for additional set-up for horizontal Or vertical coring of columns, walls, or Overhead structures.	Each Set	\$_____

CONCRETE AND MASONRY TESTING PROPOSAL

Page 3 of 4

<u>Item No.</u>	<u>Description</u>	<u>Units of Measure of Payment</u>	<u>Unit Price(S)</u>
T-504	Obtaining and Testing 6" Diameter Conc. Cores on horizontal surface, 4 Cores per Set, 6' to 10" thick (C42)	Each Set	\$_____
	Standard Core Depth _____ (See NOTE at End of Section)		
T-504.1	Additional Cores 6" to 10" Thick (C42) For Item T-504	Each	\$_____
T-504.2	Add to Item T-504 or T-504.1 for each Additional Inch over 10" Thick	Each Inch Per Core	\$_____
T-504.3	Charge for additional set-up for Horizontal or vertical coring of columns, Walls, or overhead structures	Each Set	\$_____
T-505	Sampling Portland Cement (C183)	Each Sample	\$_____
T-505.1	Testing Chemical and Physical Properties of Portland Cement (C109, C114, C115, C151, C185, C191, C266)	Each Sample	\$_____
T-506	Batch Plant Concrete Inspection by ACI-Certified technician, Including: Recording/verification of batched quantities Mechanical Sieve Analysis Aggregate Moisture Testing in accordance With NYSDOT Materials Method 9.1	Per Hour	\$_____
	Overtime beyond regular working hours will be paid at 33-1/3% premium of unit price.		
T-507	Sampling and Testing Concrete Masonry Per Set of 10, Including: Measurement of Dimensions Compressive Strength Moisture of Content Absorption Concrete Unit Weight Individual Weight (C140)	Each Set	\$_____

CONCRETE AND MASONRY TESTING PROPOSAL**Page 4 of 4**

<u>Item No.</u>	<u>Description</u>	<u>Units of Measure of Payment</u>	<u>Unit Price(\$)</u>
T-508	Sampling and Testing Building Brick Per Set of 10, Including: Measurement of Dimensions Compressive Strength Absorption (5 hr. boiling) Saturation Coefficient Initial Rate of Absorption (C97)	Each Set	\$_____
T-509	Special Sample Pickup Charge	Each Hour	\$_____
T-510	Grout specimen compression test (4"x4"x8")	Each Specimen	\$_____
T-511	Mortar cube compression test (2"x2"x2")	Each Specimen	\$_____
T-512	Air void content – microscopic (ASTM C-457)	Each Test	\$_____
T-513	Charge for scheduled work but cancelled after testing firm arrives on job site	Each Trip	\$_____
T-514	Concrete Performance record, Computerized analysis for 7 day and 28 day mixes, including initial set-up of program To meet specific project needs.	Each Time	\$_____
T-514.1	Reports on a weekly, bi-weekly or monthly basis as required per project	Each Report	\$_____
T-515	Charge for additional travel expense for testing sites at Hemlock Lake, per vehicle	Each Trip	\$_____

NOTE: Please note that the core depths specified for tests series 503 and 504 are 6" to 10" deep. If your standard bits are of more than 10" depth, please quote for your standard depth, and indicate it on the test description. If your typical depth is 12", for example, provide quotations based on cores of 6"-12" thickness with additional inches based on depth greater than 12".

STRUCTURAL STEEL MATERIALS TESTING PROPOSAL
Page 1 of 2

<u>Item No.</u>	<u>Description</u>	<u>Units of Measure of Payment</u>	<u>Unit Price(\$)</u>
T-550	Structural Steel, Including Tensile Strength (Stress –Strain Curve Required), Bend Tests and Measurements (A370), Complete Set of 2	Each Set Additional Set	\$ _____ \$ _____
T-550.1	Structural Steel (Shop preparation of Sample). Complete set of 2	Each Set Additional Set	\$ _____ \$ _____
T-551	Reinforcing Steel, Up to and Including: #8 Size Bars Tensile Strength (Stress-Strain Curve Required) Bend Tests and Measurements (A615) Complete Set of 2	Each Set Additional Set	\$ _____ \$ _____
T-551.1	Reinforcing Steel, #9 Size Bars and Over, Tensile Strength (Stress-Strain Curve Required), Bend Tests and Measurements (A615), Complete Set of 2	Each Set Additional Set	\$ _____ \$ _____
T-551.2	Reinforcing Steel location and/or depth-of-cover with R-meter.	Per Hour	\$ _____
T-552	Structural Steel – Visual and Torque Inspection of Bolted Connections	Initial Hour	\$ _____
T-552.1	Each additional hour of Item T-552	Each Hour	\$ _____
T-553	Structural Steel – Visual Inspection of Welds by AWS Methods and Standards By AWS-certified welding inspector	Initial Hour	\$ _____
T-553.1	Each additional hour of Item T-553	Each Hour	\$ _____
T-554	Butt Welds for Structural Steel Testing, Radiographic Testing for Entire Length, By AWS Method	Initial Hour	\$ _____

STRUCTURAL STEEL MATERIALS TESTING PROPOSAL**Page 2 of 2**

<u>Item No.</u>	<u>Description</u>	<u>Units of Measure of Payment</u>	<u>Unit Price(\$)</u>
T-554.1	Each additional hour of Item T-554	Each Hour	\$_____
T-555	Butt Welds for Structural Steel Testing By Ultrasonic Inspection, by AWS Method	Initial Hour	\$_____
T-555.1	Each additional hour of Item T-555	Each Hour	\$_____
T-556	Fillet Welds for Structural Steel Testing By Magnetic Particle Inspection, by AWS Method	Initial Hour	\$_____
T-556.1	Each additional hour of Item T-556	Each Hour	\$_____
T-557	Fillet Welds for Structural Steel Testing By Dye Penetrant Inspection, by AWS Method	Initial Hour	\$_____
T-557.1	Each additional hour of Item T-557	Each Hour	\$_____
T-558	Ultrasonic, Angle-Beam Examination of Plain and Clad Steel Plates for Special Application (A578)	Each Hour	\$_____
T-559	Straight-Beam Ultrasonic Examination of Plain and Clad Steel Plates for Special Application (A578)	Each Hour	\$_____
T-561	Overtime Charge for Work Beyond Regular Work Hours	Each Hour	\$_____
T-562	Special Sample Pick-up Charge	Each Hour	\$_____
T-563	Charge for scheduled work which is cancelled after Testing Firm arrives on job site	Each Trip	\$_____
T-564	Charge for additional travel expense for Testing sites at Hemlock Lake, per vehicle	Each Trip	\$_____

EXPLORATORY DRILLING TESTING PROPOSAL**Page 1 of 2**

<u>Item No.</u>	<u>Description</u>	<u>Units of Measure of Payment</u>	<u>Unit Price(\$)</u>
T-701	Mobilization and Demobilization of Equipment for making Boring as per order, Not per location (Location accessible to Truck Mounted Rig). Rates include permit Fees, flag persons, and miscellaneous costs per job.	Each Drill Rig Per Job	\$_____
T-701.1	Additional charge for Item T-701 locations Requiring an All-Terrain Type Drilling Rig (In addition to paying T-701).	Each Drill Rig Per Job	\$_____
T-702	Penetration Test and Split Barrel Sampling of Soils-Driven Soil Samples (D1586) For 2-1/2" Diam. Hole, 0-10 ft. Depth Range	Lin. Ft.	\$_____
T-702.1	Same as Item T-702 Except for 10-20 feet Depth Range	Lin. Ft.	\$_____
T-702.2	Same as Item T-702 Except for 20-30 feet Depth Range	Lin. Ft.	\$_____
T-702.3	Same as Item T-702 Except for 30-40 feet Depth Range	Lin. Ft.	\$_____
T-702.4	Same as Item T-702 Except for 40-50 feet Depth Range	Lin. Ft.	\$_____
T-702.5	Same as Item T-702 Except for over 50 feet Depth Range	Lin. Ft.	\$_____
T-703	Penetration Test and Split-Barrel Sampling Of Soils Driven Soil Samples (D1586) for 4" Diam. Hole, 0-10 ft. Depth Range	Lin. Ft.	\$_____
T-703.1	Same as Item T-703 Except for 10-20 feet Depth Range	Lin. Ft.	\$_____
T-703.2	Same as Item T-703 Except for 20-30 feet Depth Range	Lin. Ft.	\$_____

EXPLORATORY DRILLING TESTING PROPOSAL**Page 2 of 2**

<u>Item No.</u>	<u>Description</u>	<u>Units of Measure of Payment</u>	<u>Unit Price(\$)</u>
T-703.3	Same as Item T-703 Except for 30-40 feet Depth Range	Lin. Ft.	\$_____
T-703.4	Same as Item T-703 Except for 40-50 feet Depth Range	Lin. Ft.	\$_____
T-703.5	Same as Item T-703 Except for over 50 feet Depth Range	Lin. Ft.	\$_____
T-705	Diamond Core Drilling for Site Investigation, 2-1/8" Diam. Core (D2113)	Lin. Ft.	\$_____
T-706	Thin-Walled Tube Sampling of Soils Using 3" O.D. x 30" Long Tubes (D1587)	Each	\$_____
T-707	Charge for scheduled work which is cancelled after Testing Firm arrives on job site	Each Trip	\$_____
T-708	Charge for additional travel expense for Testing sites at Hemlock lake, per vehicle	Each Trip	\$_____
T-709	Monitor well installation for site Investigation. Installation of 2" diam. PVC well with 10' – 10 slot screen and protective Casing and A. locking cap	Lin. Ft.	\$_____
T-710	Monitor well installation for site investigation. Installation of 4" diam. PVC well with 10' – 10 slot screen and protective casing and A. Locking cap	Lin. Ft.	\$_____

ASBESTOS TESTING PROPOSAL**Page 1 of 2**

<u>Item No.</u>	<u>Description</u>	<u>Units of Measure of Payment</u>	<u>Unit Price(\$)</u>
NOTE: All asbestos testing shall be performed in compliance with the <u>New York State Code Rule 56</u> and applicable Federal regulations.			
T-801	Polarized light microscopy (PLM) analysis of bulk Samples for asbestos – ELAP 198.1/EPA 600 Method 1 hr. test	Each Sample: 24 hr. Turn Around Time 72 hr. Turn Around Time	\$ _____ \$ _____
T-802	Phase contrast microscopy (PCM) analysis for the determination of airborne fiber concentrations per cm ² NIOSH 7400 Method	Each Sample: 1 hr. Turn Around Time 3 hr. Turn Around Time	\$ _____ \$ _____
T-803	Transmission Electron Microscopy (TEM) Analysis of non-triable organically bound Materials (NOB) for asbestos – ELAP 198.4 Method	Each Sample: 24 hr. Turn Around Time 72 hr. Turn Around Time	\$ _____ \$ _____
T-804	Transmission Electron Microscopy (TEM) Analysis of airborne asbestos fibers by AHERA Protocol	Each Sample: 24 hr. Turn Around Time 72 hr. Turn Around Time	\$ _____ \$ _____
T-805	New York State DOL certified Asbestos Building Inspector	Per Hour	\$ _____
T-806	New York State DOL Certified Asbestos Abatement Project Designer	Per Hour	\$ _____
T-807	CAD Drawings	Per Hour	\$ _____
T-808	New York State DOL Certified Asbestos Air Technician	Per Hour	\$ _____

ASBESTOS TESTING PROPOSAL**Page 2 of 2**

<u>Item No.</u>	<u>Description</u>	<u>Units of Measure of Payment</u>	<u>Unit Price(\$)</u>
T-809	New York State DOL Certified Asbestos Project Monitor Technician	Per Hour	\$_____
T-810	Report Generation and copies	Per Hour	\$_____
T-811	Charge for scheduled work which is cancelled after Testing Firm arrives on Job site	Each Trip	\$_____
T-812	Charge for additional travel expense for Testing sites at Hemlock Lake	Each Trip	\$_____

MISCELLANEOUS TESTS AND SERVICES

Page 1 of 4

<u>Item No.</u>	<u>Description</u>	<u>Units of Measure of Payment</u>	<u>Unit Price(\$)</u>
T-901	Services of personnel including overhead:		
T-901.1	Professional Engineer	Per Hour	\$_____
T-901.02	Geologist	Per Hour	\$_____
T-901.03	Material Engineer	Per Hour	\$_____
T-901.10	Drafting or Engineering Technician	Per Hour	\$_____
T-910.01	Inspect/test painted or specially coated Finishes on ferrous metal substrates, wet Or dry (non-destructive). Report thickness in <u>mils</u> .		
T-911	Inspect painted finishes for lead content	Per Hour	\$_____
T-912	Sample and test epoxy resin for hardness (ASTM D-2240)	Per Hour	\$_____
T-913	Full Toxicity Characteristic Leaking Procedure (TCLP)		
		(WATER SAMPLE)	(SOIL SAMPLE)
Metals	Arsenic EPA 206.2/EPA 6010	Per Sample	\$_____
	Barium EPA 208.1/EPA 6010	Per Sample	\$_____
	Cadmium EPA 213.1/EPA 6010	Per Sample	\$_____
	Chromium EPA 218.1/EPA 6010	Per Sample	\$_____
	Lead EPA 239.1/EPA 6010	Per Sample	\$_____
	Mercury EPA 7470	Per Sample	\$_____
	Selenium EPA 270.2/EPA 6010	Per Sample	\$_____
	Silver EPA 272.1/EPA 6010	Per Sample	\$_____

MISCELLANEOUS TESTS AND SERVICES

Page 2 of 4

				(WATER SAMPLE)	(SOIL SAMPLE)
	Volatiles	EPA 8260	Per Sample	\$_____	\$_____
	Volatiles	EPA 8021	Per Sample	\$_____	\$_____
	Semi-Volatiles	EPA 8270 B/N (TCL)	Per Sample	\$_____	\$_____
		EPA 8270 B/N (STARS)	Per Sample	\$_____	\$_____
	Pesticides	EPA 8080/608	Per Sample	\$_____	\$_____
	TCLP Pesticides		Per Sample	\$_____	\$_____
	Herbicides	EPA 8150, 8150B	Per Sample	\$_____	\$_____
T-914	pH	EPA 9040	Per Sample	\$_____	\$_____
T915	Flashpoint	SW 846 Section 7.1			
		Method 1010	Per Sample	\$_____	\$_____
T-916	% Solids	EPA 160.3	Per Sample	\$_____	\$_____
T-917	Total Resource Conservation and Recovery Act				
	(RCRA) Metals by ICP 200.7/EPA 6010B – For all Metals				
	Metals (include Digestion)		Per Sample	\$_____	\$_____
	Arsenic		Per Sample	\$_____	\$_____
	Barium		Per Sample	\$_____	\$_____
	Cadmium		Per Sample	\$_____	\$_____
	Chromium		Per Sample	\$_____	\$_____
	Lead		Per Sample	\$_____	\$_____
	Mercury		Per Sample	\$_____	\$_____
	Selenium		Per Sample	\$_____	\$_____
	Silver		Per Sample	\$_____	\$_____

MISCELLANEOUS TESTS AND SERVICES
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				(WATER SAMPLE)	(SOIL SAMPLE)
T-918	Total Cyanide	SM4500	Per Sample	\$_____	\$_____
T-919	Total Sulfide	EPA 376.1/EPA 9030	Per Sample	\$_____	\$_____
T-920	Paint Filter Test	PA 9095	Per Sample	\$_____	\$_____
T-921	Total Petroleum	NYSDOH 310.13	Per Sample	\$_____	\$_____
	Hydro-carbons				
		EPA 8015-GRO	Per Sample	\$_____	\$_____
		EPA 8015-DRO	Per Sample	\$_____	\$_____
		EPA 8015-GRO/DRO	Per Sample	\$_____	\$_____
T-922	% Chlorine	EPA 9020	Per Sample	\$_____	\$_____
	(TOX-Total Halides)				
T-923	TCL	EPA 8260	Per Sample	\$_____	\$_____
T-924	STARS Total	EPA 8021 (TCLP)	Per Sample	\$_____	\$_____
T-925	STARS Total	EPA 8021 (Direct)	Per Sample	\$_____	\$_____
T-926	STARS Total	EPA 8270 (TCLP)	Per Sample	\$_____	\$_____
T-927	STARS Total	EPA 8270 (Direct)	Per Sample	\$_____	\$_____
T-928	PCB	EPA 8080, 8081, 8082	Per Sample	\$_____	\$_____
T-929	Acid Ext. & Base	EPA 8270	Per Sample	\$_____	\$_____
	Neutrals				
T-930	VOC's	EPA 8015	Per Sample	\$_____	\$_____
	VOC's	EPA 8015B	Per Sample	\$_____	\$_____
T-931	Chlorinated VOC's	EPA 8260	Per Sample	\$_____	\$_____

MISCELLANEOUS TESTS AND SERVICES

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			(WATER SAMPLE)	(SOIL SAMPLE)
T-932	Total Organic Carbon (TOC) EPA Method 415.1 (9060)	Per Sample	\$_____	\$_____
T-933	Standard Plate Count	Per Sample	\$_____	\$_____
<u>Item No.</u>	<u>Description</u>		Units of Measure of Payment	Unit Price(\$)
T-934	Fiberglass Light Pole Impact Test (City of Rochester procedures: Dropping a 39 lb. weight from a height of 72 inches (3 times = 1 cycle) Pick up Light Pole from City facility Cut Pole to length for test (4 ft. above base) Perform Impact Test – upper portion (1 cycle)		Each Trip Each Each Cycle	\$_____ \$_____ \$_____
T-935	Chlorides Ion Chromatography USEPA Method 300.1		Per Sample	\$_____

ARTICLE II

Part 1. Qualifications, Indemnity and Insurance

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

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

Section 2.102 Consultant's Liability

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

Section 2.103 Professional Liability Insurance

The Consultant shall procure at its own expense professional liability insurance for services to be performed pursuant to this Agreement, insuring the Consultant against malpractice or errors and omission of the Consultant. The amount of said insurance coverage shall be in the amount of Two Million Dollars if said insurance is a "Defense within Limits" policy under which all claim expenses are included within both the applicable limit of liability and self-insured retention. Otherwise, the insurance coverage shall be in the amount of One Million Dollars. The Consultant shall provide the City with a certificate of insurance from an authorized representative of a financially responsible insurance company evidencing that such an insurance policy is in force. The certificate shall contain a thirty (30) day cancellation clause which shall provide that the City shall be notified not less than thirty (30) days prior to the cancellation, assignment or change of the insurance policy. The Consultant shall also give at

least thirty (30) days notice to the City of such cancellation, amendment or change, and of any lapse of insurance coverage under this Agreement.

Section 2.104 General Liability Insurance

The Consultant shall obtain at its own expense general liability insurance in the amount of at least One Million Dollars, for protection against claims of personal injury, including death, or damage to property, arising out of the Project. Said insurance shall be issued by a reputable insurance company, authorized to do business in the State of New York. Said insurance shall also name the City of Rochester as an insured. The Consultant shall provide the City with a certificate of insurance from an authorized representative of a financially responsible insurance company evidencing that such an insurance policy is in force. Furthermore, the consultant shall provide a listing of any and all exclusions under said policy. The insurance shall stipulate that, in the event of cancellation or modification the insurer shall provide the City with at least thirty (30) days written notice of such cancellation or modification. In no event shall such liability insurance exclude from coverage any municipal operations or municipal property related to this Agreement.

Section 2.105 Workers' Compensation and Disability Benefits Insurance

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

Section 2.106 Copyright or Patent Infringement

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

Section 2.107 No Individual Liability

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

ARTICLE II, Part 2. Specific Design Restrictions

Section 2.201 Environmental Policy

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

City wishes to enhance the environment by minimizing environmental degradation and by maximizing the Project benefits.

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

ARTICLE II, Part 3. Employment Practices

Section 2.301 Equal Employment Opportunity

A. General Policy

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

B. Definitions

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

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

C. Compliance

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

1. The Consultant agrees that he will not discriminate against any employee for employment because of age, race, creed, color, national origin, sex, sexual orientation, disability, or marital status in the performance of services or programs pursuant to this Agreement, or in employment for the performance of such services or programs, against any person who is qualified and available to perform the work in which the employment relates. The Consultant agrees to take affirmative action to ensure that applicants are employed, and that applicants are hired and that employees are treated during their employment, without regard to their age, race, creed, color, national origin, sex, sexual orientation, disability, or marital status.

2. If the Consultant is found guilty of discrimination in employment on the grounds of age, race, creed, national origin, sex, sexual orientation, disability or marital status

by any court or administrative agency that has jurisdiction pursuant to any State or Federal Equal Opportunity laws or regulations, such determination will be deemed to be a breach of contract, and this Agreement will be terminated in whole or part without any penalty or damages to the City on account of such cancellation or termination and the Consultant shall be disqualified from thereafter selling to, submitting bids to, or receiving awards of contract with the City of Rochester for goods, work, or services until such time as the Consultant can demonstrate its compliance with this policy and all applicable Federal and State Equal Opportunity laws and regulations.

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

Section 2.302 The MacBride Principles

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

Section 2.303 Compliance with Labor Laws

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

Section 2.304 Living Wage Requirements

A. Applicability of Living Wage Requirements

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

B. Compliance

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

C. Exemption

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

ARTICLE II, Part 4. Operations

Section 2.401 Compliance with Air and Water Acts

The Consultant and any and all subcontractors agree as follows:

A. The Consultant, and its subcontractors warrant that any facility to be utilized in the performance of any non-exempt contract or subcontract is not listed on the list of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR 15.20.

B. The Consultant promises to comply with all of the requirements of Sections 144 of the Clean Air Act, as amended (47 USC 1857c-8) and Section 308 of the Federal Water Pollution Control Act, as amended (33 USC 1318) relating to the inspection, monitoring, entry, reports and information as well as all other requirements specified in Section 114 and Section 308, and all regulations and guidelines issued thereunder.

C. A condition for the award of the Agreement is that prompt notice will be given to the City of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized or to be utilized for the Agreement is under consideration to be listed on the EPA list of Violating Facilities.

D. The Consultant warrants to the City that it has not been convicted under Section 113(c)(1) of the Clean Air Act or Section 309(c) of the Federal Water Pollution Control Act.

Section 2.402 Political Activity Prohibited

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

Section 2.403 Lobbying Prohibited

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

Section 2.404 Anti-Kickback Rules

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

Section 2.405 Withholding of Salaries

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

Section 2.406 Discrimination Because of Certain Labor Matters

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

Section 2.407 Status as Independent Contractor

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

ARTICLE II, Part 5. Documents

Section 2.501 Patents and Copyrights

The Consultant agrees that, in the event it, or any of its employees' develop any material for which a copyright can be obtained which material was developed as a result of or in

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

Section 2.502 Audit

The Consultant agrees to maintain sufficient on-site records and information necessary for the documentation of any and all facets of program operation specified by this Agreement. The Consultant shall maintain all books, documents, papers and other evidence pertinent to the performance of work under this Agreement in accordance with generally acceptable accounting principles, and 40 CFR Part 30 in effect during the term of this Agreement. The Consultant agrees to permit on-site inspection and auditing of all records, books, papers and documents associated with this Agreement by authorized representatives of the City, and authorized representatives of the State of New York or the United States Government if State or Federal funding is involved in this agreement, and further agrees to provide necessary staff support to the performance of such audit. The Consultant agrees to maintain for a period of six (6) consecutive years following termination of this Agreement any and all records, reports and other documentation arising from the performance of this Agreement; however, this period shall be extended beyond six years for any and all records and information pertaining to unresolved questions, which have been brought to the Consultant's attention by written notice by the City. The Consultant agrees to furnish to the City data to include but not be limited to, intake records, status change notices, termination notices, and follow-up records. Said reports will be submitted periodically as required by the City.

Section 2.503 Content of Sub-Agreements

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

ARTICLE II, Part 6. Termination

Section 2.601 Termination for Convenience of the City

A. This Agreement may be terminated by the City in accordance with this section in whole, or from time to time, in part, whenever for any reason, the City shall determine that such

termination is in the best interest of the City. Any such termination shall be effective upon written notice to the Consultant. However, no such termination shall relieve the Consultant of any outstanding duties imposed by the Agreement, including the requirement to hold the City harmless and to maintain insurance coverage insuring against loss arising out of the Project.

B. If the Agreement is so terminated the City may take over the work and services and prosecute the same to completion by contract or otherwise. The Consultant, upon such termination, shall transfer title, and in the manner directed by the City, shall deliver to the City the completed or partially completed, plans, drawings information, other property and records of work being performed, which, if this Agreement had been completed, would be required to be furnished to the City.

C. After receipt of written notice of termination, the Consultant shall promptly submit to the City its termination claim in a form acceptable to the City. Such claim shall in no event be submitted later than one year from the effective date of termination.

D. In the event that the parties cannot agree, in whole or in part, as to the amount due by reason of the termination of the Agreement pursuant to this clause, the City shall pay the Consultant the amount determined as the total of the following:

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

Section 2.602 Termination for Default

A. The performance of work under this Agreement may be terminated by the City in accordance with this clause in whole, or, from time to time, in part, whenever the Consultant shall default in performance of this Agreement in accordance with its terms (including in the term "default" any failure by the Consultant to make progress in the prosecution of the work hereunder which endangers such performance) and shall fail to cure diligently such default within a period of ten days or (or such longer period as the City may allow) after delivery by the City of a notice specifying the default.

B. If this Agreement is to be terminated, the City may take over the work and services and prosecute the same to completion by contract or otherwise, and the Consultant shall be liable to the City for any excess cost occasioned thereby.

C. The total fee payable shall be such proportionate part of the fee as the value of the actual work completed and delivered bears to the value of the work required or contemplated by this Agreement.

D. This Agreement may not be so terminated if the failure to perform arises from unforeseeable causes beyond the control and without the fault or negligence of the Consultant.

E. If, after notice of termination of this Agreement under the provisions of this section, it is determined for any reason that the Consultant was not in default or that the default was excusable the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the clause of this Agreement entitled "Termination for the Convenience of the City."

F. The rights and remedies of the City provided in this clause are in addition to any other rights and remedies provided by law or under this Agreement.

ARTICLE II, Part 7. General

Section 2.701 Prohibition Against Assignment

A. The Consultant agrees that it is prohibited from assigning or otherwise disposing of this Agreement or any of its contents, or of its right, title or interest therein, or of its power to execute such contract to any other person or corporation without the previous consent in writing of the City.

B. The Consultant shall be permitted to contract with other professions (particularly in the fields of forestry, horticulture or landscape architecture) for portions of the Project provided, however,

1. The City approves, in writing, the selection of the individual, firm or firms contracted with.

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

Section 2.702 Compliance with All Laws

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

Section 2.703 Successors

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

Section 2.704 Interest of City and Consultant in Contract

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

Section 2.705 Permits, Laws and Taxes

A. In the event that services performed by the Consultant for the City are subject to taxation under Article 28 of the Tax Law (sales and compensating use tax) the Consultant shall receive from the City the material necessary to obtain a tax exempt certificate upon written request.

B. The Consultant shall pay all taxes, applicable to the work and materials supplied under this Agreement, it being understood that in no case shall any such tax be borne by the City, except as provided in subparagraph A. above.

Section 2.706 Obligations Limited to Funds Available

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

Section 2.707 Extent of Agreement

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

Section 2.708 Law and Forum

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

Section 2.709 No Waiver

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

Section 2.710 Severability

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

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

THE CITY OF ROCHESTER

(CONSULTANT)

By: _____

By:

Robert J. Duffy – Mayor

Federal Tax Payer Id. No

Approved as to Form:

Approved for Funds:

Corporation Counsel
City of Rochester

Director of Finance
City of Rochester

STATE OF NEW YORK
COUNTY OF MONROE

On this ____ day of _____, 200_, before me, the subscriber, personally came ROBERT J. DUFFY, to me known, who being by me duly sworn, did depose and say that he resides in the City of Rochester, that he is the Mayor of the City of Rochester, the municipal corporation described in the above Agreement; that he signed his name thereto by authority of Ordinance No. _____.

Notary Public

STATE OF NEW YORK
COUNTY OF MONROE

On this ____ day of _____, 200_, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

APPENDIX A

Prevailing Wage Rates

APPENDIX B

MATERIAL TESTING ORDERS, REPORTS & BILLING PROCEDURE

The following outlines the procedures from testing request to payment:

1. Requests for testing services will be from the City's authorized agent. This is generally via a phone call for services. When exploratory drilling tests, Item T-701 thru T-706 are requested, the testing firm must provide a written estimate according to the proposal. A subsequent written notice to proceed for exploratory drilling tests must be given by the City's authorized agency before work can begin.
2. Testing report must be completed and distributed within 24 hours of test completion. These reports should be sent to the City's requesting authorized agent. Four copies of the test reports must be submitted.
3. Invoices less than \$100 shall be submitted quarterly. Invoices for amounts greater than \$100 shall be submitted on a per job basis. Invoices shall include details of work, project name, location, date of service, test item numbers, item quantities and extended costs.
4. Request for payment must be on a City Claim voucher form signed by the testing firm's authorized agent. Three copies of the claim voucher must accompany the original voucher.

APPENDIX C

CITY ARTERIAL STREETS

STREET	EXISTING LIMITS	STREET	EXISTING LIMITS
Alexander Street	Mt. Hope Ave. - East Main St.	Lake Avenue	Ridge Rd. W. - Beach Ave.
Andrews Street	State St. - North St.	Lakeshore Blvd.	City Line - City Line
Avenue E	E. End Bridge - St. Paul St.	Lee Road	City Line - Lexington Ave.
Bausch Street	E. End Bridge - St. Paul St.	Lexington Avenue	City Line - Lake Ave.
Blossom Road	University Ave. - City Line	Lyell Avenue	City Line - Lake Ave.
Broad Street	Union St. - Lyell Ave.	Main Street E.	State St. - N. Winton Rd.
Broadway	S. Goodman St. - S. Union St.	Main Street W.	York St. - State St.
Brooks Avenue	City Line - S. Plymouth Ave.	Maplewood Drive	Keeler X-Way - Lake Ave.
Browncroft Blvd.	WN. Winton Rd. - City Line	Monroe Avenue	Pitkin St. - City Line
Buffalo Road	City Line - West Ave.	Mt. Hope Avenue	City Line - South Ave.
Byron Street	South Ave. - S. Clinton Ave.	North Street	Andrews St. - Portland Ave.
Central Park	Portland Ave. - N. Goodman St.	Norton Street	St. Paul St. - City Line
Chestnut Street	Pitkin St. - North St.	Plymouth Avenue S.	Elmwood Ave. - Ford St.
Chili Avenue	City Line - West Ave.	Plymouth Avenue S.	Exchange Blvd. - Troup St.
Cleveland Street	Hudson Ave. - North St.	Portland Avenue	North St. - City Line
Clifford Avenue	St. Paul St. - City Line	Ridge Road E.	St. Paul St. - City Line
Clinton Avenue N.	E. Main St. - Ridge Rd. E.	Ridgeway Avenue	City Line - Ridge Rd.
Clinton Avenue S.	City Line - E. Main St.	Scottsville Road	City Line - Genesee St.
Court Street	Exchange Blvd. - Broadway	Smith Street	Lake Ave. - E. End Bridge
Culver Road	Monroe Ave. - Titus Ave.	South Avenue	E. Henrietta Rd. - Main St. E.
Dewey Avenue	Lyell Ave. - City Line	St. Paul Street	E. Main St. - City Line
Draper Street	North St. - Portland Ave.	State Street	W. Main St. - Lyell Ave.
Driving Park Ave.	Lake Ave. - E. End Bridge	Stonewood Road	City Line - Lake Ave.
East Avenue	E. Main St. - City Line	Stutson Street	City Line - City Line
Elmwood Avenue	Genesee St. - City Line	Union Street N.	East Ave. - Main St.
Exchange Blvd.	Ford St. - Main St.	Union Street S.	Broadway - East Ave.
Ford Street	Mt. Hope Ave. - Boys Club Blvd.	University Avenue	North St. - City Line
Genesee Street	Elmwood Ave. - W. Main St.	Upper Falls Blvd.	St. Paul St. - Hudson Ave.
Goodman Street N.	East Ave. - City Line	West Avenue	Grover St. - York St.
Goodman Street S.	Elmwood Ave. - East Ave.	Westfall Road	Mt. Hope Ave. - City Line
Henrietta Road E.	City Line - Mt. Hope Ave.	Winton Road N.	East Ave. - City Line
Hudson Avenue	North St. - City Line	Winton Road S.	City Line - East Ave.

ATTACHMENT 1:

**NOTICE TO EMPLOYEES CONCERNING CITY
OF ROCHESTER LIVING WAGE ORDINANCE.**

NOTICE TO EMPLOYEES CONCERNING CITY OF ROCHESTER LIVING WAGE ORDINANCE.

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

TELEPHONE NO. 428-