

Appendix A

SOUTH AVENUE
(Elmwood Ave - Bellevue Dr)
&
ELMWOOD AVENUE
(Mt Hope Ave - South Ave)

Project Scope: **Planning, Preliminary Engineering and Final Design (T-1)**
Project Code: 16102
Consultant: **FIRM Associates, PC**
Agreement #:
Authorizing Ordinance: 2019 - xx

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DRAFT

AGREEMENT

THIS AGREEMENT, entered into on the ___ day of _____, 2019, 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 FIRM Associates, PC, with offices located at x Street, Rochester, NY 146xx, hereinafter referred to as the "Consultant."

WITNESSETH:

WHEREAS, the City, through the Department of Environmental Services, desires to engage the Consultant for the purposes of providing professional engineering design services required in connection with **SOUTH AVENUE & ELMWOOD AVENUE Improvement Project**, hereinafter referred to as the "Project".

WHEREAS, the Consultant covenants that it has the personnel, skills and expertise required and wishes to undertake the engineering services related to the Project.

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

ART. I Part 1. Description of Project

Section 1.101 General Description

This is a City of Rochester / County of Monroe 131K project which consists of improving South Avenue (Elmwood Ave - Bellevue Dr.) and Elmwood Avenue (Mt Hope Ave - South Ave).

A. Street and Sidewalk

Recommendations for pavement treatment, width modifications and geometric changes as well sidewalk improvements to be determined during planning & preliminary engineering.

B. Water

South Ave (Elmwood - Reservoir) - Replace existing 8" CI main with new 12" PVCO and PE services. Elmwood Ave (Mt Hope Ave - South Ave) - abandon 6" main, transfer services to 12" main.

C. Street Lighting

Existing system is proposed to be replaced. New street lighting improvements to be determined during planning & preliminary engineering.

D. Sewer

Replacement of receiving basins and repair/cleaning of laterals are proposed. Sewer main improvements to be determined during planning & preliminary engineering.

E. Traffic

Existing signals within project limits to be evaluated. Specific traffic improvements to be determined during planning & preliminary engineering.

F. Areaways

The project is to be reviewed for possible building areaways, vaults and window-wells within the project area be abandoned or rehabilitated.

G. Streetscape

Streetscape improvements to be determined during planning & preliminary engineering.

Section 1.102 Project Area Definition

That portion of **SOUTH AVENUE** from Elmwood Avenue to Bellevue Drive and **ELMWOOD AVENUE** from Mt Hope Avenue to South Avenue.

ART. I Part 2 Description of Professional Services

Section 1.201 General

- A. The Consultant shall provide all engineering services required for the Project including but not limited to topographic survey, preliminary engineering, preparation of the Planning and Preliminary Engineering Report, Final Design, Bid and Award.
- B. The Consultant shall provide "Additional Services" if required at the request of the City. In the event the City requires Design, Contract Documents, assistance during Bidding and Construction Phases, the Consultant agrees that, pursuant to separate negotiations, this agreement may be amended to include the additional work.
- C. The Consultant is to have on its staff and is to retain during the performance of its services all appropriate professional personnel necessary to completely and accurately perform the services required. Where the design of structural, mechanical, electrical, civil or other engineering features of the work is included in the Project, such must be performed by an architect or an engineer registered to practice in the State of New York.
- D. The Consultant agrees that, where the Project will involve the design or substantial renovation, relocation, or reconstruction of, or will involve the new construction of a building, facility, street, sidewalk, park, mall or other public area, then it will incorporate into its design, study and other work those facilities or improvements reasonably required to give handicapped persons access to and enjoyment of those facilities. Such facilities or improvements shall conform to the latest Americans with Disabilities Act - Accessibility Guidelines as developed by the U.S. Architectural and Transportation Barriers Compliance Board (Access Board).
- E. The Consultant shall develop and submit to the City an implementation plan and schedule for the orderly and timely completion of requirements of this Agreement. The Consultant shall utilize appropriate graphics to illustrate the plan, e.g., bar charts, etc. All pertinent dates of meetings and submittals shall be identified subsequent to execution of this agreement.
- F. The Consultant shall be available to meet with the City periodically and as necessary to review the progress on the requirements of this Agreement and to provide engineering consultation.

- G. The Consultant shall maintain an up-to-date orderly assembled file of design notes providing a history of the design of the Project. Design notes shall include correspondence, calculations, documentation, references and other material necessary to establish the basis of design. The Consultant shall furnish such notes to the City.
- H. The Consultant shall prepare and furnish to the City within one week minutes of all meetings held and monthly written progress reports in a format mutually agreed upon.
- I. The Consultant shall supply two digital record drawings products, upon completion of the work required herein. The first is a complete compilation of all digital files created for the project. The second, an abbreviated digital record of the project, shall be used to update the City's GIS Map. All digital record files shall conform to the City Digital Record File Standards listed in Appendix B of this agreement.

Section 1.202 Basic Services

A. Planning and Preliminary Engineering

1. Existing Data, Surveys and Reports

The Consultant shall assemble and evaluate existing planimetric, topographic and utility maps and surveys, reports and studies as available from the City, County of Monroe or private utility corporations.

2. Surveys, Mapping and Exhibits

The Consultant shall complete a topographic survey of the Project Area producing an accurate graphic representation of all existing facilities. The said survey shall be tied to the New York State Plane Coordinate System, western zone, NAD '83. The information shall be plotted at a 1"=20' scale, and show the NAD '83 coordinate grid, planimetric, topographic and utility details in the Project Area. Swing ties are required for all monuments within the project area. Mapping shall be prepared on 22"x 34" mylar and also in digital form per the City of Rochester Digital Record File Standards as described in Appendix B of this agreement.

3. Existing or New Sewer, Water and Other Facilities

The Consultant shall locate and identify all storm, sanitary or combined sewer mains and laterals, catch basins and manholes, water mains, valves and services, and other similar structures within the Project Area.

The Consultant shall locate all existing overhead and underground utilities utilizing available system maps and cross-checking by site inspection.

The Consultant shall evaluate the physical condition and drainage capacity of existing storm sewer drains, catch basins, and laterals and shall utilize such information in the design of the Project.

The condition and capacity of other utilities shall be reviewed with their respective owners by the Consultant. All planned improvements will be noted so that construction efforts can be coordinated between the City and third parties.

4. Areaways

The Consultant shall identify all building areaways, window wells and vaults. The Consultant shall determine the location and size, and evaluate the structural condition relative to the City's areaway standards. Photographs and diagrams indicating dimensions of each areaway shall be provided as part of the investigation and report. Utility location, size and condition, shall also be noted. The Consultant shall prepare concept designs, cost estimates accompanied with share breakdown of alternatives available to an areaway owner through the City's Areaway Policy. The Consultant shall meet with the City and the areaway owners to discuss the findings of the areaway investigations.

5. Subsurface Investigations

The Consultant shall use all available existing data regarding subsurface conditions for the evaluation and the design of the project. The Consultant shall, with the City's approval, perform borings and/or test pits as necessary to determine subsurface conditions.

6. Traffic

The Consultant shall conduct capacity analyses for current and projected traffic flow both with and without improvements, based upon available traffic data obtained from the Monroe County Department of Transportation and using analysis method(s) approved by the City for each analysis. Intersection Level of Service and conflicts, channelization, orientation and traffic control including signalization shall be identified and improvements recommended.

The Consultant shall perform accident analyses within the project limits. The accident analyses shall include collision diagrams for any areas which exhibit accident rates above the City average rate.

The Consultant shall evaluate provisions for bicyclists and pedestrians and shall recommend appropriate improvements.

The Consultant shall review all traffic signing and make recommendations for their improvement.

7. Roadway

The Consultant shall evaluate the existing roadway conditions including subgrade, pavement, curbs, sidewalks, etc. The Consultant shall prepare recommendations for proposed roadway features. Recommendations shall include roadway sections, either pavement rehabilitation or reconstruction, curbs, sidewalks, requirements for right-of-ways, etc., as appropriate.

8. Roadway and Sidewalk Lighting

The Consultant shall review information supplied by the City Street Lighting Division regarding the condition of the existing street lighting system. The Consultant shall make independent recommendations for improvements including photometric analyses and provisions for maintaining lighting during construction.

9. Parking, Bus Stop and Access Drive Facilities

The Consultant shall review all parking and regulatory signing, bus stop locations and facilities, and access drive facilities and make recommendations for their improvement.

10. Streetscape

The Consultant shall prepare landscape recommendations, including tree plantings and other appropriate features.

11. Coordination

The Consultant shall notify and meet with the utilities/agencies which have facilities within the project limits to review their involvement with the Project. The Consultant shall evaluate and make provisions to minimize schedule impacts between proposed utility construction and the project construction.

12. Review Meeting

The Consultant shall present its findings of investigations at review meetings with the City and others designated by the City and prepare minutes of these meetings. The Consultant shall incorporate into the preliminary engineering of the Project any comments or direction resulting from these review meetings with the City.

13. Preliminary Report and Plan

The Consultant shall prepare a preliminary Planning and Engineering Report and Plan of the Project. It shall include but not be limited to:

- a. A summary of all information gathered for the Project for all portions of the project work.
- b. Evaluations, recommendations and design criteria pertinent to the design of the project elements.
- c. A discussion of maintenance and protection of traffic and services required during construction of the Project.
- d. A report on the extent of utility/agency involvement with Project.
- e. Preliminary cost estimates with share breakdown.
- f. Summary environmental assessment of the effects of the project, particularly during the construction phase. This shall not constitute a requirement to prepare an Environmental Impact Statement. The assessment must include completion of Environmental Assessment Form (EAF 1c).
- g. A discussion of Stormwater management and permitting required (MS4) during construction of the Project.
- h. Preliminary engineering plans, including a cover sheet, legend, typical sections, plan and profile, cross-sections every 50 feet, pavement markings and intersection layout and miscellaneous landscape sketches showing the layout, basic design details, materials and construction methods. These plans

shall be at the scale of 1"=20'. The cross sections shall be at a vertical scale of 1"=2', and a horizontal scale of 1"=5'.

14. Submittal

The Consultant shall provide five (5) copies of the preliminary report and fifteen (15) copies of the plan to the City and various agencies and utilities as indicated by the City. The Consultant shall use the City's vendor for reproduction of the camera ready copy of the plans.

15. Meetings

a. Review Meetings

The Consultant shall present the preliminary report and plans for review at a review meeting with the City and others designated by the City and prepare minutes of this meeting. The Consultant shall incorporate into the Final Report and Plan of the Project any comments or direction changes resulting from this meeting with the City.

b. Utility/Agency Review Meeting

The Consultant shall present the Preliminary Report and Plans for review at a review meeting with the City, Utilities/Agencies, and others designated by the City and prepare minutes of this meeting.

c. Neighborhood Meeting(s)

At the request of the City and in cooperation with the City, the Consultant shall conduct meetings with neighborhood groups and merchant's associations neighboring the Project Area. At the meeting(s) the Consultant shall attempt to determine the problems, needs, and priorities of such associations and their members and shall solicit suggested methods of remedying their problems with current road, sidewalk and other related facilities. The Consultant shall also utilize such meeting(s) to keep residents and merchants informed of the progress of the project, in order to stimulate their involvement and cooperation. In order to facilitate the dissemination of information at such meetings, the Consultant shall prepare necessary display and informational material. The Consultant shall provide a memorandum summarizing these meetings.

d. Traffic Control Board

The Consultant shall present the Project to the Traffic Control Board for approval of any traffic regulations or geometric changes.

16. Final Report and Plan

The Consultant shall incorporate into the final Planning and Preliminary Engineering Report and Plan of the Project any comments and changes resulting from the review of the Preliminary Report and Plan.

17. Submittals

The Consultant shall provide five (5) copies of the final Planning and Preliminary Engineering Report and fifteen (15) copies of the final Preliminary Engineering Plan of the Project to the City and various agencies and utilities as indicated by the City. The Consultant shall use the City's vendor for reproduction of the camera ready copy of the plans.

B. Final Design

1. 50% Design, Plans & Report

a. 50% Design

The Consultant shall prepare a 50% Design of the Project based on the Planning and Preliminary Engineering Report and the findings of its Additional Investigation or as a result of the Additional Investigation review meeting.

The 50% Design shall include but not be limited to the following:

- 1) Street geometrics including widenings or narrowings, alignment and intersection layout.
- 2) Street section including subgrade, pavement, shoulders, curbing, gutters, curb park, sidewalks, requirements for right-of-way, etc.
- 3) Layout of traffic features including pavement markings, parking zones, street signs and signalization.
- 4) Design of street and sidewalk lighting including pole type and size, luminaire type and wattage, footcandle level, uniformity ratio, spacing, conduit layout, pullbox location and power point locations.
- 5) Design of drainage facilities including hydrologic and hydraulic analysis. Design shall indicate location of catch basins and laterals.
- 6) Layout of sanitary sewer locations, size grades, type, manholes, junction chambers, etc.
- 7) Layout of water facilities including watermain size and type; service renewals, replacements and abandonments; hydrant renewals and relocations; and connections or tie-ins to existing mains.
- 8) Preliminary disposition of utilities.
- 9) Structural analysis and preliminary design of areaways per option agreed to by areaway owner and the City.
- 10) Layout of bus stops, curb cuts, access drives.

- 11) Preliminary design of any structures for special needs of the Project.
- 12) Layout of landscaping, identifying species.
- 13) Preliminary layout of the maintenance and protection of traffic provisions for the Project.

b. 50% Plans

The preparation of 50% Plans for the elements of the project shall be accomplished by the Consultant. The 50% Plans shall represent the design at 50% complete including the following information:

- 1) 50% Plans should include a cover sheet, a legend with an index, survey data, location plan; a draft of the summary of quantities and construction tables; a preliminary maintenance and protection of traffic plan; typical sections; construction details; cross-sections at a minimum of every 50 feet or as needed; plans and profiles showing side street tie-ins; plan of the utilities including water main and plan and profiles of sewers; plans of the signals, pavement marking, signing, signing text data sheet; and miscellaneous details as required. All with sufficient detail to show the layout, basic design details, materials and construction methods.

Various tables to be considered in this phase include a water service, driveway, sign, hydrant disposition, areaway, drainage structures, manhole adjustment, inductive loops, sewer laterals, underdrain, monuments, bus stops, fire alarm standards, trees, light pole dispositions, fence disposition and utility disposition. Project work limits should also be identified.

Plans shall be at the scale of 1" = 20'. Cross sections shall be prepared on 22"x34" cross section paper and at a vertical scale of 1"=2' and horizontal scale not less than 1"=5'.

c. Report

A concise report memorandum shall supplement the 50% Plans. The memorandum shall include:

- 1) Evaluations, recommendations and design criteria pertinent to the design of the project elements.
- 2) A discussion of maintenance and protection of traffic and services required during construction of the Project.
- 3) A report on the extent of utility/agency involvement with the Project including preliminary construction schedule which shall identify project and utility work, duration, impacts and potential conflict.
- 4) Preliminary cost estimates with share breakdown.
- 5) An amended Environmental Assessment Form if necessary detailing the effects of the project, particularly during the construction phase. This shall not constitute a requirement to prepare an Environmental Impact Statement.

d. Submittal

Consultant shall provide 15 copies of the plan and 5 copies of the report to the City and various agencies and utilities as indicated by the City.

e. Meetings

1) Review Meetings

The Consultant shall present the 50% Design at a review meeting with the City and others designated by the City, if so requested.

2) Utility/Agency Review Meeting

The Consultant shall present the 50% Plans for review at a review meeting with the City, utilities/agencies, and others designated by the City and prepare minutes of this meeting. The Consultant shall incorporate into the final design of the Project any comments and changes resulting from this review meeting(s) with the City.

3) Neighborhood Meeting(s)

At the request of the City and in cooperation with the City, the Consultant shall conduct meetings with neighborhood groups and merchant's associations neighboring the Project Area. At the meeting(s) the Consultant shall attempt to determine the problems, needs, and priorities of such associations and their members and shall solicit suggested methods of remedying their problems. The Consultant shall also utilize such meeting(s) to keep residents and merchants informed of the progress of the project, in order to determine the problems, needs, and priorities of such associations and their members and shall solicit suggested methods of remedying their problems with current road, stimulate their involvement and cooperation. In order to facilitate the dissemination of information at such meetings, the Consultant shall prepare necessary display and informational material. The Consultant shall provide a memorandum summarizing these meetings.

4) Traffic Control Board

The Consultant shall present the project to the Traffic Control Board for approval of any traffic regulations or geometric changes.

2. 90% Design

a. Final Plans and Specifications

The Consultant shall accomplish the Final Design Phase and the preparation of final plans and specifications in accordance with applicable City, County, State and Federal procedures for all elements of work as defined in the 90% Design Phase, including:

1) Final street geometrics including widenings or narrowings, alignment and intersection layout.

2) Final street section including subgrade, pavement, shoulders, curbing, gutters, curb park, sidewalks, requirements for right-of-way, etc.

- 3) Final design of traffic features including pavement markings, parking zones, street signs and signalization.
- 4) Final design of street and sidewalk lighting including pole type and size, luminaire type and wattage, footcandle level, uniformity ratio, spacing, conduit layout, pullbox location and power point locations.
- 5) Final design of drainage facilities including hydrologic and hydraulic analysis. Design shall indicate location of catch basins and laterals.
- 6) Final layout of sanitary sewer locations, size grades, type, manholes, junction chambers, etc.
- 7) Final layout of water facilities including watermain size and type; service renewals, replacements and abandonments; hydrant renewals and relocations; and connections or tie-ins to existing mains.
- 8) Utility disposition: abandonment, relocation and/or new installation, but not including plans for the actual design of the utilities. The Consultant shall prepare a detailed utility construction schedule. Such schedule shall identify work, duration, impacts and potential conflicts.
- 9) Areaways - final design of the disposition option agreed to by the areaway owner and the City. Also design of utility service relocation if an applicable City share. The Consultant shall attend meetings with the City and owners to discuss designs.
- 10) Final layout of parking, bus stops, curb cuts and access drives.
- 11) Final design of structures for special needs of the Project.
- 12) Final design of landscaping, including species.
- 13) Final layout of maintenance and protection of traffic for the Project.

b. Submittals

At the 90% advance final completion of the design the Consultant shall submit up to fifteen (15) sets of advance final design plans and up to five (5) sets each of the Contract Documents and specifications, quantities and cost estimates. In addition, a quantity work-up book is to be prepared and submitted.

c. Meetings

1) Review Meetings

The Consultant shall present the advance final design documents at a review meeting with the city and others designated by the City, if so requested.

2) Utility/Agency Review Meeting

The Consultant is to provide an in depth utility/agency review meeting of the advance final design documents with the City and other appropriate authorities.

3) Neighborhood Meeting(s)

At the request of the City and in cooperation with the City, the Consultant shall conduct meetings with neighborhood groups and merchant's associations neighboring the Project Area. At the meeting(s), the Consultant shall attempt to determine the problems, needs, and priorities of such associations and their members and shall solicit suggested methods of remedying their problems. The Consultant shall also utilize such meeting(s) to keep residents and merchants informed of the progress of the project, in order to stimulate their involvement and cooperation. The Consultant shall prepare necessary display and informational material for the meeting(s). The Consultant shall provide a memorandum summarizing these meetings.

4) Traffic Control Board

The Consultant shall present the project to the Traffic Control Board for approval of Maintenance and Protection of Traffic provisions and any traffic regulations.

3. Contract Documents

The Consultant shall incorporate into the final Contract Documents for the Project any comments or changes resulting from the advance final submittal reviews.

The Consultant shall prepare for approval by the City Contract Documents including Project Summary, Special Instructions to Bidders, Bidding Forms, Special Terms and Conditions, Special Laws and Regulations, Project Specifications and working drawings for the Project. The Contract Documents are to be based upon standard City forms wherever applicable using the Standard Construction Documents.

The Consultant is to furnish thirty-five (35) complete sets of the Contract Documents under this agreement, some of which are to be delivered by the Consultant to utilities or other agencies as indicated by the City.

4. Cost Estimates

The Consultant is to provide the City with a revised cost estimate including the basis for quantities in the estimate and the funding share breakdown for the project based on completed Contract Documents. In addition, a final quantity work-up book is to be prepared and submitted.

C. Bidding Phase:

1. The Consultant shall prepare addenda as required. Such addenda shall conform to the requirements of the City's Purchasing Agent. Thirty-five (35) copies of the addenda shall be submitted to the City and designated utilities and agencies.

2. The Consultant is to assist the City in pre-bid meetings and pre-award meetings.

3. The Consultant shall obtain and review the bids, prepare the conformed copies of the Contract Documents, prepare bid tabulations in a format agreed upon by the City, prepare a share breakdown based on the low bidders bid, prepare analysis of the bid tabulations and letter of recommendation for award. This information shall be returned to the City within five (5) working days.

D. Construction Phase

The Consultant shall provide the following services:

1. Provide, during the construction contract to be entered into by the City for the construction of this Project, to the satisfaction of the City, periodic engineering consultation services to verify adherence to the design and to assist in the administration of the construction until final completion and acceptance by the City.
2. Convene a pre-construction conference after receipt of a written request to do so from the City. Such pre-construction conference shall include at least the Consultant, or its authorized representative, the contractor, authorized representatives of the City, as well as representatives of any other public or private Agencies which the City determines should be in attendance. At the pre-construction conference, the Consultant shall raise for discussion and decision, the manner in which the construction will be administered by itself and the City, the scheduling of construction, and any and all other problems or questions which in the opinion of the Consultant or the City must be settled before the start of construction. Before convening the pre-construction conference, the Consultant shall confer with an authorized representative of the City concerning the agenda and who is to attend.
3. Check and approve samples, catalog data, schedules, shop drawings, laboratory, shop and mill tests of materials and equipment, progress data and time charts and other data which the Contractor as required to submit, only for conformance with the design concept of the Project and compliance with the information given by the Contract Documents; and assemble written guarantees which are required by the Contract Documents. It shall obtain all guarantees from the Contractor and deliver the same to the City of Rochester. There shall be no change in the scope of the work or in materials specified by the Contract Documents until approval for such change has been given in writing by the City.
4. Visit the job whenever requested by the City for the purpose of clarifying or interpreting any phase of the work.
5. Attend on-the-job field meetings, as needed, and provide minutes of these meetings to the City and to parties designated by the City.
6. Conduct, in company with the City and others designated by the City, a final inspection of the Project for conformance with the design of the Project and compliance with the information given in the Contract Documents, and acknowledge the completion of the Project in writing prior to final payment to the Contractors. The City's approval and other proper Agency approvals shall be required as a condition for the acceptance of the work by the City.
7. Based on marked up prints, drawings and other data furnished by the Resident Project Representative and the Contractor, furnish the City a set of reproducible mylar drawings showing the Construction. In addition, a set of drawings showing sewer construction shall be submitted to the Division of Pure Waters, and a set of drawings showing traffic items to the Monroe County Department of Transportation.
8. The Consultant shall provide a digital as-built file based on actual field measurements taken during construction and based on the survey completed under Article 1, Part 2, Section 1.202, Subsection A, Paragraph 2. (Surveys Mapping and

Exhibits). The digital format shall conform to the City Digital Record File Standards attached hereto as Appendix B of this Agreement.

Section 1.203 Additional Services

The following shall constitute Additional Services:

- A. Performing work not described under Basic Services, requested and authorized in writing by the City's Authorized Agent including, but not limited to the following:
 - o Property surveys, and preparation of plots and legal descriptions.
 - o Materials testing other than that performed by a testing laboratory on contract with the City unless specifically included as a Basic Service Reimbursable Expense.
 - o Televised inspection of sewers, unless specifically included as a Basic Service Reimbursable Expense.
 - o Preparation of an environmental impact statement (EIS) and all services related to the preparation and approval of the EIS for the Project.
- B. If the Consultant is caused expense due to substantial revisions of previously approved studies, design documents, drawings or specifications, or if the scope of the project is significantly enlarged either by expansion of the project's physical limits or by increase of the Consultant's responsibilities, such revisions or scope changes having been requested in writing by the City's Authorized Agent.

ART. I Part 3 Subcontracts

All services to be performed under this Agreement shall be performed with the Consultant's own employees, unless the City agrees that the Consultant may subcontract such services. Copies of all proposed Agreements between the Consultant and subcontractors shall be submitted to the City along with a statement of the subcontractor's qualifications. Such Agreements shall be approved by the City in writing prior to initiation of work. All subcontracts under this Agreement are subject to all applicable provisions of this Agreement unless otherwise directed in writing by the City. The Consultant is responsible for the completion of all services under this Agreement in an acceptable and timely manner, including any services performed by a subcontractor, supplier or other party with whom the Consultant has a contract.

ART. I Part 4 City Responsibilities

The City shall:

- A. Provide as complete information as is reasonably possible regarding its requirements for the Project to the Consultant.
- B. Assist the Consultant by making available any information pertinent to the Project, including previous reports and any other data relevant to the design of the Project.
- C. Examine all studies, reports, sketches, estimates, drawings, specifications, proposals and other documents presented to the City by the Consultant for review and render decisions pertaining thereto within a reasonable period of time, so as not to delay the work of the Consultant.
- D. Advertise for proposals from bidders, open the proposals at the appointed time and place and pay all costs incident thereto.
- E. Designate a representative (Authorized Agent) to act as liaison between the City and the Consultant. The Authorized Agent will have the authority and responsibility to 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.
- F. Give written notice to the Consultant where the City observes or otherwise becomes aware of any default in the Consultant's performance hereunder or where the City does not concur with the design or other recommendations of the Consultant.
- G. Obtain approval of the State Department of Environmental Conservation and other governmental authorities having jurisdiction over the Project, with the assistance of the Consultant, for the actual Project construction work.
- H. Obtain required easements with the assistance of the Consultant.

ART. I Part 5 Fee

Section 1.501 General

- A. In no event whatsoever shall the total fee payable to the Consultant pursuant to this Agreement, including all costs and disbursements whatsoever, exceed **\$X00,000 (X Hundred Thousand Dollars).**
- B. The Consultant shall have the right to bill the City for services performed and not already billed on a monthly basis.
- C. The Consultant shall submit duly executed vouchers upon forms which shall be supplied by the City in order to receive payment.
- D. The Consultant shall make available to the City, upon request, all records related to the Consultant's or any approved subconsultants' agreements, services and billings.

Section 1.502 Fee for Basic Services and Reimbursable Expenses

- A. The fee payable to the Consultant for Basic Services pursuant to this Agreement shall be initially set forth in Schedule A.
- B. The fees payable to the Consultant for Reimbursable Expenses pursuant to this Agreement shall be initially set forth in Schedule A.
- C. The City agrees to pay and the Consultant agrees to accept as full payment for the work and service performed pursuant to this Agreement the following fees, payable in the following manner:
 1. Fee Computation
 - a. The Consultant's fee shall be computed at the rate of (X.50) times actual payroll expenses, for the Consultant's technical and professional personnel except for surveyors within the phase limits shown in Schedule A.
 - b. Surveyor's wages are subject to the New York State Department of Labor, Bureau of Public Works Prevailing Rate schedules. The City will pay the incremental cost due to the prevailing wage rate schedules established by the New York State Department of Labor. The prevailing wage schedule for this project is attached to this agreement as Appendix B. The consultant shall compute the fee for surveyor's labor as follows:

Actual surveyor's salary times approved multiplier, plus incremental salary and benefits (due to prevailing wage rate schedules) and additional cost of F.I.C.A., N.Y.S. unemployment, and Federal unemployment tax (10% of the additional incremental salary and benefits. The multiplier shall not be applied to the incremental salary and benefits imposed by the prevailing wage rate schedule. The City will not pay prevailing salary plus benefits times a multiplier. This fee is included in Basic Services shown on Schedule A.
 - c. Reimbursement to the Consultant for fees paid to approved subconsultants shall be made as a part of the Reimbursable Expense as outlined in Schedule A of this Agreement. The subconsultant fee shall be computed at the rate of the approved multiplier times the subconsultant's approved hourly rates for technical and professional personnel assigned to the Project. The subconsultant shall be paid within five (5) business days of the date the Consultant received payment from the City for the services rendered by the subconsultant.
 2. The City will not pay overtime costs arising from work on any part of this Agreement.
 3. The Consultant shall be reimbursed the actual expenses for Reimbursable Expenses incurred by the Consultant or by the approved subconsultant in performing services under this Agreement. All reimbursement claims must be supported by adequate documentation and show appropriate share breakdown. Reimbursable Expenses are as outlined in Schedule A.
 4. All hourly rates, and the identity and resumes of professional and technical personnel, project managers and principals assigned to the Project shall be approved by the City's Authorized Agent prior to the Notice to Proceed. No changes will be made without the approval of the City's Authorized Agent.

5. Principals shall be reimbursed at a flat hourly rate approved by the City's Authorized Agent.
6. All travel is to be made at the expense of the Consultant and is part of the Fee for Basic Services.

Section 1.503 Fee for Additional Services

- A. The City agrees to pay the Consultant for Additional Services performed by the Consultant within the maximum set forth in Section 1.401 A on the following basis: Allocations of the Additional Services fee for unanticipated changes in the project scope shall be made at the rate of (X.50) times actual payroll expenses for the consultant's technical and professional personnel within the maximum set forth in Section 1.401.
- B. The City shall pay the Consultant as an expert witness at the rate of \$400.00 per day for any day or portion thereof for which the Consultant is required to appear as a witness.
- C. The City shall pay the Consultant to provide property survey and preparation of plots and legal descriptions at \$350 per plot.

Section 1.404 Fee Administration

- A. The Authorized Agents can mutually agree to amend Schedule A in writing for phase changes, allocation modifications or for Additional Services within the maximum authorized amount set forth in Section 1.401 A.
- B. The City's Authorized Agent is authorized to request in writing such Additional Services as the Agent deems necessary, within the maximum authorized amount set forth in Section 1.401A.

ART. I Part 6 Term

This Agreement shall commence upon execution by the parties and shall terminate six (6) months after completion and acceptance of the construction of the Project designated herein. In the event that the Project construction is not undertaken, the Agreement shall terminate one year after the completion of the contract documents by the Consultant and the acceptance by the City of such contract documents. 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.

ART. I Part 7 Time of Performance

- A. For each phase of the work, the Consultant shall not commence work until receipt of a written Notice to Proceed from the City's Authorized Agent and shall prepare documents for that phase of the work for review by the City within the periods as set forth in Schedule B.
- B. The Consultant shall not be held responsible for delays caused by the City of Rochester or by other parties not directly under its control.
- C. The time limits set forth in Schedule B may be amended only by mutual written agreement of the Authorized Agents. It is understood that it is the intention of the City to have the services performed under this Agreement carried out as expeditiously as possible.

ART. I Part 8 Authorized Agent

- A. The City hereby designates the:

City Engineer
300B - City Hall
30 Church Street
Rochester, New York 14614

- B. The Consultant hereby designates:

Name Mr. X Man, P.E.
Title President
Address 300 Main Street
City, State, Zip Rochester, NY 14614

or an authorized representative in case of absence, as Authorized Agents 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 parties reserve the right to designate other or additional Authorized Agents upon written notice to the other.

ART. I Part 9 Ownership of Documents

All original design notes, drawings, specifications, the two digital record drawings products, and survey maps prepared by the consultant under this Agreement, upon completion of the work required herein, will become the property of the City and shall be delivered to the City's Authorized Agent. The Consultant may provide a complete reproducible set of drawings, specifications, survey maps and all other documents in lieu of the originals.

ART. I Part 10 Confidentiality

Section 1.1001 General

- A. The Consultant agrees that any and all data, analyses, materials or other information, oral or written, made available to the Consultant with respect to this Agreement, and any and all data, analyses, materials, reports or other information, oral or written, prepared by the Consultant with respect to this Agreement shall, except for information which has been or is publicly available, be treated as confidential; and shall not be utilized, released, published or disclosed by the Consultant at any time for any purpose whatsoever other than to provide consultation or other services to the City..

Section 1.1002 Freedom of Information Law

- A. Disclosures required by New York's Freedom of Information Law ("FOIL") shall not be considered a breach of any confidentiality provisions in this Agreement. Should Consultant provide the City with any records it deems confidential and exempt from FOIL, Consultant shall clearly mark such portions of those records as confidential and exempt from FOIL disclosure. Upon any request for disclosure of information so marked, the City will inform Consultant of the request and give Consultant ten (10) business days

to submit a written statement of necessity for exempting the records from disclosure pursuant to New York Public Officers Law 89(5). As required by the Public Officers Law, the City will issue a determination as to disclosure within seven (7) business days. If the City determines that the records must be disclosed, Consultant may appeal the City's determination within seven (7) business days. Thereafter, the City shall respond to Consultant's appeal within ten (10) business days. If the City issues an adverse determination, Consultant may appeal the decision within fifteen (15) days of service by commencing an Article Seventy-Eight (78) proceeding under New York's Civil Practice Law and Rules..

ART. I Part 11 Organizational Conflict of Interest

- A. The Consultant warrants that to the best of the Consultant's knowledge and belief, there are not relevant facts or circumstances which could give rise to an organizational conflict of interest, as herein defined, or that the Consultant has disclosed all such relevant information.
- B. An organizational conflict of interest exists when the Consultant performs or agrees to perform services for another party that could foreseeable implicate the City as a potentially responsible party in an environmental enforcement action or claim against the City or otherwise increase the potential liability of the City.
- C. The Consultant agrees that if an actual or potential organizational conflict of interest is discovered, the Consultant will make a full disclosure as soon as possible in writing to the City. This disclosure shall include a description of actions which the Consultant has taken or proposed to take, after consultation with the City, to avoid, mitigate, or neutralize the actual or potential conflict.
- D. The City may terminate this Agreement in whole or in part, if it deems such termination necessary to avoid an organizational conflict of interest. If the Consultant was aware of a potential organizational conflict of interest prior to award, or discovered an actual or potential conflict after award and did not disclose it, or misrepresented relevant information to the City, the City may terminate the Agreement, debar the Consultant from contracting with the City, or pursue such other remedies as may be permitted by law or this Agreement. In such event, termination of this Agreement shall be deemed a termination for default pursuant to Section 2.602
- E. The Consultant further agrees to insert in any subcontract hereunder, provisions which shall conform to the language of this Article.

**SOUTH AVENUE
&
ELMWOOD AVENUE**
AGREEMENT NO.

SCHEDULE A - FEE SCHEDULE

<u>I. BASIC SERVICES</u>	<u>STREET</u>	<u>WATER</u>	<u>TOTAL</u>
A. Survey & Mapping			
B. Preliminary Design & Planning Report			
C. Final Design			
D. Bid and Award			
TOTAL I			
<u>II. REIMBURSABLE EXPENSE</u>			
Aerial Photography			
Subsurface Investigations			
Sewer TV Inspection			
TOTAL II			
TOTAL I & II			
<u>III. ADDITIONAL SERVICES</u>			
TOTAL III			
TOTAL I, II, & III			

**SOUTH AVENUE
&
ELMWOOD AVENUE**

AGREEMENT #:

SCHEDULE B - TIME SCHEDULE

<u>PHASE</u>	<u>Days From Notice to Proceed</u>
A. Planning and Preliminary Engineering Phase	9 months
B. FINAL Design	6 months

City of Rochester Digital Record File Standards

1. The complete digital record files and the abbreviated digital record file to update the GIS map shall include a transmittal letter and labeled disks or CD-ROM with the following information:

Project Code, Project Name and Project Limits;
 Designer's Name and Firm Name;
 Software and Version;
 Disks numbered # of Total # of disks.

A Readme.txt file shall be placed on the #1 disk and include all the label information plus the following:

File Index with a description of each file;
 Layer/Level name and description.

2. The digital file submitted to update the City's GIS map must conform to the following City standards:

File Medium: IBM-formatted 1.44M 3½" disk or CD-ROM;
 Software & Version: Microstation 4.0, AutoCAD 12 or compatible;
 File Formats: DGN, DXF or DWG only.
 Files shall be executable and/or self extracting compressed files.

The abbreviated digital record file shall contain only the features that are newly constructed as part of the project and listed below. All other data shall be deleted from the project's digital design files prior to submission to the City. The abbreviated digital record file shall have the entire project length on one file. The pa, wl, and dr layers shall contain no labels or text. The features shall be on 10 separate layers and indexed for retrieval, as follows:

<u>Layer Name</u>	<u>Definition</u>
pa	New Curb Line - a single line at the edge of pavement; New Gutter - a single line at the edge of pavement, and single line at outside edge of gutter;
wl	New Sidewalks - single line at edges of concrete including outside edges of handicap ramp;
dr	New Driveway Aprons - a single line from outside edge of aprons from pavement line to R.O.W. line;
li	New or Relocated Street Lights - defined as a point;
tr	New Street Trees - defined as a point;
mon	All Control Monumentation (RCS, USC & GS, etc.) within project limits as defined as points;
row	Streetlines (determined by survey methods);
ne	Grid or Grid Tics (100' spacing) with NAD '83 coordinate values labeled on grid;
wm	Water Mains (if constructed as part of the project) - single line for new water main;
sm	Sewer Mains (if constructed as part of the project) - single line for new water main.

The layer names are case sensitive. All layer names shall use lower case letters.

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