



CITY OF SANDUSKY COMMISSIONERS
REGULAR SESSION AGENDA
April 25, 2011 at 5 p.m.
City Hall, 222 Meigs Street

INVOCATION

PLEDGE OF ALLEGIANCE

CALL TO ORDER

ROLL CALL

D. Cole, P. Brown, D. Kaman, J. Hamilton, R. Brady, J. Farrar & D. Waddington

APPROVAL OF MINUTES

April 11, 2011

PRESENTATION

Diedre Cole – Sandusky Youth Commission

PUBLIC HEARING

2011 Annual Action Plan

AUDIENCE PARTICIPATION

Agenda items listed below only (3 minute limit)

COMMUNICATIONS

Motion to accept all communications submitted below

ITEM #1 – Submitted by Todd J. Roth, P.E., P.S.

ORDERED IN 4.11.11

Budgetary Information: This item has no budgetary impact.

ORDINANCE NO. _____: It is requested an Ordinance be passed changing the name of Shelby Street, extending from Pierce Street to Buchanan Street, in the city, to Henry Way; and declaring that this Ordinance shall take immediate effect in accordance with Section 14 of the city charter.

ITEM #2 – Submitted by Todd J. Roth, P.E., P.S.

Budgetary Information: The fee for this work is \$29,750 and will be paid with a U.S. EPA Brownfield Petroleum Cleanup Grant.

ORDINANCE NO. _____: It is requested an Ordinance be passed authorizing and directing the city manager to enter into an agreement with Arcadis U.S., Inc./Malcolm Pirnie, Inc., of Columbus, Ohio for certified professional services in conjunction with the U.S. EPA Brownfield Petroleum cleanup grant for the completion of the Bureau of Underground Storage Tank Regulations (BUSTR) Tier 1 source investigations at the Sandusky Cabinets property; and declaring that this Ordinance shall take immediate effect in accordance with Section 14 of the city charter.

ITEM #3 – Submitted by Todd J. Roth, P.E., P.S.

Budgetary Information: The total cost for the out-of-scope services is \$39,186 of which \$12,220 is covered within the existing contract budget and the remaining balance of \$26,966 will be paid with proceeds from the Tax Increment Financing (TIF) arrangement on the Chesapeake Lofts condominiums.

ORDINANCE NO. _____: It is requested an Ordinance be passed authorizing and directing the city manager and/or finance director to make payment to Partners Environmental Consulting, Inc., of Solon, Ohio, for certified professional services for the bay front paper district redevelopment project; and declaring that this Ordinance shall take immediate effect in accordance with Section 14 of the city charter.

ITEM #4 – Submitted by Todd J. Roth, P.E., P.S.

Budgetary Information: The engineering consultant fee is not to exceed \$22,500 to be paid with water funds.

ORDINANCE NO. _____: It is requested an Ordinance be passed authorizing and directing the city manager to enter into an agreement for professional design services with John Hancock & Associates, Inc. for the Thorpe Drive, Dorn Drive and Ferndale Drive waterline project; and declaring that this Ordinance shall take immediate effect in accordance with Section 14 of the city charter.

ITEM #5 – Submitted by Todd J. Roth, P.E., P.S.

Budgetary Information: The revised project cost based on bids, including engineering, inspection, advertising and miscellaneous expenses is \$269,174. The city is responsible for the entire project cost and it will be paid with the city's water funds.

ORDINANCE NO. _____: It is requested an Ordinance be passed authorizing and directing the city manager to enter into a contract with Herbst Excavating, LLC, of Sandusky, Ohio for the Hayes Avenue waterline improvement project; and declaring that this Ordinance shall take immediate effect in accordance with Section 14 of the city charter.

ITEM #6 – Submitted by Thomas Schwan, Public Transit Administrator

Budgetary Information: The City of Sandusky received Job Access Reverse Commute (JARC) funds in 2009, 2010 and 2011 from the Ohio Department of Transportation for the operation of the Sandusky-Perkins Area Ride Connection (SPARC) route. This point deviation route travels throughout the city and to centers of employment along U.S. Route 250. The SPARC route has been very popular and ridership has increased significantly in 2009, 2010 and 2011. In 2009, the SPARC route carried 20,250 passengers. In 2010, the SPARC service, with the addition of a second route in June, transported 46,870 passengers, an increase of 131% over 2009. Ridership for the first quarter of 2011 on SPARC 1 and 2 is 15,540 passengers. The increase of ridership is estimated to be 33% for 2011.

(JARC) dollars are designated for those projects that provide transportation from urban areas where job opportunities have been lost to suburban areas where job opportunities are being created. The City of Sandusky originally applied for and was granted a \$100,000 grant in July of 2008 to fund the SPARC project. It began operation on March 16, 2009.

ODOT then awarded continuation funding to STS to sustain SPARC in 2010 and 2011, giving the route sufficient time to prove its effectiveness.

A local match is required for award of funds. If granted the full amount requested of \$120,763, a local match of \$60,381.50 will be required. It is anticipated that this match will come from dollars from Serving Our Seniors and contract revenue.

RESOLUTION NO. _____: It is requested a Resolution be passed authorizing the filing of a grant application with the Ohio Department of Transportation through the U.S. DOT Federal Transit Administration (FTA) for a job access reverse commute (JARC) program grant for the Sandusky Transit System; and declaring that this Resolution shall take immediate effect in accordance with Section 14 of the city charter.

CITY MANAGER'S REPORT

OLD BUSINESS

NEW BUSINESS

AUDIENCE PARTICIPATION

Open discussion on any item (5 minute limit)

EXECUTIVE SESSION

ADJOURNMENT

[Buckeye CableSystem broadcast on Cable Channel 81:](#)

LIVE: Monday, April 25 at 8:30 p.m.

REPLAYS: Tuesday, April 26 at 5 p.m.
Monday, May 2 at 7 p.m.

TANDEM MEDIA NETWORK
ORDER CONFIRMATION
(CONTINUED)

Salesperson: ANGIE WETZEL

Printed at 04/15/11 13:28 by \$LOGIN

Acct#: 30450

Ad#: 212560 Status: N

Notice of Public Hearing

The City of Sandusky intends to apply to the U.S. Department of Housing and Urban Development (HUD) for funding under the Community Development Block Grant (CDBG) Program. The City of Sandusky is eligible for approximately \$749,306 of CDBG funding beginning July 1, 2011, provided the City meets applicable program requirements. To obtain this funding, the City must submit an Annual Action Plan. The Annual Action Plan is based on the City of Sandusky CDBG Consolidated Plan, a five-year strategy developed to address housing, homelessness and community development issues.

The second public hearing for the 2011 Annual Action Plan will be held on Monday, April 25, 2011 at 5:00 pm. Citizens are encouraged to attend this meeting located at City Hall, 222 Meigs Street, Sandusky, Ohio 44870 to provide input on the projects to be placed in the City of Sandusky's Annual Action Plan. An executive summary of proposed projects includes Program Administration, Information and Referral Service (211), Fair Housing, Downpayment Assistance, Emergency Home Repair and Accessibility Improvements, Community Wellness Program, Senior Drug Repository Program, Citizen Circle Program, Emergency Housing and Utility Assistance Program, Youth Recreational Scholarship Program, Community Gardening Program, Street Improvements/Sandusky Bay Pathway (Cedar Point Drive), Street Improvements (Columbus Avenue), Lions Park Improvements Phase II, Various Park Improvement Program, Code Enforcement, Clearance and Demolition, Micro-Enterprise Loan Program, Economic Development Revolving Loan Fund Program and ED Technical Assistance. Full copies of the Annual Plan will be available at the following locations: Sandusky Library, City Hall, Planning & Zoning Office and the City's website: www.ci.sandusky.oh.us.

The City Building is an accessible facility. If a participant will need auxiliary aids (interpreter, Braille or taped material, listening device, other) due to a disability, please contact the City Division of Planning prior to April 22, 2011 at (419) 627-5872 or via e-mail at chandy@ci.sandusky.oh.us to ensure that your needs will be accommodated.

Kelly Kresser
Clerk of the Sandusky City
Commission
April 16, 2011

TO: Donald C. Icsman, Acting City Manager

FROM: Todd J Roth, Director

DATE: April 12, 2011

SUBJECT: Commission Agenda Item

ITEM FOR CONSIDERATION: Ordinance approving the renaming Shelby Street between Pierce and Buchanan Streets to Henry Way in honor of Pastor Henry. In 2010, Ms. Mary Aaron, on behalf of New Jerusalem Baptist Church, submitted a request to the City requesting that this portion of Shelby Street be renamed in honor of Pastor Eddie Henry who has been a pillar of the community. Pursuant to State law the City published a notice of the requested name change once per week for a period of six consecutive weeks prior to the public hearing which was held on Monday, April 11, 2011. At the conclusion of the public hearing the City Commission requested an Ordinance be prepared authorizing and approving the name change for their consideration at their next regularly scheduled City Commission meeting.

BUDGETARY INFORMATION: This item has no budgetary impact.

ACTION REQUESTED: It is recommended that the City Commission approve legislation to change the name of Shelby Street between Pierce and Buchanan Streets to Henry Way.

I concur with this recommendation:

Donald C. Icsman
Acting City Manager

cc: Hank Solowiej, Finance Director
Kelly Kresser, Clerk of City Commission

ORDINANCE NO. _____

AN ORDINANCE CHANGING THE NAME OF SHELBY STREET, EXTENDING FROM PIERCE STREET TO BUCHANAN STREET, IN THE CITY, TO HENRY WAY; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, the New Jerusalem Baptist Church has submitted a request to change the name of Shelby Street, between Pierce Street and Buchanan Street, to Henry Way in honor of Pastor Eddie Henry who has been pillar of the community; and

WHEREAS, Pastor Eddie Henry has worked with many officials in the law and justice system and has helped numerous individuals over the years and at age 84 continues to be a pillar in the community and the New Jerusalem Baptist Church would like to recognize Pastor Henry by requesting that the City Commission rename this section of street in honor of him; and

WHEREAS, pursuant to Ohio Revised Code Section 723.07, a notice of public hearing was published for six (6) consecutive weeks in the Sandusky Register and a public hearing was held at this City Commission's regularly scheduled meeting on April 11, 2011, where there were no objections to changing the name of Shelby Street, extending from Pierce Street to Buchanan Street to Henry Way; and

WHEREAS, this City Commission finds that the New Jerusalem Baptist Church has petitioned this Commission to change the name of Shelby Street, extending from Pierce Street to Buchanan Street, to Henry Way and that there is good cause for the name to be changed as requested and that this legislation should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter to enable the name change to be implemented as soon as possible; and

WHEREAS, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this Ordinance be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. This City Commission finds and determines that the New Jerusalem Baptist Church has petitioned this Commission requesting that the name of current Shelby Street between Pierce Street and Buchanan Street be changed to Henry Way, and that upon public hearing this Commission is satisfied that there is good cause for the name change, that it will not be detrimental to the general interest of the public and that it should be made and the City Manager and/or the Director of Planning, Engineering and Development is authorized and directed to immediately take any necessary actions to carry out the change of name authorized by this City Commission.

Section 2. The Clerk of the City Commission is authorized and directed to

deliver a certified copy of this Ordinance to the Office of the Erie County Recorder and to notify the Auditor of Erie County of such street name change by sending him a copy of this Ordinance.

Section 3. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 4. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 5. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

DANIEL J. KAMAN
PRESIDENT OF THE CITY COMMISSION

ATTEST: _____
KELLY L. KRESSER
CLERK OF THE CITY COMMISSION

Passed: April 25, 2011



DEPARTMENT OF PLANNING, ENGINEERING & DEVELOPMENT

TODD J ROTH, P.E., P.S.

222 Meigs Street
Sandusky, Ohio 44870
Phone 419/627-5829
Fax 419/627-5933

To: Donald C. Icsman, Acting City Manager
From: Todd J Roth, Director
Date: April 13, 2011
Subject: Commission Agenda Item

ITEM FOR CONSIDERATION: Agreement for Professional Services with Arcadis/Malcolm Pirnie, Inc. of Columbus, Ohio, for completing Bureau of Underground Storage Tank Regulations (BUSTR) Tier 1 Source Investigations for Releases #22009975-N00002 (UST4N) and #22009975-N00003 (UST4S) at the Sandusky Cabinets property.

Arcadis/Malcolm Pirnie was the Certified Professional for the Underground Storage Tank Removal Project at the Sandusky Cabinets property. They assisted the City in the fall of 2010 with performing closure sampling and reporting services under the U.S. EPA Cleanup project.

The project consisted of the removal of three underground storage tanks (USTs) from two parcels at the site. One UST was removed from 513 E. Washington Street and a closure report was submitted to BUSTR in January, 2011. A No Further Action (NFA) letter was received for this UST.

Two other USTs were removed from 430 E. Market Street and closure reports for these USTs were also submitted to BUSTR in January, 2011. Response letters were received from BUSTR stating that Tier 1 Source Investigations were required for both.

BUDGETARY INFORMATION: The fee for this work is \$29,750 and will be paid with USEPA Brownfield Petroleum Cleanup Grant.

ACTION REQUESTED: It is recommended that the Agreement for Professional Services with Malcolm Pirnie, Inc. of Columbus, Ohio, be approved and that the necessary legislation be passed under suspension of the rules in full accordance with Section 14 of the City Charter in order to submit the Tier 1 reports by the deadline of May 20, 2011.

I concur with this recommendation:

Donald C. Icsman
Acting City Manager

cc: Kelly Kresser, City Commission Clerk
Hank Solowiej, Finance Director

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH ARCADIS U.S., INC. / MALCOLM PIRNIE, INC., OF COLUMBUS, OHIO, FOR CERTIFIED PROFESSIONAL SERVICES IN CONJUNCTION WITH THE USEPA BROWNFIELD PETROLEUM CLEANUP GRANT FOR THE COMPLETION OF THE BUREAU OF UNDERGROUND STORAGE TANK REGULATIONS (BUSTR) TIER 1 SOURCE INVESTIGATIONS AT THE SANDUSKY CABINETS PROPERTY; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, upon the completion of a competitive selection process conducted by the City, this City Commission authorized the City Manager to enter into an Agreement with Malcolm Pirnie, Inc., for certified professional services in conjunction with the USEPA Brownfield Petroleum Cleanup Grant for the Sandusky Cabinets property by Ordinance No. 10-013 passed on February 22, 2010, and subsequently approved and ratified another agreement with Malcolm Pirnie, Inc., by Ordinance No. 10-114 passed on October 25, 2010; and

WHEREAS, this City Commission declared the necessity for the City to proceed with the Sandusky Cabinets Underground Storage Tank Removal Project by Resolution No. 020-10R passed on July 12, 2010; and

WHEREAS, this project involved the removal of three (3) petroleum underground storage tanks (USTs) from two (2) parcels at the Sandusky Cabinets site; and

WHEREAS, one (1) UST was removed from 513 E. Washington Street and after a closure report was submitted to BUSTR in January of 2011, a No Further Action (NFA) letter was received for this UST; and

WHEREAS, two (2) other USTs were removed from 430 E. Market Street and after closure reports for these USTs were submitted to BUSTR in January of 2011, response letters were received from BUSTR stating that Tier 1 Source Investigations were required for both USTs; and

WHEREAS, ARCADIS U.S., Inc. / Malcolm Pirnie will be performing services for the completion of the Bureau of Underground Storage Tank Regulations (BUSTR) Tier 1 Source Investigations for Releases #22009975-N00002 (UST4N) and #22009975-N00003 (UST4S) at the Sandusky Cabinets property; and

WHEREAS, the cost for these professional services is \$29,750.00 and will be paid with USEPA Brownfield Petroleum Cleanup Grant funds; and

WHEREAS, this legislation should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to submit the Tier 1 reports by the deadline of May 20, 2011; and

WHEREAS, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments, including the Department of Engineering of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. The City Manager is authorized and directed to enter into an Agreement with ARCADIS U.S., Inc. / Malcolm Pirnie, Inc., of Columbus, Ohio, for

Certified Professional Services for the completion of the Bureau of Underground Storage Tank Regulations (BUSTR) Tier 1 Source Investigations, in conjunction with the USEPA Brownfield Petroleum Cleanup Grant for the Sandusky Cabinets property, consistent with the proposal submitted, a copy of which is marked Exhibit "A" and attached to this Ordinance at an amount **not to exceed** Twenty Nine Thousand Seven Hundred Fifty and 00/100 Dollars (\$29,750.00).

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. This Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter upon its passage, and its due authentication by the President, and the Clerk of the City Commission of the City of Sandusky, Ohio.

DANIEL J. KAMAN
PRESIDENT OF THE CITY COMMISSION

ATTEST: _____
KELLY L. KRESSER
CLERK OF THE CITY COMMISSION

Passed: April 25, 2011

Mr. Todd Roth, P.E.
City of Sandusky, Ohio
222 Meigs Street
Sandusky, Ohio 44870

Subject:

Proposal and Scope for Performing a BUSTR Tier I Source Investigations for Sandusky Cabinets Releases #22009975-N00002 and #22009975-N00003

ENVIRONMENT

Dear Mr. Roth:

ARCADIS/Malcolm Pirnie (ARCADIS) is pleased to present this scope of services and fee proposal for completing Bureau of Underground Storage Tank Regulations (BUSTR) Tier I Source Investigations for Releases #22009975-N00002 (UST4N) and #22009975-N00003 (UST4S) at the Sandusky Cabinets property.

Date:

March 21, 2011

Contact:

Daniel M. Bremer

Phone:

614.430.2613

Email:

dan.bremer@arcadis-us.com

Our ref:

Sandusky Cabinets UST
Closure

1.0 Background

ARCADIS assisted the City of Sandusky with performing closure sampling and reporting services for the Sandusky Cabinets U.S. EPA Cleanup project conducted during the fall of 2010. The project consisted of the removal of three underground storage tanks (USTs) from two parcels of the site. Soil sampling was performed by ARCADIS as part of the UST removals in accordance with BUSTR requirements.

One UST was removed from the 513 E. Washington Street parcel (BUSTR Release #22010074-N00001) and a closure report was submitted to BUSTR on January 24, 2010. A letter from BUSTR to the City of Sandusky dated February 8, 2011 states that the No Further Action (NFA) is required for this UST.

Two other USTs (UST4N and UST4S) were located at the 430 Market Street parcel. Closure reports for these USTs were also submitted to BUSTR on January 24, 2011. Response letters from BUSTR for each of these USTs state that a Tier I Source Investigation is required in accordance with Ohio Administrative Code 1301:7-9-13(H).

Based on a review of previous Phase II Property Assessment reports completed for the site, it appears that the soil impacts are limited and groundwater has not been significantly impaired. These data were reviewed and provided to Mr. Dave Biskner of BUSTR. Mr. Biskner has indicated that previously installed groundwater

Imagine the result

monitoring wells can be used as appropriate as part of the Tier I investigation, which will reduce costs.

Mr. Biskner also indicated that in order to achieve NFA status for UST4N, remnant piping beneath the property building will require abandonment. According to a letter from Paul Ricci (City of Sandusky Acting Fire Chief) dated March 9, 2011, BUSTR concurs that this piping can be abandoned in place and additional testing is not required. Therefore, fees for additional testing related to the remnant piping is not included in this proposal. Fees for oversight of abandonment are also not included herein.

2.0 Scope of Services

The following scope of services has been developed in accordance with the BUSTR Technical Guidance Manual (TGM) (April 2005). ARCADIS will utilize existing monitoring wells due reduce fees to perform the Tier I Source Investigations.

2.1 UST 4N

2.1.1 Soil Evaluation

In accordance with BUSTR guidance, three soil borings will be advanced to bedrock in the vicinity of two areas that contained initial elevated soil levels. The depth to bedrock is anticipated to be approximately between five and 10 feet below grade level (bgl). Proposed boring locations are shown on Figure 1.

- Borings B1, B2 and B3 will be installed to assess subsurface conditions in the vicinity of where elevated closure soil samples DISP3-Pipe-11 and DISP4-Pipe-3 were collected during UST/piping removal.
- Borings B4, B5 and B6 will be installed to assess subsurface conditions in the vicinity of where elevated closure soil sample DISP1-Pipe-1 was collected during UST/piping removal.
- Soil samples from each sampling interval will be field screened with a photoionization detector (PID).
- Since groundwater will likely not be encountered above the bedrock surface, the soil sample with the highest PID reading plus the soil sample from the bottom of the boring will be submitted for laboratory analyses.
- If elevated PID readings are not measured, only the sample from the bottom of the boring will be submitted for laboratory analyses.

- Soil samples will be collected in accordance with BUSTR requirements and will be submitted for benzene, toluene, ethylbenzene, xylene (BTEX) and poly nuclear aromatic hydrocarbons (PAH) analyses.
- One sample will also be collected for grain size analyses to establish soil type classification in as presented in Table 3.2 of the TGM.

2.1.2 Groundwater Evaluation

In accordance with BUSTR guidance, three groundwater samples are required to assess potential impacts. The scope of the groundwater evaluation was developed utilizing new and existing groundwater monitoring wells as shown on Figure 1.

- Two new monitoring well will be installed at the B-1 and B-4 boring locations to an anticipated depth of 25 feet bgl.
- Two existing monitoring wells MW-4 and MW-5 will also be used the groundwater evaluation phase.
- Groundwater samples will be collected and analyzed for BTEX and PAH analyses.

2.2 UST 4S

2.2.1 Soil Evaluation

In accordance with BUSTR guidance, three soil borings will be advanced to bedrock in the vicinity of the UST4S-PIPE-174 sample that contained initial elevated soil levels of BTEX, Naphthalene, Total Petroleum Hydrocarbons (TPH) C6-C-12 and C10-C-20). The depth to bedrock is anticipated to be approximately between five and 10 feet below grade level (bgl). Proposed boring locations are shown on Figure 2.

- Borings B1, B2 and B3 will be installed to assess subsurface conditions in the vicinity of where elevated closure soil sample UST4S-PIPE-174 was collected during UST/piping removal.
- Soil samples from each sampling interval will be field screened with a photoionization detector (PID).

- Since groundwater will likely not be encountered above the bedrock surface, the soil sample with the highest PID reading plus the soil sample from the bottom of the boring will be submitted for laboratory analyses.
- If elevated PID readings are not measured, only the sample from the bottom of the boring will be submitted for laboratory analyses.
- Soil samples will be collected in accordance with BUSTR requirements and will be submitted for BTEX, PAH and TPH (gasoline and diesel range) analyses.
- One sample will also be collected for grain size analyses to establish soil type classification in as presented in Table 3.2 of the TGM.

2.2.2 Groundwater Evaluation

In accordance with BUSTR guidance, three groundwater samples are required to assess potential impacts. The scope of the groundwater evaluation was developed utilizing new and existing groundwater monitoring wells as shown on Figure 2.

- One new monitoring well will be installed at the B-1 boring location to an anticipated depth of 25 feet bgl.
- Two existing monitoring wells MW-5 and MW-7 will also be used the groundwater evaluation phase. (MW-5 costs are included in the UST4N budget item).
- Groundwater samples will be collected and analyzed for BTEX and PAH analyses.

Once these elements are completed, the report will be submitted as final draft for review and comment by the City and U.S. EPA.

2.4 Surveyor and IDW

The boring and well locations will be surveyed by an Ohio Liscenced surveyor for horizontal and vertical position using State Plane Coordinates and to USGS datum.

Investigation derived waste will be containerized in labeled DOT-approved 55-gallon drums. Once analytical results are received the drums will be transported and properly disposed at an approved facility.

2.5 Tier I Reports

Tier I Reports will be completed separately for the UST4-N and UST4-S areas. These reports will be completed on the prescribed BUSTR Tier I Investigation Report forms.

3.0 Schedule and Fee**3.1 Schedule**

ARCADIS will commence work on the report revisions immediately upon the receipt of formal approval of this scope of work from the City of Sandusky. It is anticipated that the Tier I reports will be completed within four to six weeks.

3.2 Fees

The fees for this scope of work are detailed in the following breakdown of labor/expenses and subcontractor costs required to complete these activities:

3.2.1 ARCADIS Labor and Expenses

- Field (70 hours) - \$6,650
- Tier I Reports – 2 @ \$3,300 each = \$6,600
- Expenses (Field Equipment/Per Diem and Office) - \$2,000

Subtotal - \$15,250

3.2.2 ARCADIS Subcontractor Expenses

- Drilling Subcontractor - \$6,200
- Laboratory - \$6,400
- Surveyor - \$900
- IDW Disposal - \$1,000

Subtotal - \$14,500

Total Fee Proposal - \$29,750

ARCADIS

Mr. Todd Roth
March 21, 2011

We appreciate the opportunity to provide this scope of work and fee proposal to the City of Sandusky, and look forward to a successful completion of this project. If you have any questions please call me at (614) 430-2613 at your convenience.

Sincerely,

ARCADIS U.S., Inc.

Kent McManus / DMB

Kent McManus, P.E.
Vice President

D.M. Bremer

Daniel M. Bremer
Principal Geologist
Ohio VAP Certified Professional



DEPARTMENT OF PLANNING, ENGINEERING & DEVELOPMENT

TODD J ROTH, P.E., P.S.

222 Meigs Street
Sandusky, Ohio 44870
Phone 419/627-5829
Fax 419/627-5933

troth@ci.sandusky.oh.us

To: Donald C. Icsman, Acting City Manager
From: Todd J Roth, Director
Date: April 13, 2011
Subject: Commission Agenda Item

ITEM FOR CONSIDERATION: Legislation authorizing payment to Partners Environmental Consulting, Inc., Solon, Ohio for the Bayfront Paper District Redevelopment Project. Partners Environmental is the Certified Professional for this project.

The Certified Professional performed certain out-of-scope items related to Partners/Hull preparation of an Ohio EPA Voluntary Action Program (VAP) No Further Action (NFA) letter for the Bayfront Paper District Redevelopment Property. The initial scope of work was authorized by the City in a contract dated July 20, 2010 and approved per Ordinance No. 10-124 passed November 22, 2010. The out-of-scope items were brought to the attention of the City as they occurred but are now being submitted for payment. Costs may be incurred at a later date for additional work performed by the Certified Professional in response to the Ohio EPA's comments on the VAP NFA letter.

BUDGETARY INFORMATION: The total cost for the out-of-scope services is \$39,186.00 of which \$12,220.00 is covered within the existing contract budget and the remaining balance of \$26,966.00 will be paid with proceeds from the Tax Increment Financing (TIF) arrangement on the Chesapeake Lofts Condominiums.

ACTION REQUESTED: It is recommended that the proper legislation to approve the out-of-scope costs and to authorize payment for Professional Services with Partners Environmental Consulting, Inc., Solon, Ohio, in the amount of \$26,966.00 be approved and that the necessary legislation be passed under suspension of the rules in full accordance with Section 14 of the City Charter in order to make payment to the certified professional in a timely manner for services rendered.

I concur with this recommendation:

Donald C. Icsman,
Acting City Manager

cc: Kelly Kresser, City Commission Clerk
Hank Solowiej, Finance Director



March 24, 2011

Mr. Todd Roth
Director of Planning, Engineering and Development
City of Sandusky
222 Meigs Street
Sandusky, Ohio 44870

**RE: REVISED Request for Change Order
Bayfront Paper District No Further Action Letter Preparation
Bayfront Paper District Redevelopment Project
Sandusky, Ohio**

Dear Mr. Roth:

Partners Environmental Consulting, Inc. (Partners), in conjunction with Hull & Associates, Inc. (Hull), is requesting a *Revised* Change Order from The City of Sandusky, Ohio (City) for the Bayfront Paper District (Property) Redevelopment Project (Project). Specifically, the Changer Order Request is for certain out-of-scope items related to Partners/Hull preparation of a Voluntary Action Program (VAP) No Further Action (NFA) Letter for the Property. The initial scope of work was authorized by the City in a contract dated July 20, 2010. The out-of-scope issues identified in this letter were brought to the attention of the City as they occurred, but are summarized and quantified herein for the purposes of addressing the costs.

During the course of Partners/Hull's work on the NFA Letter preparation, certain out-of-scope issues arose that caused Partners/Hull to expend unanticipated resources. It was imperative that these issues were dealt with in a timely manner in order for the NFA Letter to be submitted to the Ohio Environmental Protection Agency (EPA) by the Ohio Department of Development (ODOD) imposed deadline of October 5, 2010. This deadline was arbitrarily set by ODOD as a condition for the Project to be funded by a Clean Ohio Revitalization Fund (CORF) grant. Although the due date imposed by the ODOD was considered unreasonable, the City was committed to completing the Project and contracted with Partners/Hull to undertake the environmental tasks necessary to ensure its completion. In support of the City, Partners/Hull developed a budget and committed to the schedule. Had the NFA not been submitted by the ODOD's due date, the City would have been in a position to have to repay any previously reimbursed costs and forfeit any additional reimbursement of the \$3,000,000 grant. After the NFA letter was submitted on October 5, 2010, it became apparent that these out-of-scope items had caused Partners/Hull to exceed the contract budget and we brought this to the City's attention immediately. The original budget for the NFA letter preparation had some capacity to handle unanticipated costs, however, the items presented below caused Partners/Hull to expend this capacity and exceed the original budget. Although each individual task by itself was less than \$6,230, in total, Partners/Hull accrued \$39,186 in out-of-scope costs for these items.

The following section summarizes the unanticipated activities and provides a breakdown of costs associated with each task.

CHANGE ORDER REQUEST ITEMS

Previous Data Formatting and Quality Control Checking

Most of the environmental data used for the NFA documents were collected during previous investigations by consultants other than Partners and Hull. The data collected for these previous investigations were compiled into data tables by the other consultants. These data tables were used "as is" by Partners on an earlier NFA submittal for the Chesapeake Lofts and a draft Bayfront Paper District

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Redevelopment NFA that was prepared in 2007. The data tables were used for these earlier NFA documents under an affidavit from the consultant that originally prepared the data tables, and were not altered by Partners.

In the time period between when the previous NFA documents were prepared and the current preparation of the NFA documents, the Ohio Environmental Protection Agency (EPA) changed the requirements as to how environmental data was to be displayed in the data tables contained in the NFA documents. All environmental data tables used in current NFA documents are now required by the Ohio EPA to be presented by Identified Area (IA). Since the data tables prepared by the previous consultant were not presented in this manner, Partners/Hull had to create new data tables for the current NFA documents in order to comply with the new Ohio EPA requirements. The revision of the data tables into the new format was an item anticipated by Partners/Hull.

However, in the course of preparing the new data tables and actually managing the data for the first time, a significant amount of errors with the data in the original data tables were discovered, including data in the summary tables that did not match the data in the laboratory reports. Given this unanticipated condition, Partners/Hull found it necessary to check all data in the original data tables against the original laboratory reports in order for the current Certified Professional (CP) to sign the NFA letter. This out-of-scope item resulted in Partners/Hull accruing \$4,745 in out-of-scope costs.

Operations and Maintenance Plan (O&M Plan) and Risk Mitigation Plan (RMP) Revisions for the former Tricor Property

Partners/Hull prepared an Operations and Maintenance Plan (O&M Plan) and Risk Mitigation Plan (RMP) for the Bayfront Paper District based on the work previously completed for the Chesapeake Lofts portion of the Property, and the Tricor Marina portion of the Property, which was undergoing remedial and construction activities. Certain changes to the remedial plan and construction activities occurred for the Tricor Marina construction, which necessitated Partners/Hull to revise the O&M Plan and RMP. The changes to the remedial activities included extending the two (2) foot thick soil cover to other areas of the Property. A feature of the site known as the Amphitheater could not be constructed as originally designed due to geotechnical considerations, and thus could not hold all the soil excavated for the new Marina. The revised design called for the excess soil to be used in other areas of the Property as fill, and thus would also require this soil to be covered with a two (2) foot thick soil cover. The change in design and construction required Partners/Hull to revise the O&M Plan and RMP to incorporate these changes. This out-of-scope item resulted in Partners/Hull accruing \$4,525 in out-of-scope costs.

Keller Building Asbestos Issues

In a letter to the City dated July 6, 2010, the ODOD informed the City that asbestos abatement would be required for the Keller Building as part of the Clean Ohio Revitalization Fund (CORF) grant. This new requirement by ODOD meant that Partners/Hull was required to address asbestos issues related to the Keller Building, and was not included in our July 8, 2010 proposal to the City for NFA Preparation services. Partners/Hull effort for this task included a site visit by a certified asbestos inspector to confirm the location of asbestos containing material in the Keller Building and determine its condition and quantity, conducting a site walkover with contractors, obtaining asbestos abatement quotes from several contractors, compiling a recommendation to the City concerning the contractor quotes, and incorporating the asbestos information into a response to the ODOD. This out-of-scope item resulted in Partners/Hull accruing \$2,945 in out-of-scope costs.

Monitoring Well Issues

A total of 35 monitoring wells had been installed at the Property by various consultants other than Partners/Hull in the course of previous environmental investigations. The status of the monitoring wells was an important consideration for the current NFA documents, and it was necessary to account for all the monitoring wells previously installed. Partners/Hull needed to determine if the wells still existed, and if

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they did not, had the wells been properly abandoned. If the wells still did exist, Partners needed to determine if they would provide representative groundwater samples for chemical analyses. In order to determine the monitoring well status, Partners/Hull:

- Conducted a search of the files for any records relating to the monitoring wells, especially any record of abandonment;
- Visited the site multiple times to search for the monitoring wells, and for those found, assess their condition;
- Researched available records with the City;
- Coordinated a survey to stake well locations and conducted multiple site visits to search for and attempt to locate wells;
- Created a detailed assessment of monitoring well disposition for the NFA; and
- Addressed potential regulatory considerations for the improper abandonment of such wells.

This out-of-scope item resulted in Partners/Hull accruing \$4,246 in out-of-scope costs.

Malcolm-Pirnie Monitoring Well Issue

Partners/Hull was informed in about September 2010 that Malcolm-Pirnie (on behalf of the City) had installed a monitoring well in the southwest portion of the former Tricor property. The monitoring well was reported to have been installed in order to collect groundwater samples from the bedrock for coal tar analysis. If present, coal tar in the subsurface at the Bayfront Paper District would have had serious consequences to the NFA documents that were currently being prepared. Partners/Hull initiated a dialog with Malcolm-Pirnie to obtain all information concerning the monitoring well, including construction details, well logs, and sample results. Partners/Hull was also contacted by the Ohio EPA in reference to the well, who indicated that an elevated pH condition existed in the well that needed to be addressed in the NFA that was being prepared and which had not been adequately evaluated to date by those that installed the well. Partners/Hull then analyzed the data obtained from Malcolm-Pirnie concerning the monitoring well for the impact to the NFA documents being prepared. Partners/Hull also requested and received an affidavit from Malcolm-Pirnie that attested to the data and information concerning the monitoring well for inclusion into the NFA documents. Partners/Hull was able to demonstrate that the elevated pH level was the result of well construction issues and not related to impacted groundwater at the Tricor property. This out-of-scope item resulted in Partners/Hull accruing \$3,395 in out-of-scope costs.

Rock/Debris Used as Fill in Sandusky Bay Issue

Due to complaints received by the Ohio EPA that unclean material was being used as fill in Sandusky Bay by the Tricor Marina contractor, Partners/Hull (including the CP) visited the site multiple times in July 2010. Partners/Hull corresponded with the City, Contractor and the Ohio EPA in order to successfully resolve the issue. This out-of-scope item resulted in Partners/Hull accruing \$2,550 in out-of-scope costs.

Crawl Space beneath Chesapeake Loft

Partners/Hull inspected the crawl space beneath the Chesapeake Lofts building as part of the CP visit and Phase I Environmental Site Assessment. During these inspections, it was discovered that portions of the crawl space beneath the residential structures contained exposed soil and were not covered with concrete, as was required by the Covenant Not To Sue (CNS) currently in effect for the Chesapeake Loft Property, or for the CNS planned for the Bayfront Paper District as a whole. In order to remedy the situation, an engineering control, in the form of locked and restricted access doors, was installed, rather than requiring having concrete poured in the crawl space, a significant cost saving measure for all parties. Because of the discovery of this condition in the later part of the project, the draft O&M Plan and RMP had to be revised to account for this unanticipated condition. Further, the CP had to work with the ownership of the Property to gain permission to install the door and require the access restriction, all of which was negotiated in the final days leading up to the NFA submittal. This out-of-scope item resulted in Partners/Hull accruing \$1,950 in out-of-scope costs.

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Ohio EPA Notice of Violation (NOV) for Construction and Demolition (C&D) Debris in Fill Material

On September 9, 2010, the Ohio EPA issued a NOV to the project for C&D material being present in soil used to construct the amphitheater mound on the former Tricor property. Partners/Hull became involved in order to help the City and contractor at the Tricor Marina site resolve the issue prior to the October 5 deadline for submitting the NFA letter. The NOV represented a condition that would have characterized the Property as ineligible under the VAP, had it not been resolved prior to the NFA submittal. Partners/Hull assisted by developing a strategy to manage the issue, drafting responses to the NOV letter for the City and contractor, discussing the issue with the Ohio EPA, City, and contractor, and researching the issue. This out-of-scope item resulted in Partners/Hull accruing \$1,390 in out-of-scope costs.

Soil Cover Issues at Chesapeake Loft Condominiums

East Side of Building

Concerns were raised in early 2010 that the thickness of soil cover installed in the greenspace along the east side of the Chesapeake Loft Condominiums was less than the two (2) feet required by the CNS. Partners/Hull researched the issue and discovered that there was a lack of documentation on the construction of the required two (2) foot soil cover. Partners/Hull (under separate contracts), conducted a Geoprobe Investigation, and a Test Pit investigation to investigate the thickness of the soil cover, and to analyze the soil beneath the soil cover to determine if it met the VAP Residential Generic Direct Contact Standards (GDCS). These investigations were being conducted concurrently with the drafting of the NFA. The investigations determined that various chemicals of concern (COCs) were present in the soil beneath the soil cover, but that it did not exceed the VAP Residential GDCSs.

However, the data that was compiled for these investigations needed to be incorporated into the following NFA documents, which was not anticipated in the original scope of work:

- Data tables and text in the VAP Phase II Environmental Site Assessment (Phase II);
- The Risk Assessment (RA) text and calculations;
- RMP text, and;
- O&M Plan text.

The incorporation of this soil data was not originally anticipated, because the presumption from the prior NFA/CNS was that only "clean" soil was placed as soil cover, which did not require the inclusion of the data into the determination of site wide risk at the Property. This out-of-scope item resulted in Partners/Hull accruing \$3,160 in out-of-scope costs.

North Side of Building

Due to questions concerning the adequacy of the soil cover at the Chesapeake Loft site on the east side of the building, Partners/Hull researched the origin of the soil cover placed on the north side of the Chesapeake Loft building. Partners/Hull discovered a lack of documentation as to the constructed thickness of the soil cover in this area, and the source of the soil used to fill and cover this area. Working with the City, Partners/Hull conducted research to obtain the necessary documentation, consolidate it into a credible form, reviewed what documentation there was, and incorporated the information into the Phase II report and O&M Plan. This out-of-scope item resulted in Partners/Hull accruing \$1,530 in out-of-scope costs.

West Side of Chesapeake Loft Property

During the course of Tricor Marina construction, it was discovered that there was a lack of documentation for the soil cover on a 25-ft strip of land west of the Chesapeake Loft parking lot. This area was required to have been covered with at least two (2) feet of clean soil under the original Chesapeake Lofts NFA/CNS, but no specific documentation could be identified to establish if this had occurred.

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Partners/Hull worked with the City to modify the existing contracts with Hoty Builders (Hoty) to address this area of the Property, although it had not been originally included in the Hoty contract. For this issue, Partners/Hull performed the following out of scope items:

- Management, including phone calls, discussions, and research, of the soil cover issue;
- Multiple site visits to assess the modifications to the Hoty contract and to confirm completion; and
- Revisions to the O&M Plan and Phase II text.

This out-of-scope item resulted in Partners/Hull accruing \$1,520 in out-of-scope costs.

Soil and Groundwater Vapors to Indoor Air issue at Chesapeake Loft Condominiums

Because of the determination that various COCs were present in the cover soils at Chesapeake Lofts, the direct contact soil pathway had to be incorporated into the site wide calculation of risk for the Property. When that occurred, a failure related to the indoor air pathway resulted. This had not been anticipated, since the prior NFA/CNS for Chesapeake Lofts was based on the use of "clean" soil cover, so no additional risk was posed by the shallow soils and the site wide risk retained capacity to manage the indoor air pathway. Once it was determined that the soils for the cover contained various COCs, it became necessary to address the pathway for soil and groundwater vapors to indoor air at the Chesapeake Loft Condominium for the current NFA submittal. The management of this issue was necessitated by the increased risk posed by the direct contact soil pathway, which consumed capacity in the site wide risk and the changes in the Ohio EPA program as it relates to indoor air, that are on-going. This requirement was not needed for the previous Chesapeake Loft NFA/CNS submittal, and was not anticipated at the time the original scope of work was prepared. Partners/Hull conducted data review, research of previous data, additional calculations, and incorporated the results into the Risk Assessment, O&M Plan, and Phase II text. This out-of-scope item resulted in Partners/Hull accruing \$6,230 in out-of-scope costs.

Ohio Department of Natural Resources Request for Meeting

The Ohio Department of Natural Resources (ODNR) issued certain permits to the City for the Project. In December 2010, ODNR requested a meeting with the City to discuss the NFA letter, ODNR permit issues and other issues concerning the Project, and requested that the CP be present at the meeting. The CP and Hull representative attended this meeting in Sandusky in mid- December 2010. This meeting was not anticipated in the original scope of work, and resulted in Partners/Hull accruing \$1,000 in out-of-scope costs.

SUMMARY OF OUT OF SCOPE COSTS

A summary of the costs associated with the out of scope items presented above are as follows:

Previous Data Formatting and Quality Control Checking	\$ 4,745
O&M Plan and RMP Revisions for the former Tricor Property	\$ 4,525
Keller Building Asbestos Issues	\$ 2,945
Monitoring Well Issues	\$ 4,246
Malcolm-Pirnie Monitoring Well Issue	\$ 3,395
Rock/Debris Used as Fill in Sandusky Bay Issue	\$ 2,550
Crawl Space beneath Chesapeake Loft	\$ 1,950
Ohio EPA NOV for C&D Debris in Fill Material	\$ 1,390
Soil Cover Issues at Chesapeake Loft Condominiums	\$ 6,210
Soil and Groundwater Vapor Issue at Chesapeake Loft Condominiums	\$ 6,230
ODNR Meeting	\$ 1,000
TOTAL: OUT of SCOPE COSTS	\$ 39,186

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SUMMARY OF CHANGE ORDER REQUEST ITEMS

Partners/Hull contract budget for this project is \$162,581, of which \$161,759 has been already invoiced to the City. The remaining capacity in the CORF budget is \$822. Due to the out-of-scope items that are listed below, Partners/Hull has exceeded the CORF budget by \$26,966. The invoice that accompanies this letter is for \$27,788, which includes the \$822 in remaining budget and the \$26,966 Change Order Request.

Partners/Hull succeeded in managing over \$12,220 in out-of scope costs within the existing contract budget, but requires a balance of \$26,966 to account for the costs we have incurred above our current contract amount. The City is advised that additional work for the NFA letter will be required in the future, such as a response to Ohio EPA comments. However, Partners/Hull will submit a proposal to the City for the additional required items once it is apparent as to the level of effort needed to complete the additional tasks.

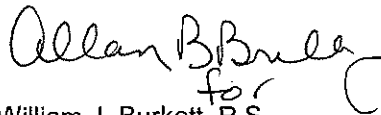
A summary of the items contained in the Change Order Request is as follows:

Keller Building Asbestos Issues	\$ 2,945
Monitoring Well Issues	\$ 4,246
Malcolm-Pirnie Monitoring Well Issue	\$ 3,395
Rock/Debris Used as Fill in Sandusky Bay Issue	\$ 2,550
Ohio EPA NOV for C&D Debris in Fill Material	\$ 1,390
Soil Cover Issues at Chesapeake Loft Condominiums	\$ 6,210
Soil and Groundwater Vapor Issue at Chesapeake Loft Condominiums	\$ <u>6,230</u>
TOTAL: CHANGE ORDER REQUEST COSTS	\$ 26,966

CLOSING

We appreciate your attention to this matter. Please indicate your authorization of this request by signing in the space provided and returning this letter to us by fax or mail or by providing another appropriate contract vehicle. If you have any questions or comments, or if we can be of any further service, please do not hesitate to contact our office.

Sincerely,
Partners Environmental Consulting, Inc.



William J. Burkett, R.S.
Senior Project Manager
Hull & Associates, Inc.



Dan B. Brown, CPG, CP
President
Partners Environmental Consulting, Inc

cc: Mr. Donald Icsman, City of Sandusky
Mr. John Hancock, Hancock and Associates
Mr. Allen Kacencar, Squire, Sanders & Dempsey LLP

March 24, 2011

The undersigned Client agrees to the terms of this proposal without modification.

Agreed to this _____ day of _____, 2011

Agent For: _____

By: _____

Name: _____

Title: _____

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER AND/OR FINANCE DIRECTOR TO MAKE PAYMENT TO PARTNERS ENVIRONMENTAL CONSULTING, INC., OF SOLON, OHIO, FOR CERTIFIED PROFESSIONAL SERVICES FOR THE BAYFRONT PAPER DISTRICT REDEVELOPMENT PROJECT; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, this City Commission authorized the City Manager to enter into a contract with Partners Environmental Consulting, Inc., in partnership with Hull & Associates, Inc. for Certified Professional Services for the Bayfront Paper District Redevelopment Project by Ordinance 04-107, passed on June 14, 2004; and

WHEREAS, this City Commission authorized the City Manager and/or Finance Director to make payment to Partners Environmental Consulting, Inc., for certified professional services for the Paper District Marina Project as part of the Bayfront Paper District Redevelopment Project by Ordinance 10-124, passed on November 22, 2010; and

WHEREAS, the certified professional, Partners Environmental Consulting, Inc., provided professional services for certain out-of-scope items related to the preparation of a Voluntary Action Program (VAP) No Further Action (NFA) Letter for the Tricor, Keller and Chesapeake Buildings and the initial scope of work dated July 20, 2010, was approved by Ordinance 10-124, passed on November 22, 2010; and

WHEREAS, the out-of-scope tasks completed by the Partners Environmental Consulting, Inc., are summarized as follows:

1. Previous Data Formatting and Quality Control Checking
2. O&M Plan and RMP Revisions for the former Tricor Property
3. Keller Building Asbestos Issues
4. Monitoring Well Issues
5. Malcolm-Pirnie Monitoring Well Issue
6. Rock / Debris Used as Fill in Sandusky Bay Issue
7. Crawl Space beneath Chesapeake Loft
8. Ohio EPA NOV for C&D Debris in Fill Material
9. Soil Cover Issues at Chesapeake Loft Condominiums
10. Soil and Groundwater Vapor Issue at Chesapeake Loft Condominiums
11. ODNR Meeting

and;

WHEREAS, the total cost for the out-of-scope services is \$39,186.00 of which \$12,220.00 is covered within the existing contract budget and the remaining balance of \$26,966.00 will be paid with proceeds from the Tax Increment Financing (TIF) arrangement on the Chesapeake Lofts Condominiums; and

WHEREAS, this legislation should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to allow payments to be made to the Certified Professional in a timely manner for services rendered; and

WHEREAS, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of Municipal Departments, including the Department of Engineering of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio, finds that an emergency exists regarding the aforesaid, and that it is advisable that this Ordinance be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. The City Manager and/or Finance Director is authorized and directed to make payment to Partners Environmental Consulting, Inc., of Solon, Ohio, for professional services provided for the Bayfront Paper District Redevelopment Project in an amount **not to exceed** Twenty Six Thousand Nine Hundred Sixty Six and 00/100 Dollars (\$26,966.00).

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

DANIEL J. KAMAN
PRESIDENT OF THE CITY COMMISSION

ATTEST: _____
KELLY L. KRESSER
CLERK OF THE CITY COMMISSION

Passed: April 25, 2011



DEPARTMENT OF PLANNING, ENGINEERING & DEVELOPMENT

TODD J ROTH, P.E., P.S.

222 Meigs Street
Sandusky, Ohio 44870
Phone 419/627-5829
Fax 419/627-5933

troth@ci.sandusky.oh.us

To: Donald C. Icsman, Acting City Manager
From: Todd J Roth, Director
Date: April 12, 2011
Subject: Commission Agenda Item

ITEM FOR CONSIDERATION: Legislation for approval to enter into an agreement for Professional Design Services with John Hancock & Associates, Inc. (JHA) for the Thorpe Drive, Dorn Drive and Ferndale Drive Waterline Project.

The water line on Thorpe Drive has had several watermain breaks over the past few years. City crews replaced a section near Venice Heights Blvd. because that section of main was not in good shape. Discussions with Water Services had led to the determination that the mains on Thorpe, Ferndale (between Dorn & Thorpe) and part of Dorn should be replaced.

John Hancock & Associates, Inc. will be providing the following services under their contract:
Schematic Design Phase (Preliminary Drawings)
Design Development Phase (Basic Drawings)
Construction Document Phase (Construction Drawings and Specifications)

These services are exempt from the requirements of Chapter 141, Professional Design Services Selection of the Codified Ordinances because the estimated fee is less than \$25,000. In addition John Hancock & Associates, Inc., have developed the necessary knowledge, professional expertise and technical ability necessary to complete the required tasks and have successfully provided services in the past resulting in a knowledge and understanding of the City's requirements which provides a benefit to the City. John Hancock & Associates has developed their expertise through designing projects involving water and sewer lines throughout Erie County.

BUDGETARY INFORMATION: The Engineering Consultant fee is not to exceed \$22,500.00, to be paid with water funds.

ACTION REQUESTED: It is recommended that an agreement with John Hancock & Associates, Inc., for professional design services for the Thorpe Drive, Dorn Drive and Ferndale Drive Waterline Project be executed and that the necessary legislation be passed under suspension of the rules and in full accordance with Section 14 of the City Charter in order to bid and complete the project within the limits of the 2011 construction season.

I concur with this recommendation:

Donald C. Icsman, Acting City Manager

cc: Hank Solowiej, Finance Director
Kelly Kresser, City Commission Clerk

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO AN AGREEMENT FOR PROFESSIONAL DESIGN SERVICES WITH JOHN HANCOCK & ASSOCIATES, INC. FOR THE THORPE DRIVE, DORN DRIVE AND FERNDALE DRIVE WATERLINE PROJECT; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, this City Commission authorized the submission of an application by the City Manager for financial assistance and to enter into a Project Agreement with the Ohio Public Works Commission for the proposed Thorpe Drive, Dorn Drive and Ferndale Drive Waterline Project by the passage of Resolution No. 030-10R, passed on September 13, 2010; and

WHEREAS, the proposed Thorpe Drive, Dorn Drive and Ferndale Drive Waterline Project involves the replacement of watermains on Thorpe Drive, Ferndale Drive (between Dorn Drive and Thorpe Drive) and part of Dorn Drive which are deteriorating and have had several watermain breaks over the past few years; and

WHEREAS, John Hancock & Associates, Inc. will be providing professional services, which include Schematic Design Phase (Preliminary Drawings), Design Development Phase (Basic Drawings) and Construction Document Phase (Construction Drawings and Specifications), exempt from the requirements of Chapter 141, Professional Design Services Selection, of the Codified Ordinances because the estimated fee is less than \$25,000 and in addition they have developed the necessary knowledge, professional expertise and technical ability necessary to complete the required tasks through designing projects involving water and sewer lines throughout Erie County and have successfully provided services in the past resulting in a knowledge and understanding of the City's requirements which provides a benefit to the City; and

WHEREAS, the cost of the Engineering Consultant fee is not to exceed \$22,500.00 and will be paid with Water Funds; and

WHEREAS, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to bid and complete the project within the limits of the 2011 construction season; and

WHEREAS, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments, including the Department of Engineering of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this Ordinance be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. The City Manager is authorized and directed to enter into an agreement with John Hancock & Associates, Inc., for Professional Design Services for the Thorpe Drive, Dorn Drive and Ferndale Drive Waterline Project, substantially in the same form as attached to this Ordinance, marked Exhibit "1", and specifically incorporated as if fully rewritten herein, together with such revisions or additions as are approved by the Law Director as not being adverse to the City and as being consistent with the objectives and requirements of this Ordinance at an amount not

to exceed Twenty Two Thousand Five Hundred and 00/100 Dollars (\$22,500.00).

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

DANIEL J. KAMAN
PRESIDENT OF THE CITY COMMISSION

ATTEST: _____
KELLY L. KRESSER
CLERK OF THE CITY COMMISSION

Passed: April 25, 2011

**AGREEMENT
FOR
PROFESSIONAL DESIGN SERVICES**

This Agreement for Professional Design Services (this “Agreement”), made as of _____, 20___, by and between the City of Sandusky (the “City”), whose contact person shall be the Director of Engineering Services designated below or successor (the “City Engineer”), and John Hancock & Associates, Inc., (the “Architect/Engineer”), whose contact person and address are set forth below.

WHEREAS, the City is operating under its Charter, ordinances and regulations and it is the intention of the City, in the exercise of its powers, to obtain professional design services for the following project (the “Project”):

Project Name:	Thorpe Drive, Dorn Drive and Ferndale Drive Waterline Project
Director of Engineering Services: Address:	Todd Roth, P.E., P.S. Department of Engineering Services City of Sandusky 222 Meigs Street Sandusky, Ohio 44870
Architect/Engineer: Contact: Address:	John Hancock & Associates, Inc. John Hancock, P.E., P.S. 326 E. Market Street Sandusky, Ohio 44870

WHEREAS, the compensation of the Architect/Engineer set forth herein is determined to be fair and reasonable to the City and the Architect/Engineer; and

WHEREAS, the Architect/Engineer desires, and is licensed and capable, to provide professional design services for the Project;

NOW, THEREFORE, in consideration of the mutual promises herein contained, the City and the Architect/Engineer agree as follows:

ARTICLE 1. RESPONSIBILITIES OF ARCHITECT/ENGINEER

1.1. Architect/Engineer’s Services

1.1.1. Scope of Services; Applicable Law. The Architect/Engineer shall provide professional design services, including, without limitation, services customarily furnished in accordance with generally accepted architectural or engineering services, for the Project in accordance with the terms of this Agreement. The Architect/Engineer shall provide such services in accordance with the applicable Sections of the Ohio Revised Code and any applicable state rules and regulations, any applicable federal and local statutes, ordinances, rules and regulations and the Contract Documents.

1.1.2. Construction Budget. The total amount available for the construction and all other elements of the Project is [Five Hundred Nineteen Thousand Two Hundred Five] Dollars (\$519,205.00) (the "Construction Budget"). The City shall provide written notice to the Architect/Engineer of any change in the Construction Budget. It is recognized that the Architect/Engineer and the City do not have control over the cost of labor, materials or equipment, over Contractors' methods of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly, the Architect/Engineer cannot and does not warrant or represent that bids or negotiated prices will not vary from the Construction Budget or from any estimate of cost or evaluation prepared by or agreed to by the Architect/Engineer.

1.1.3. Timeliness; Standard of Care. The Architect/Engineer shall perform the Architect/Engineer's services in accordance with professional standards of skill, care and diligence in a timely manner in accordance with the Project Schedule so as to cause no delay, impact, interference, disputation or hindrance in the Work, and so that the Project shall be completed as expeditiously and economically as possible within the Construction Budget and in the best interests of the City.

1.1.4. Design Schedule. Within thirty (30) days after the execution hereof, the Architect/Engineer shall submit for approval by the City a Design Schedule for the performance of the Architect/Engineer's services which shall include allowances for reasonable periods of time required for review and approval of items by the City and for approvals of governmental authorities having jurisdiction over the project. The Architect/Engineer shall coordinate the Design Schedule with the Project Schedule and shall incorporate the Design Schedule into the Project Schedule. The Design Schedule, when approved by the City, shall not be exceeded by the Architect/Engineer without an adjustment of the Design Schedule approved in writing by the City.

1.1.5. Personnel No principal individuals, other than John Hancock, P.E., P.S. and Alexander Etchill, P.E., P.S., shall perform the services of the Architect/Engineer without the written consent of the City.

1.1.6. Non-Discrimination. The Architect/Engineer represents that the Architect/Engineer is in compliance with all applicable equal employment opportunity requirements under law, if required by Section 153.59 of the Ohio Revised Code or any other applicable state or federal law.

1.1.7. Consultants. The Architect/Engineer may provide services through one or more consultants employed by the Architect/Engineer (the “Consultants”); provided, however, the Architect/Engineer shall remain responsible to the City for all duties and obligations of the Architect/Engineer under this Agreement. Unless waived or otherwise modified in writing by the City upon written request of the Architect/Engineer, no Consultant shall be retained upon terms inconsistent with this Agreement. The Architect/Engineer shall provide the City Engineer with the names and qualifications of any other proposed Consultant, together with a description of the services to be provided by such Consultant for approval. Once approved by the City Engineer, the identity of any Consultant and the extent of such Consultant’s participation in performing the Architect/Engineer’s services shall not be altered without the written consent of the City Engineer. Upon the request of the City, the Architect/Engineer shall terminate the employment of any Consultant. The City may communicate with any Consultant either through the Architect/Engineer or directly to the Consultant with notice to the Architect/Engineer.

1.1.8. Ethics Laws and Terrorist Non-Assistance. The Architect/Engineer represents that it is familiar with all applicable ethics law requirements, including without limitation Sections 9.23 to 9.239, if applicable, 102.04 and 3517.13 of the Ohio Revised Code, and certifies that it is in compliance with such requirements and that there are no unresolved findings for recovery against the Architect/Engineer under Section 9.24 of the Ohio Revised Code. The Architect/Engineer shall provide the City with a Declaration of Material Assistance/Non-Assistance to Terrorist Organization in accordance with Section 2909.33 of the Ohio Revised Code upon the execution of this Agreement.

1.1.9. Limitation of Authority. The Architect/Engineer shall not have any authority to bind the City for the payment of any costs or expenses without the express written approval of the City. The Architect/Engineer shall not have any authority to authorize any Contractor to perform Work for which the Contractor will seek compensation from the City. The Architect/Engineer shall have authority to act on behalf of the City only to the extent provided herein or in the Standard Conditions of Construction (the “Standard Conditions”) for the Project. The Architect/Engineer’s authority to act on behalf of the City shall be modified only by an amendment in accordance with Subparagraph 9.5.2.

1.1.10. Approval or Disapproval of Architect/Engineer’s Services. The City shall have the right to reasonably disapprove any portion of the Architect/Engineer’s services for the Project, including, without limitation, any documents or Drawings prepared by the Architect/Engineer. In the event that any Phase of the Architect/Engineer’s services is disapproved by the City, the Architect/Engineer shall proceed, when requested by the City, with revisions to the services, documents or Drawings prepared or performed for that Phase to attempt to satisfy the objections. The Architect/Engineer acknowledges that any review or approval by the City of any services, documents or Drawings prepared or performed by the Architect/Engineer pursuant to this Agreement shall not relieve the Architect/Engineer of the responsibility of the Architect/Engineer to properly and timely perform such services and prepare such documents and Drawings.

ARTICLE 2. SCOPE OF ARCHITECT/ENGINEER'S BASIC SERVICES

2.1. General

2.1.1. Basic Services to be provided by the Architect/Engineer shall consist of the services set forth in Exhibit A attached hereto and the phases set forth in Paragraphs 2.1 through 2.4, both inclusive, and include, without limitation, civil engineering and surveying services for the Project.

2.2. Schematic Design Phase (Preliminary Drawings).

2.2.1. Review and Consultation. The Architect/Engineer shall provide any necessary further evaluation or refinement of the Approved Program of Requirements, the schedule and budget requirements and the site alternatives to the City, shall identify and analyze requirements of governmental authorities having jurisdiction to approve design of the Project and participate in consultations with such authorities and shall investigate existing conditions and verify the accuracy of information provided by the City about existing conditions, as reasonably necessary and practical.

2.2.2. Recommendations and Costs. The Architect/Engineer shall review site use and improvements and alternative approaches to selection of materials, building systems and equipment with the City. The Architect/Engineer shall provide recommendations on constructability, availability and suitability of materials, labor and systems, quality control, energy efficiency, life cycle analysis, time requirements for construction and factors related to the cost of the Project including costs of alternative sites, designs or materials, preliminary budgets and possible economies.

2.2.3. Schematic Design Documents. Based upon the Approved Program of Requirements, the site alternatives and the schedule and budget requirements, the Architect/Engineer shall prepare Schematic Design Documents consisting of architectural drawings and other documents illustrating the scale of the Project and the relationship of components of the Project to one another and of the Project to surrounding properties. Upon completion of the Schematic Design Phase the Architect/Engineer shall provide four (4) copies of the Schematic Design Documents, unless a different number is required by the City, in writing for review and written approval. The Architect/Engineer shall revise the respective Schematic Design Documents to incorporate comments from the City and provide four (4) copies of the revised Schematic Design Documents to the City.

2.2.4. Preliminary Cost and Schedule Estimates. Upon completion of the Schematic Design Phase for the Project or appropriate portion thereof, the Architect/Engineer shall prepare and submit a Statement of Probable Construction Cost for the Project based on current area volume and other unit costs and a Preliminary Project Schedule, which shall incorporate the Design Schedule for approval of the City.

2.2.5. Preliminary Life Cycle Analysis. In accordance with Section 123.011 of the Ohio Revised Code and Rule 123:4 of the Ohio Administrative Code, the Architect/Engineer shall prepare and submit four (4) copies of alternative design concepts for a Preliminary Life Cycle Analysis, to the City, unless a different number is required by the City in writing.

2.3. Design Development Phase (Basic Drawings)

2.3.1. Design Development Documents. Based on the approved Schematic Design Documents, the current Approved Program of Requirements, the approved Statement of Probable Construction Cost and the approved Preliminary Project Schedule, the Architect/Engineer shall prepare Design Development Documents consisting of drawings, outline specifications and other documents to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, materials, and such other essential elements as may be appropriate. Upon completion of the Design Development Phase for the Project, the Architect/Engineer shall provide four (4) copies of the Design Development Documents, unless a different number is required by the City in writing, to the City for review and written approval. The Architect/Engineer shall revise the Design Development Documents to incorporate comments from the City and shall provide four (4) copies of the revised Design Development Documents to the City.

2.3.2. Cost Estimate and Project Schedule. Upon completion of the Design Development Phase for the Project or appropriate portion thereof, the Architect/Engineer shall prepare and submit a Detailed Estimate of Construction Cost for the Project and a Project Schedule using the Critical Path Method and indicating milestone completion dates for approval by the City. In establishing the Detailed Estimate of Construction Cost, the Architect/Engineer shall include reasonable contingencies for design, bidding and price escalation and determine in conjunction with the City the materials, equipment, component systems and types of construction to be included in the Contract Documents. The Architect/Engineer shall review any difference between the Statement of Probable Construction Cost and the Detailed Estimate of Construction Cost, identify reasons for any difference and recommend means to eliminate the difference, if necessary. The Architect/Engineer and the City shall agree upon the means to eliminate any difference between the Statement of Probable Construction Cost and the Detailed Estimate of Construction Cost, and the Architect/Engineer shall prepare a report describing the agreed upon means. The Architect/Engineer shall review any differences between the Preliminary Project Schedule and the Project Schedule, identify reasons for the differences and recommend whether the differences should be eliminated and, if necessary, means to eliminate the differences. If the Architect/Engineer and the City agree to eliminate any such differences, the Architect/Engineer shall prepare a report describing the agreed upon means. The Architect/Engineer and the City shall make any necessary amendments to the Approved Program of Requirements in accordance with Subparagraph 2.2.2.

2.3.3. Life Cycle Analysis. In accordance with Section 123.011 of the Ohio Revised Code and Rule 123:4 of the Ohio Administrative Code, the Architect/Engineer shall prepare and submit four (4) copies of a Life Cycle Analysis to the City, unless a different number is required by the City in writing.

2.4. Construction Documents Phase (Construction Drawings and Specifications).

2.4.1. Drawings and Specifications. Based on the approved Design Development Documents, approved Detailed Estimate of Construction Cost, approved Project Schedule and any further revisions to the Approved Program of Requirements, the Architect/Engineer shall prepare, for approval by the City, Drawings and Specifications setting forth in detail the requirements for the

construction of the Project. With the consent of the City, the Architect/Engineer shall include Alternates in the Contract Documents. The Drawings and Specifications shall encourage competition, shall provide for construction by multiple prime contractors and shall be reasonably complete and unambiguous and in accordance with all applicable codes, ordinances, statutes, laws, regulations, except to the extent they are in conflict with one another or stated otherwise in writing by the Architect/Engineer for necessary variances and waivers at the time of submission thereof by the Architect/Engineer to the City for approval and to any Contractor for bidding or negotiation, as applicable. In preparing the Drawings and Specifications, the Architect/Engineer shall consider factors, including without limitation, time of performance, availability of labor, overlapping trade jurisdictions, provisions of training for start-up and maintenance, provision of operation and maintenance manuals, temporary facilities and provisions to eliminate areas of conflict and overlap in the Work to be performed by various Contractors. The Architect/Engineer shall not amend the Standard Conditions except by Special Conditions approved by the City in writing. From time to time, the Architect/Engineer shall make any necessary revisions to the Drawings and Specifications. Upon completion of the Construction Documents Phase of the Project or appropriate portion thereof, the Architect/Engineer shall provide four (4) copies of the respective Drawings and Specifications, unless a different number is required by the City in writing, to the City for review and approval. The Architect/Engineer shall revise the Drawings and Specifications to incorporate comments from the City and shall provide four (4) of the revised Drawings and Specifications to the City.

2.4.2. Revisions to Cost Estimate and Project Schedule. The Architect/Engineer shall inform the City of the need for any changes in Project requirements or in construction materials, systems or equipment as the Drawings and Specifications are developed and of the need for any adjustments in the Detailed Estimate of Construction Cost and the Project Schedule. Upon approval of the City of any such changes or adjustments, the Architect/Engineer shall prepare a revised Detailed Estimate of Construction Cost for the Project or a revised Project Schedule, as applicable, incorporating such changes or adjustments.

2.4.3. Bidding Documents. The Architect/Engineer shall assist the City in the preparation of documents necessary for bidding of Contracts for the Project, including without limitation bidding information and instructions, estimates of cost, Notices to Bidders, Bid Forms and Special Conditions.

2.4.4. Government Approvals. The Architect/Engineer shall submit to the Department of Engineering Services, for the Project, such sets of the Drawings and Specifications as the Department may require for approval, together with any necessary completed applications. Unless otherwise provided in the Contract Documents, the Architect/Engineer shall secure the required permits with Ohio EPA for the Project, including the Stormwater NOI required under the National Pollution Discharge Elimination Storm Water General Permit for the Project by submitting a notice of intent application form to the Ohio Environmental Protection Agency at least forty-five (45) days prior to the commencement of the Construction Phase, shall prepare and certify a storm water pollution prevention plan for the Project to provide sediment and erosion controls at the Project and shall prepare and process the applicable required notice of termination prior to Contract Completion. In addition, the Architect/Engineer shall assist the City, including without limitation, by provision of technical criteria, provision of written descriptions and design data and consultations with appropriate officials in connection with filing

of documents required for the approval of governmental authorities having jurisdiction over the Project.

2.4.5. Additional Filings. Upon approval of the Department of the Drawings and Specifications, the Architect/Engineer shall obtain four (4) sets of corrected copies of the Drawings and Specifications bearing approval stamps of the ODOT pre-qualified consultant for the Project. The Architect/Engineer shall distribute such corrected copies as follows:

- (a) Two sets to the City, and
- (b) Two sets retained by the Architect/Engineer.

In addition, the Architect/Engineer shall file any Drawings and Specifications necessary for the approval of any other governmental authority which has jurisdiction over the Project.

2.4.6. Special Items. The Architect/Engineer shall attend any necessary meetings with the City and provide recommendations and information to the City for discussion at such meetings regarding the assignment of responsibilities for refuse removal and for temporary Project facilities and utilities, weather protection, fire protection and equipment, materials and services for common use of Contractors, if any.

2.4.7. Record Drawings. Based on marked-up prints, drawings or data and the As Built Drawings provided by the Contractors the Architect/Engineer shall furnish to the City one (1) set of Record Drawings in the form of reproducible Drawings correctly marked to show the Project as completed in the form of mylar tracings, one (1) set of all other Contract Documents showing the Project as completed in the form of paper documents and one (1) set of all Contract Documents showing the Project as completed on a computer medium approved by the City. The Record Drawings, to the best of the Architect/Engineer's knowledge based upon the As-Built Drawings delivered to the Architect/Engineer by the Contractors and the Architect/Engineer's observations during the progress of the Project, shall detail the actual construction of the Project and contain such annotations by the Architect/Engineer as may be necessary for someone unfamiliar with the Project to understand the changes that were made to the original Drawings.

2.4.8. Contractor Responsibilities. The Architect/Engineer shall not be responsible for and shall not have control or charge of construction means, methods, manners, techniques, sequences, procedures or scheduling used by a Contractor to comply with the Contractor's obligations under its Contract for the Project or for safety precautions and programs in connection with the Work on the Project. The Architect/Engineer shall not be responsible for or have control or charge over the acts or omissions of Contractors or Subcontractors or any of their agents or employees, or any other persons performing any Work on the Project.

ARTICLE 3. ADDITIONAL SERVICES

3.1. General

3.1.1. The following services are not included in Basic Services and shall be provided only if requested by the City in writing. The following services shall be paid for as provided in this Agreement in addition to the compensation for Basic Services; provided, however, the

Architect/Engineer shall not be compensated for any of the following services made necessary by the act or omission of the Architect/Engineer or any Consultant. Unless waived by the City in writing, authorization to provide Additional Services must be obtained prior to providing the Additional Services.

3.1.2. Specialized Services. Providing specialized design and engineering services not included in Basic Services and not ordinarily furnished in accordance with customary practice in the industry.

3.1.3. Partnering and Scheduling Consultant. Serving as a partnering facilitator or construction scheduling consultant.

3.1.4. Perspectives, Models, Renderings. Preparing professional perspectives, models or renderings which are not otherwise useful or necessary to the Architect/Engineer in the provision of Basic Services hereunder at the written request of the City.

3.1.5. Grant Applications. Preparing applications and supporting documents for governmental grants, loans or advances.

3.1.6. Special Studies. Providing programming, planning, site evaluations, wetlands or environmental studies, or comparative studies of alternative sites, and preparing special surveys, studies and submissions required for approval of governmental authorities or others having jurisdiction over the Project.

3.1.7. Surveys. Providing surveying services including land surveys and rights-of-way studies.

3.1.8. Off-Site Services. Providing planning or design services for off-site utilities which are not adjacent to the Project, building connections or roadways.

3.1.9. Certain Revisions. Making revisions in Drawings, Specifications or other Contract Documents when such revisions are inconsistent with written approvals or instructions previously given or are required by the enactment or revision of codes, laws or regulations subsequent to the preparation of such documents.

3.1.10. Replacement Work. Providing consultation concerning replacement of any Work on the Project damaged by fire, casualty or other cause not due to negligence of the Architecture/Engineer or any Consultant and furnishing services as may be required in connection with the replacement of such Work.

3.1.11. Contractor Default. Providing services made necessary by the default of a Contractor.

ARTICLE 4. RESPONSIBILITIES OF THE CITY

4.1. Required Actions. The City shall review, approve or take such actions as are required of the City by this Agreement and applicable law in a reasonable and timely manner.

4.2. Instructions to Contractors. All instructions of the City to Contractors shall be through, or in consultation with, the Architect/Engineer.

4.3. City's Requirements. The City shall provide full information regarding its requirements for the Project, any agreements related to the Project, and any design and construction standards and work rules which set forth the City's use, design, time and financial objectives, constraints and criteria, including space requirements and relationships, flexibility and expandability, time constraints imposed by fiscal and budgetary considerations, special equipment, systems and site requirements.

4.4. Authorized Representative. The City has designated the City Manager or successor to be the City's Authorized Representative, i.e., a person authorized to act on the City's behalf with respect to the Project to the extent provided in the Contract Documents. If the City Manager is absent or unavailable, the City Engineer shall serve as the City's Authorized Representative.

4.5. Site Description; Certain Reports and Surveys. If reasonably requested by the Architect/Engineer as necessary for the Project, the City shall furnish a legal description and a certified land survey of each building, giving, as applicable, grades and lines of streets, alleys, pavements and adjoining property; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and complete data pertaining to existing building, other improvements and trees; and full information concerning available service and utility lines both public and private, above and below grade, including inverts and depths. The City shall furnish to the Architect/Engineer any soil boring and test reports, site and utility surveys and environmental reports and assessments which the City obtains for the Project. The Architect/Engineer shall be entitled to rely upon the accuracy and completeness of information provided by the City under this Paragraph.

4.6. Notice to Architect/Engineer. If the City observes or otherwise becomes aware of any Defective Work or other fault or defect in the Project, prompt notice thereof shall be given to the Architect/Engineer.

4.7. Legal Representation. The City shall not be responsible to provide, or pay for, any legal representation of the Architect/Engineer.

ARTICLE 5. COMPENSATION

5.1. Direct Personnel Expense.

5.1.1. Definition. Direct Personnel Expense shall mean the portion of direct salaries and wages of all personnel of the Architect/Engineer or any Consultants, as applicable, including professional, technical, management, administrative and clerical employees, and principals engaged on the Project related to their time devoted to the Project and the portion of the cost of their mandatory and customary contributions and benefits related thereto such as employment taxes and other statutory employee benefits, social security contributions, insurance, sick leave, holidays, vacations, pension and profit sharing pursuant to plans qualified under federal law and similar benefits related to their time devoted to the Project. Direct Personnel Expense shall not include any bonus or similar plan or arrangement related to the Architect/Engineer's performance on, or profit from, the Project.

5.1.2. Records. Direct Personnel Expense for the Architect/Engineer's employees for such hours of their time as are devoted to performing services to the Project shall be evidenced by time records certified by the Architect/Engineer.

5.1.3. Limit. The Architect/Engineer shall use all reasonable means to minimize Direct Personnel Expense.

5.2. Reimbursable Expenses

5.2.1. Definition. Reimbursable Expenses means actual expenditures incurred by the Architect/Engineer or its Consultants in the interest of the Project approved by the City for reproduction of Construction Documents for distribution to Bidders, general building and NPDES permits, any other building permits not obtained by Contractors, soil or other testing and special inspections if requested by the City and reformatting Project Record Submittals to a computer medium different than a computer medium used by the Architect/Engineer. No other expenditures shall be Reimbursable Expenses unless so provided in an amendment in accordance with Subparagraph 9.5.2.

5.2.2. Limit. The Architect/Engineer shall use all reasonable means to minimize Reimbursable Expenses.

5.3. Basis of Compensation.

5.3.1. Basic Fee. For Basic Services provided by the Architect/Engineer and all Consultants, the City shall pay the Architect/Engineer a Basic Fee in accordance with Paragraph 5.4 hereof in the amount of Twenty Two Thousand, Five Hundred Dollars [\$22,500.00] **NOT TO EXCEED.** Basic Services will be invoiced according to actual time expended per the attached Schedule B. A change in the Basic Fee may be made only by an amendment in accordance with Subparagraph 9.5.2.

5.3.2. Additional Fees. For Additional Services provided by the Architect/Engineer and any Consultants in accordance with Article III, the City shall pay the Architect/Engineer Additional Fees in an amount negotiated to the mutual reasonable satisfaction of the City and the Architect/Engineer, but in all events, such Additional Fees shall not exceed two and one-half (2.5) times the Direct Personnel Expense incurred by the Architect/Engineer and any applicable Consultant in providing those Additional Services. Additional Fees may be approved only by an amendment in accordance with Subparagraph 9.5.2.

5.3.3. Extent of Basic Fee. The Architect/Engineer's Basic Fee includes all compensation for Basic Services, including without limitation, for salaries or other compensation of the Architect/Engineer's employees at the principal office, branch offices and the field office, general operating expenses of the Architect/Engineer's principal office, branch offices and the field office, any part of the Architect/Engineer's capital expenses, including interest on the Architect/Engineer's capital employed for the Project, overhead or expenses of any kind, except Reimbursable Expenses, any costs incurred due to the negligence of the Architect/Engineer, the Architect/Engineer's general advertising, federal, state or local income, sales or other taxes, state franchise taxes and qualification fees, and membership in trade, business or professional organizations.

5.3.4. Total Compensation. The total compensation of the Architect/Engineer and all Consultants shall consist of the Basic Fee, any Additional Fees and Reimbursable Expenses.

5.4. Method and Terms of Payment.

5.4.1. Basic Fee. Payment of the Basic Fee shall be made monthly based upon work performed upon submission of an invoice.

5.4.2. Additional Fees, Reimbursable Expenses. Payments of Additional Fees for Additional Services in accordance with Article III and Subparagraph 5.3.2 and for Reimbursable Expenses as set forth in Paragraph 5.2 shall be made monthly based upon services performed or expenses incurred, as applicable, and as shown by a properly completed and supported invoice of the Architect/Engineer.

5.4.3. Payments by Architect/Engineer. Within ten (10) business days of receipt of payment made pursuant to this Agreement, the Architect/Engineer shall pay all portions thereof due to Consultants and to persons who provided items the expenses of which are Reimbursable Expenses.

5.4.4. Compensation for Extension of Project Time. If the Architect/Engineer notifies the City not less than thirty (30) days prior to the time for completion of the Project set by the Project Schedule approved pursuant to Subparagraph 2.4.2, that such time for completion is reasonably expected to be exceeded by more than ten percent (10%) through no fault of the Architect/Engineer, the compensation, if any, for Basic Services to be rendered during such extended period shall be negotiated to the mutual reasonable satisfaction of the City and the Architect/Engineer. If, as a result of such negotiation, the City agrees that the Architect/Engineer shall be paid additional compensation, an amendment to that effect shall be executed in accordance with Subparagraph 9.5.2 before the Architect/Engineer renders any services made necessary by such extension of the time of completion, unless otherwise agreed in writing by the City.

5.4.5. Compensation for Change of Scope of Project or Construction Budget. The Scope of the Project is defined by the Approved Program of Requirements as provided in Subparagraph 2.2.2. The Construction Budget is defined in Subparagraph 1.1.2. Except as provided in Subparagraph 2.6.8, if the City materially changes the Scope of the Project after the Schematic Design Phase or the Construction Budget after the Design Development Phase through no fault of the Architect/Engineer, the compensation, if any, for Basic Services to be provided by the Architect/Engineer shall be negotiated to the mutual reasonable satisfaction of the City and the Architect/Engineer. If, as the result of such negotiation, the City agrees that the Architect/Engineer shall be paid additional compensation, an amendment to that effect shall be executed in accordance with Subparagraph 9.5.2 before the Architect/Engineer renders any services made necessary by such change in the Scope of the Project or the Construction Budget, unless otherwise agreed in writing by the City. If, as the result of such negotiation, the Architect/Engineer agrees to a reduction in compensation, an amendment to that effect shall be executed in accordance with Subparagraph 9.5.2 as soon as practicable.

ARTICLE 6. INSURANCE AND INDEMNIFICATION

6.1. Insurance

6.1.1. Casualty Insurance. Except when a modification is requested in writing by the Architect/Engineer and approved in writing by the City, the Architect/Engineer shall carry and maintain at the Architect/Engineer's cost, with companies authorized to do business in Ohio, all necessary liability insurance (which shall include as a minimum the requirements set forth below) during the term of this Agreement:

a. Workers' Compensation and employer's liability insurance to the full extent as required by applicable law;

b. Commercial general liability coverage for bodily injury and property damage, including limited contractual liability coverage, in not less than the following amounts:

- i. General Aggregate Limit:
\$2,000,000 each occurrence;
- ii. Each Occurrence Limit:
\$1,000,000 each occurrence; and

c. Commercial automobile liability coverage, including non-owned and hired, in an amount not less than \$1,000,000.

6.1.2. Professional Liability Insurance. Subject to the City's waiver or modification of Professional Liability Insurance upon written request of the Architect/Engineer, the Architect/Engineer shall maintain insurance to protect against claims arising from the performance of the Architect/Engineer's services caused by any negligent acts, errors or omissions for which the Architect/Engineer is legally liable ("Professional Liability Insurance"). Except when a waiver is approved by the City upon written request of the Architect/Engineer, such Professional Liability Insurance shall be in an amount not less than \$250,000 per claim, \$500,000 aggregate annually. The Architect/Engineer shall endeavor to keep such insurance in effect for so long as the Architect/Engineer may be held liable for its performance of services for the Project. If the Professional Liability Insurance is written on a claims-made basis, such insurance shall have a retroactive date no later than the date on which the Architect/Engineer commenced to perform services relating to the Project. The insurance company issuing the Professional Liability Insurance policy must be authorized to do business in Ohio and have a rating of at least A status as noted in the most recent edition of the Best's Insurance Reports.

6.1.3. Certificates. The Architect/Engineer shall provide the City with certificates of insurance evidencing the required coverages and amounts, including without limitation any certificates of renewal of insurance. The certificates of insurance shall contain a provision that the policy or policies will not be canceled without thirty (30) days' prior written notice to the City.

6.2. Indemnification

6.2.1. Indemnification by Architect/Engineer Generally. To the fullest extent permitted by law, the Architect/Engineer shall and does agree to indemnify and hold harmless the City and its members, officers, officials, employees and representatives from and against all claims, damages, losses, liens, causes of action, suits, judgments and expenses (including reasonable attorney's fees and other costs of defense), of any nature, kind or description, which (a) arise out of, are caused by or result from performance of the Architect/Engineer's services hereunder and (b) are attributable to bodily injury, personal injury, sickness, disease or death of any person, or to damage to or destruction of property, including the loss of use and consequential damages resulting therefrom, but (c) only if they are caused by any negligent acts, errors or omissions of the Architect/Engineer, anyone directly or indirectly employed by the Architect/Engineer or anyone for whose acts the Architect/Engineer is legally liable. This Subparagraph is intended to be, and shall be construed as consistent with, and not in conflict with, Section 2305.31 of the Ohio Revised Code, to the fullest extent permitted.

6.2.2. Intellectual Property Indemnification. To the fullest extent permitted by law, the Architect/Engineer shall and does agree to indemnify and hold harmless the City and its members, officers, officials, employees and representatives from and against all claims, damages, losses, liens, causes of action, suits, judgments and expenses (including reasonable attorney's fees and other costs of defense), of any nature, kind or description, which result from any claimed infringement of any copyright, patent or other intangible property right caused by the Architect/Engineer, anyone directly or indirectly employed by the Architect/Engineer or anyone for whose acts the Architect/Engineer is legally liable. The Architect/Engineer shall not be required to indemnify and hold harmless such persons for such matters when the claimed infringement occurs in materials provided by the City.

ARTICLE 7. DISPUTE RESOLUTION PROVISIONS

7.1. Mediation. Instead of, or in addition to, the procedures set forth below, the City and the Architect/Engineer may, by written agreement, submit any claims, requests, disputes or matters in question between or among them to mediation upon such terms as shall be mutually reasonably agreeable.

7.2. Notice and Filing of Requests. Any request by the Architect/Engineer for additional fees or expenses shall be made in writing to the City Engineer and filed prior to the final payment of the Basic Fee. Failure of the Architect/Engineer to timely make such a request shall constitute a waiver by the Architect/Engineer of any request for such fees and expenses.

7.3. Request Information. In every written request filed pursuant to Paragraph 7.2, the Architect/Engineer shall provide the nature and amount of the request; identification of persons, entities and events responsible for the request; activities on the Project Schedule affected by the request or new activities created by any delay and the relationship with existing activities; anticipated duration of any delay; and recommended action to avoid or minimize any future delay.

7.4. Meeting with Authorized Representative. If the Architect/Engineer files a written request with the City Engineer pursuant to Paragraph 7.2, the City Engineer shall immediately

notify the Authorized Representative and the Authorized Representative shall, within thirty (30) days of receipt of the request, schedule a meeting in an effort to resolve the request and render a decision on the request promptly thereafter or render a decision on the request without a meeting, unless a mutual agreement is made to extend such time limit. The meeting scheduled by the Authorized Representative shall be attended by Persons expressly and fully authorized to resolve the request on behalf of the Architect/Engineer. The Authorized Representative shall render a decision on the request within thirty (30) days of the meeting unless a mutual agreement is made to extend the time for decision.

7.5. Appeal to Commission. If the efforts of the Authorized Representative do not lead to resolution of the request within sixty (60) days of receipt of the request provided pursuant to Paragraph 7.2 the Architect/Engineer may appeal to the City's Commission by written notice to the Authorized Representative who shall provide the Architect/Engineer an opportunity to present the claim at the Commission's next meeting, the Architect/Engineer shall be provided the opportunity to present the claim at the next succeeding meeting of the Commission. The Commission shall render a decision on the request within thirty (30) days of the meeting unless a mutual agreement is made to extend the time for decision. The decision of the Commission shall be final and conclusive, subject to litigation in a court of competent jurisdiction.

7.6. Delegation. No provision of this Paragraph shall prevent the Authorized Representative or the Commission from delegating the duties or authorities of the Authorized Representative or the City to any other Person selected at the discretion of the Authorized Representative.

7.7. Performance. The Architect/Engineer shall proceed with the Architect/Engineer's performance of this Agreement during any dispute resolution process, unless otherwise agreed by the Architect/Engineer and the City in writing. The City shall continue to make payment, in accordance with this Agreement, of any amounts not in dispute pending final resolution of any dispute in accordance with this Paragraph.

ARTICLE 8. TERMINATION AND REMEDIES

8.1. Termination of Agreement

8.1.1. Means of Termination. This Agreement may be terminated by either party upon seven (7) days written notice should the other party fail to perform in accordance with the terms of this Agreement; provided, however, the Architect/Engineer shall not terminate this Agreement for non-payment if the City initiates the payment process by preparing, executing and submitting a voucher for all reasonably undisputed amounts due to the Architect/Engineer within ten (10) days of receipt of the Architect/Engineer's written notice to terminate. This Agreement may be terminated by the City in whole or in part, without cause upon fifteen (15) days written notice to the Architect/Engineer. This Agreement may be terminated in whole or in part, at any time upon the mutual consent of the City and the Architect/Engineer.

8.1.2. Architect/Engineer's Remedies Upon Termination by City Without Cause or Upon Termination by Architect/Engineer. In the event of a termination which is not due to the failure of the Architect/Engineer to perform in accordance with the terms of this Agreement, the Architect/Engineer shall be compensated for all Basic Services of a completed Phase performed

prior to the termination date in accordance with the percentages set forth in Subparagraph 5.4.1, together with Reimbursable Expenses incurred prior to the termination date. In such event, for services rendered prior to the termination date in an uncompleted Phase and for Additional Services, the Architect/Engineer shall receive compensation based on the percentages of completion of that Phase or those Additional Services, as applicable, and as reasonably determined by the City, together with Reimbursable Expenses incurred prior to the termination date.

8.1.3. Architect/Engineer's Remedies Upon Termination by City for Cause. In the event of a termination which is due to the failure of the Architect/Engineer to perform in accordance with the terms of this Agreement, the Architect/Engineer shall be compensated only for Basic Services performed and paid for prior to the termination date in accordance with the percentages set forth in Subparagraph 5.4.1, together with Additional Services completely performed prior to the termination date. In such event, the Architect/Engineer shall be reimbursed only for Reimbursable Expenses incurred prior to the date of the notice of termination, unless the City consents in writing to the payment of Reimbursable Expenses incurred after that date.

8.1.4. Architect/Engineer's Remedies Upon Termination by Mutual Consent. In the event of a termination upon the mutual consent of the City and the Architect/Engineer, any compensation for Basic Services or for Additional Services or payment of Reimbursable Expenses shall be negotiated and set forth in an amendment to this Agreement in accordance with Subparagraph 9.5.2 prior to such termination.

8.1.5. Post-Termination Matters. If the City and the Architect/Engineer agree that any services are to be performed for the Project by the Architect/Engineer after any termination date, the amount of any compensation and the method and terms of payment of such compensation or any Reimbursable Expenses related to such services shall be negotiated and set forth in an amendment to this Agreement in accordance with Subparagraph 9.5.2 prior to the commencement of such services. Such amendment and any relevant provisions of this Agreement shall survive termination of this Agreement.

8.2. Remedies

8.2.1. Cumulative Remedies. No remedy conferred upon the City by the terms of this Agreement is intended to be exclusive of any other remedy provided at law or in equity. Each and every remedy of the City shall be cumulative and shall be in addition to any other remedy given to the City hereunder or now or hereafter existing. Except as otherwise provided in this Agreement, no remedy conferred upon the Architect/Engineer by the terms of this Agreement is intended to be exclusive of any other remedy provided at law or in equity. Except as otherwise provided in this Agreement, each and every remedy of the Architect/Engineer shall be cumulative and shall be in addition to any other remedy given to the Architect/Engineer hereunder or now or hereafter existing.

8.2.2. Remedies Not Waived. No delay, omission or forbearance to exercise any right, power or remedy accruing to the City or the Architect/Engineer hereunder shall impair any such right, power or remedy or shall be construed to be a waiver of any breach hereof or default hereunder.

Every such right, power or remedy may be exercised from time to time and as often as deemed expedient.

ARTICLE 9. MISCELLANEOUS PROVISIONS

9.1. Ownership and Use of Documents

9.1.1. Property of City. Drawings and other documents prepared by, or with the cooperation of, the Architect/Engineer or any Consultant pursuant to this Agreement, including all copyrights, are the property of the City whether or not the Project for which they are prepared is commenced or completed. The Architect/Engineer or Consultant, as applicable, may retain copies, including reproducible copies of such drawings and other documents for information and reference. Such drawings or other documents may be used by the City or others employed by the City for reference in any completion, construction, correction, remodeling, renovation, reconstruction, alteration, modification of or addition to the Project, without compensation to the Architect/Engineer or Consultant. Such drawings or other documents shall not be used by the City, or be given or sold by the City to be used by others, on other projects except by agreement in writing and with agreed upon appropriate compensation to the Architect/Engineer or Consultant, as applicable. If an event occurs for which the Architect/Engineer or Consultant may be liable, the City shall notify the Architect/Engineer or Consultant of such event as soon as practical after such event and shall provide access to the Project to the Architect/Engineer or Consultant and their representatives. This Subparagraph shall survive termination of this Agreement.

9.1.2. Architect/Engineer's Intellectual Property. All inventions, patents, design patents and computer programs acquired or developed by the Architect/Engineer in connection with or relation to the Project shall remain the property of the Architect/Engineer and shall be protected by the City from use by others except by agreement in writing with appropriate and agreed upon compensation to the Architect/Engineer.

9.2. Public Relations. Prior to completion of the Project, any public relations or publicity about the Project shall be solely within the control and with the consent of the City. The Architect/Engineer shall not use the City's name or seal, nor any adaptation thereof, for any advertising or trade purposes, including without limitation press releases, without the express written consent of the City.

9.3. Records. The records of all of the Architect/Engineer's Direct Personnel Costs, Reimbursable Expenses and payments to Consultants pertaining to the Project shall be kept on a generally recognized accounting basis and shall be available to the City at all times and shall be maintained for seven (7) years after final acceptance of the Project by the City. All other records kept by the Architect/Engineer related to the Project shall be available to the City at all times and shall be maintained for six (6) years after final acceptance of the Project by the City.

9.4. Successors and Assigns. The City and the Architect/Engineer, each bind themselves, their successors, assigns and legal representatives, to the other party to this Agreement and to the successors, assigns and legal representatives of the other party with respect to all terms of this

Agreement. The Architect/Engineer shall not assign, or transfer any right, title or interest in this Agreement without the prior written consent of the City.

9.5. Extent of Agreement

9.5.1. Entire Agreement. This Agreement and the Contract Documents represent the entire and integrated agreement between the City and the Architect/Engineer and supersede all prior negotiations, representations or agreements, either written or oral.

9.5.2. Amendments. This Agreement may be amended only by an amendment prepared by the City and signed by both the Architect/Engineer and the City.

9.5.3. Multiple Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

9.5.4. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections hereof.

9.5.5. Conditions to Validity. None of the rights, duties and obligations contained in this Agreement shall be binding on any party until all legal requirements have been complied with.

9.5.6. Precedence. If there are any inconsistencies between the provisions of the Contract Documents and the provisions of the Announcement or this Agreement, the provisions of the Contract Documents shall prevail.

9.6. Governing Law

9.6.1. Law of Ohio. This Agreement shall be governed by the law of the State of Ohio to the exclusion of the law of any other jurisdiction and the Lake County, Ohio Court of Common Pleas shall have jurisdiction over any action hereunder or related to the Project to the exclusion of any other forum.

9.6.2. Capitalized Terms. Capitalized terms in this Agreement shall have the same meaning as those in the Standard Conditions, unless otherwise defined herein or unless another meaning is indicated by the context.

9.7. Notices

9.7.1. Addresses. All notices, certificates and requests hereunder shall be in writing and shall be deemed to be given if delivered in person to the individual or to a member of the company or organization for whom the notice is intended, or if delivered at or mailed by registered or certified mail, postage prepaid, to the appropriate address listed on the first page hereof. Other communications shall be in writing and may also be given by regular U.S. mail, postage prepaid, to the appropriate address listed on the first page hereof

9.7.2. Facsimiles. For convenience of communication only, notices, certificates, requests or other communications, except requests for payment, may be sent by facsimile transmission to the

City at (419) 627-5933 and to the Architect/Engineer at 419-627-5829, or by electronic mail to the City at Todd.Roth@ci.sandusky.oh.us and to the Architect/Engineer at aetchill@hancockengineers.com. Facsimile transmissions must not exceed ten (10) pages. Notices, certificates, requests or other communications sent by facsimile transmission or electronic mail shall not be deemed to be given unless a counterpart is received or mailed in accordance with Subparagraph 9.7.1. Requests for payment may be sent to the City by facsimile transmission only upon specific direction from the City.

9.7.3. Emergencies. In the event of an emergency involving the Project, including, without limitation, a fatality, serious injury, fire, collapse, flood, utility or power loss to occupied facilities, explosion, or environmental damage, the Architect/Engineer shall immediately notify the City by telephone.

9.7.4. Change of Address. The City or the Architect/Engineer may, by notice given hereunder, designate any further or different addresses telephone numbers or facsimile numbers to which subsequent notices, certificates, requests or communications shall be sent.

9.8. Severability. If any provision of this Agreement, or any covenant, obligation or agreement contained herein is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect any other provision, covenant, obligation or agreement, each of which shall be construed and enforced as if such invalid or unenforceable provision were not contained herein. Such invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, covenant, obligation or agreement, shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

9.9. Independent Contractor. The Architect/Engineer and any Consultant is an independent contractor with respect to any services performed under this Agreement. Neither the Architect/Engineer, nor any Consultant, shall be, or be deemed to be, servants, employees or agents of the City.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

JOHN HANCOCK & ASSOCIATES, INC.

By: _____
John Hancock, P.E., P.S.
President

CITY OF SANDUSKY

By: _____
Donald C. Icsman
City Manager

CERTIFICATE OF FUNDS

In the matter of: Agreement with John Hancock & Associates, Inc.

IT IS HEREBY CERTIFIED that the moneys required to meet the obligations of the City of Sandusky under the foregoing Agreement have been lawfully appropriated for such purposes and are in the treasury of the City of Sandusky or are in the process of collection to the appropriate fund, free from any previous encumbrances.

Dated: _____, 20__

CITY OF SANDUSKY

By: _____
Hank Solowiej
Finance Director

EXHIBIT A
BASIC SERVICES

2.2 Schematic Design Phase (Preliminary Drawings)

Complete a preliminary design, estimate of construction costs and project schedule, and obtain the approval of the Department of Engineering Services.

2.3 Design Development Phase (Basic Drawings)

Complete the design development and obtain approval of Engineering Services, prepare a final project schedule in conjunction with the Department of Engineering Services, and prepare/refine the project estimate of costs. In this Phase, any alterations to the project scope to achieve project budgets will be made with approval Engineering Services.

2.4 Construction Documents Phase (Construction Drawings and Specifications)

Complete construction drawing and specifications, obtain final approvals and permits, assist with right-of-way and utility relocation requirements, and assist Engineering Services with advertisement, bidder's questions, addendums, pre-construction conference, and evaluation and tabulation of bids. A recommendation on award of project will be provided.

EXHIBIT B
RATE SCHEDULE

	<u>RATE</u>	<u>UNIT</u>
ENGINEER/SURVEYOR, PRINCIPAL	\$120.00	HR.
ENGINEER/SURVEYOR, SENIOR ASSOCIATE	\$95.00	HR.
ENGINEER/SURVEYOR, JUNIOR ASSOCIATE	\$75.00	HR.
ENVIRONMENTAL SCIENTIST	\$75.00	HR.
SURVEY CREW CHIEF - SENIOR ASSOCIATE	\$75.00	HR.
DESIGN TECHNICIAN/DRAFTSMAN - ASSOCIATE	\$65.00	HR.
RESEARCH TECHNICIAN	\$65.00	HR.
CLERICAL	\$40.00	HR.
FIELD CREW - TWO MAN	\$125.00	HR.
GPS OR ROBOTIC TOTAL STATION	\$280.00	DAY
	\$35.00	HR.
RESEARCH COPIES - DEED	\$2.00	EA.
- PLAT	\$4.00	EA.
FAX - OUTGOING	\$2.00	EA.
POSTAGE, UPS OR FED EX		AT COST
PRINTS	\$2.75	EA.
MILEAGE CHARGES OUT OF AREA- FIELD CREW	\$0.75	MI.
MILEAGE CHARGES OUT OF AREA- OTHER	\$0.50	MI.
REIMBURSABLE TRAVEL EXPENSES OUT OF THE AREA AT COST PLUS 10%		

ratesched2010.doc

John Hancock & Associates, Inc.



DEPARTMENT OF PLANNING, ENGINEERING & DEVELOPMENT

TODD J ROTH, P.E., P.S.

222 Meigs Street
Sandusky, Ohio 44870
Phone 419/627-5829
Fax 419/627-5933
troth@ci.sandusky.oh.us

To: Donald C. Icsman, Acting City Manager
From: Todd J Roth, P.E., P.S.
Date: April 11, 2011
Subject: Commission Agenda Item

ITEM FOR CONSIDERATION: An ordinance awarding a contract to Herbst Excavating, LLC, Sandusky, Ohio for the Hayes Avenue Waterline Improvement Project. This project will replace the existing six inch watermain in Hayes Avenue between Buchanan St. & Perkins Ave. with a new twelve inch watermain.

The following five (5) bids were received on March 31, 2011:

		Bid Amount	Local Preference-bid evaluation 3%
Speer Bros. Inc.	Sandusky, Ohio	\$267,510.30	
Buckeye Excavating	Norwalk, Ohio	\$238,990.00	
Ed Burdue & Co.	Sandusky, Ohio	\$238,851.58	\$231,686.03
Herbst Excavating, LLC	Sandusky, Ohio	\$238,207.00	\$231,060.79
KF Construction	Clyde, Ohio	\$232,489.55	

The local preference policy which was included in the bid documents was applied. Local preference is not applied to businesses outside the City limits when competing against a bidder whose principal place of business is located within the City limits. Herbst Excavating, LLC, was determined to be the lowest and best bid.

BUDGETARY INFORMATION: The revised project cost based on bids, including engineering, inspection, advertising and miscellaneous expenses is \$269,174.00. The City is responsible for the entire project cost and it will be paid with the City's Water Fund.

ACTION REQUESTED: It is recommended that the Ordinance awarding a contract to Herbst Excavating, LLC, of Sandusky, Ohio for the Hayes Avenue Waterline Improvement Project in the amount of \$238,207.00 be approved. It is requested that the legislation be passed under suspension of the rules and in accordance with Section 14 of the City Charter thereby allowing the contractor sufficient time to complete this project by the August 5, 2011 completion deadline. The project cannot begin until June 6th, when the regular school year has been completed.

Todd Roth, P.E., P.S.
Director of PED

I concur with this recommendation:

Donald C. Icsman, Acting City Manager

cc: Kelly Kresser, Clerk of City Commission
Hank Solowiej, Finance Director

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH HERBST EXCAVATING, LLC, OF SANDUSKY, OHIO, FOR THE HAYES AVENUE WATERLINE IMPROVEMENT PROJECT; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, this City Commission declared the necessity to proceed with the proposed Hayes Avenue Waterline Improvement Project by Resolution No. 006-11R, passed on February 28, 2011; and

WHEREAS, the Hayes Avenue Waterline Improvement Project will provide for the replacement of the existing six inch watermain in Hayes Avenue, between Buchanan Street and Perkins Avenue, with a new twelve inch watermain; and

WHEREAS, upon public competitive bidding as required by law five (5) appropriate bids were received and the bid from Herbst Excavating, LLC., of Sandusky, Ohio, was determined to be the lowest and best bid; and

WHEREAS, the total revised project cost based on bids, including engineering, inspection, advertising and miscellaneous expenses is \$269,174.00 and will be paid with Water Funds; and

WHEREAS, this legislation should be passed under suspension of the rules in accordance with Section 14 of the City Charter in order to allow the contractor sufficient time to complete this project by the completion deadline of August 5, 2011; and

WHEREAS, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments, including the Department of Engineering of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this Ordinance be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. The City Manager is authorized and directed to enter into a contract with Herbst Excavating, LLC, of Sandusky, Ohio, for the Hayes Avenue Waterline Improvement Project in an amount not to exceed Two Hundred Thirty Eight Thousand Two Hundred Seven and 00/100 Dollars (\$238,207.00) consistent with the bid submitted by Herbst Excavating, LLC., of Sandusky, Ohio, currently on file in the office of the Director of Planning, Engineering and Development.

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were

taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

DANIEL J. KAMAN
PRESIDENT OF THE CITY COMMISSION

ATTEST:

KELLY L. KRESSER
CLERK OF THE CITY COMMISSION

Passed: April 25, 2011

TO: Donald C. Icsman, Acting City Manager
FROM: Thomas Schwan, Public Transit Administrator
DATE: April 12, 2011

SUBJECT: Sandusky Transit System Job Access Reverse Commute (JARC) Grant

ITEM FOR CONSIDERATION: Request for Resolution authorization the submission of a grant application for Job Access Reverse Commute (JARC) Program funds in the amount of \$120,763 from the Ohio Department of Transportation and to authorize the City Manager to execute any grant agreement as awarded. This would be a grant to continue the operation of the SPARC (Sandusky Perkins Area Ride Connection) Route.

BACKGROUND INFORMATION: The City of Sandusky received JARC funds in 2009, 2010 and 2011 from the Ohio Department of Transportation for the operation of the SPARC route. This point deviation route travels throughout the City and to centers of employment along U.S. #250. The SPARC route has been very popular and ridership has increased significantly in 2009, 2010 and 2011. In 2009, the SPARC route carried 20,250 passengers. In 2010, the SPARC service, with the addition of a second route in June, transported 46,870 passengers, an increase of 131% over 2009. Ridership for the 1st quarter of 2011 on SPARC 1 & 2 are 15,540 passengers. The increase of ridership is estimated to be 33% for 2011.

Job Access Reverse Commute (JARC) dollars are designated for those projects that provide transportation from urban areas where job opportunities have been lost to suburban areas where job opportunities are being created. The City of Sandusky originally applied for and was granted a \$100,000 grant in July of 2008 to fund the SPARC (Sandusky Perkins Area Ride Connection) project. It began operation on March 16, 2009. ODOT then awarded continuation funding to STS to sustain SPARC in 2010 and 2011, giving the route sufficient time to prove its effectiveness.

A local match is required for award of funds. If granted the full amount requested of \$120,763, a local match of \$60,381.50 will be required. It is anticipated that this match will come from dollars from Serving Our Seniors and contract revenue.

BUDGET/STRATEGIC PLAN IMPACT: The state grant, if awarded, will allow Sandusky Transit System to sustain the SPARC service for our residents. The project will have no impact on the City's budget as all monies for the additional service will be provided through State of Ohio JARC grant funding and matching local sources other than City general revenue funds.

ACTION REQUESTED: Resolution authorizing the filing of an application of a JARC grant from the Ohio Department of Transportation and if awarded, authorizing the City Manager to execute any grant agreement and lawfully expend funds. It is further requested that this legislation take immediate effect in full accordance with Section 14 of the City Charter in order to meet the Ohio Department of Transportation deadline of April 30, 2011 for the return of the grant application.

Thomas Schwan
Transit Administrator

Todd Roth
Director of PED

I concur with this recommendation:

Donald C. Icsman
Acting City Manager

cc: Donald Icsman, Law Director
Kelly Kresser, Commission Clerk

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE FILING OF A GRANT APPLICATION WITH THE OHIO DEPARTMENT OF TRANSPORTATION THROUGH THE US DOT FEDERAL TRANSIT ADMINISTRATION (FTA) FOR A JOB ACCESS REVERSE COMMUTE (JARC) PROGRAM GRANT FOR THE SANDUSKY TRANSIT SYSTEM; AND DECLARING THAT THIS RESOLUTION SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, the Director of the Ohio Department of Transportation is authorized to make grants for public bodies, private nonprofit organizations and other eligible entities; and

WHEREAS, it is required by the U.S. Department of Transportation in accordance with the provisions of Title VI of the Civil Rights Act of 1964, that in connection with the filing of an application for assistance under 49 USC Section 53 the City give an assurance that it will comply with Title VI of the Civil rights Act of 1964 and the U.S. Department of Transportation requirements thereunder; and

WHEREAS, Job Access Reverse Commute (JARC) funds are designated for those projects that provide transportation from urban areas where job opportunities have been lost to suburban areas where job opportunities are being created; and

WHEREAS, it is the goal of the City that disadvantaged business enterprise be used to the fullest extent possible in connection with these projects and that definite procedures shall be established and administered to ensure that disadvantaged businesses shall have the maximum construction contracts, supplies, equipment contracts, or consultant and other services; and

WHEREAS, this City Commission previously authorized the filing of a grant application with the Ohio Department of Transportation for a Job Access Reverse Commute (JARC) Program by Resolution No. 011-08R, passed on April 28, 2008, and in July of 2008, was awarded \$100,000.00 for the Sandusky Perkins Area Ride Connection (SPARC) project which provided for increased service along the Rt. 250 / Milan Road retail and commercial corridor and began operation on March 16, 2009; and

WHEREAS, the Ohio Department of Transportation then awarded continuation funding to the Sandusky Transit System to sustain the SPARC program in 2010 and 2011 giving the route sufficient time to prove its effectiveness; and

WHEREAS, the total grant amount requested is \$120,763.00 and requires a match of \$60,381.50 which it is anticipated will be paid with funds from Serving Our Seniors and contract revenue; and

WHEREAS, this legislation should be passed under suspension of the rules as an emergency measure in accordance with Section 14 of the City Charter in order to file the application to the Ohio Department of Transportation for the Job Access Reverse Commute (JARC) Program by the submission deadline of April 30, 2011; and

WHEREAS, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of Municipal Departments, including the Sandusky Transit System of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio, finds that an emergency exists regarding the aforesaid, and that it is advisable that this Resolution be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. The City Manager is hereby authorized to execute and file an application on behalf of the City of Sandusky with the Ohio Department of

Transportation for the Job Access Reverse Commute (JARC) Program to aid in the financing of capital and operating assistance for the Sandusky Perkins Area Ride Connection (SPARC) project and to execute any contracts or agreements on behalf of the City and lawfully expend funds should they be awarded.

Section 2. The City Manager is authorized to execute and file with the City's application any assurances or any other documentation required by the U.S. Department of Transportation effectuating the purposes of Title VI of the Civil Rights Act of 1964 and to furnish such additional information as the Ohio Department of Transportation may require in connection with the City's applications submitted to the Federal Transit Administration.

Section 3. The Clerk of the City Commission is hereby directed to furnish a certified copy of this Resolution to be utilized for the filing of any applications for financial assistance from the Ohio Department of Transportation.

Section 4. If any section, phrase, sentence, or portion of this Resolution is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 5. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Resolution were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 6. That for the reasons set forth in the preamble hereto, this Resolution is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

DANIEL J. KAMAN
PRESIDENT OF THE CITY COMMISSION

PAGE 3 - RESOLUTION NO. _____

ATTEST: _____
KELLY L. KRESSER
CLERK OF THE CITY COMMISSION

Passed: April 25, 2011