

REQUEST FOR PROPOSAL

RFP #21-21

Barton Dam – Right Embankment Remediation

City of Ann Arbor
Public Services Area / Water Treatment Services Unit



**Due Date: THURSDAY, AUGUST 5, 2021
by 2:00 p.m. (local time)**

Issued By:

City of Ann Arbor
Procurement Unit
301 E. Huron Street
Ann Arbor, MI 48104

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SECTION I - GENERAL INFORMATION

A. OBJECTIVE

The City of Ann Arbor seeks a Consultant to perform professional engineering services for remediating the Barton Dam right embankment. The embankment is a 1,500+ foot earthen structure that retains Barton Pond. Seepage from the embankment is controlled by a series of 75 toe drains emptying into a collector ditch. Over the years, toe drains in the mid-section of the embankment have discharged both fine and granular earth material. Also, random seepage, boils and isolated areas of saturated, unstable ground have been observed near the toe and collector ditch. In response to the irregular seepage, various studies and remediation projects have been completed. The embankment, toe drain discharges and piezometers continue to be monitored on a frequent basis.

Barton Dam is regulated by the Federal Energy Regulatory Commission (FERC), and the agency is involved in review and approval of monitoring and remediation efforts.

At this time, the City wishes to implement a long-term, global solution that will reduce risk of random or uncontrolled releases from the embankment and simplify monitoring efforts. The solution must improve and regularize seepage from the right embankment to avoid movement of earth materials and must prevent formation of boils or unstable areas. The project needs to include important ancillary requirements such as site access. The Consultant is expected to address the findings of the March 2, 2021 *Seepage and Stability Analysis Report* and the June 29, 2021 *Supplement No. 1 to the 8th Part 12D Consultant's Safety Inspection Report*, which comments on the former document.

The Consultant will be in charge of complete design of the embankment remediation and ancillary requirements. The design shall meet all the requirements of FERC and shall be permissible under Michigan Environment, Great Lakes and Energy (EGLE).

Please see Section II below for detail.

B. QUESTIONS AND CLARIFICATIONS / DESIGNATED CITY CONTACTS

All questions regarding this Request for Proposal (RFP) shall be submitted via e-mail. Questions will be accepted and answered in accordance with the terms and conditions of this RFP.

All questions shall be submitted on or before Tuesday, July 20, 2021 at 5:00 p.m., and should be addressed as follows:

Scope of Work/Proposal Content questions shall be e-mailed to Paul Malocha, Project Engineer, Stantec Consulting Michigan Inc. (Stantec) paul.malocha@stantec.com.

RFP Process and Compliance questions shall be e-mailed to Colin Spencer, Buyer
- CSpencer@a2gov.org.

Should any prospective offeror be in doubt as to the true meaning of any portion of this RFP, or should the prospective offeror find any ambiguity, inconsistency, or omission therein, the prospective offeror shall make a written request for an official interpretation or correction by the due date for questions above.

All interpretations, corrections, or additions to this RFP will be made only as an official addendum that will be posted to a2gov.org and MITN.info and it shall be the prospective offeror's responsibility to ensure they have received all addendums before submitting a proposal. Any addendum issued by the City shall become part of the RFP and must be incorporated in the proposal where applicable.

C. PRE-PROPOSAL MEETING

A pre-proposal meeting will be held:

WHEN: Wednesday, July 13, 2021 at 2:00 p.m.

WHERE: Ann Arbor Water Treatment Plant, 919 Sunset Rd.; Ann Arbor, MI 48103.

A site walk-through will be conducted after the meeting.

The meeting is not mandatory; however, it is highly recommended that interested offerors attend the meeting. The purpose of this meeting is to discuss the project with prospective offerors and to answer any questions concerning RFP 21-21. Any questions and answers furnished in the pre-proposal meeting will not be official until verified in writing through an addendum.

The wearing of protective masks indoors at the Water Treatment Plant will be required for all meeting attendees.

D. PROPOSAL FORMAT

To be considered, each firm must submit a response to this RFP using the format provided in Section III. No other distribution of proposals is to be made by the prospective offeror. An official authorized to bind the offeror to its provisions must sign the proposal in ink. Each proposal must remain valid for at least ninety days from the due date of this RFP.

Proposals should be prepared simply and economically providing a straightforward, concise description of the offeror's ability to meet the requirements of the RFP. No erasures are permitted. Mistakes may be crossed out and corrected and must be initialed in ink by the person signing the proposal.

E. SELECTION CRITERIA

Responses to this RFP will be evaluated using a point system as shown in Section III. A selection committee comprised of staff from the City will complete the evaluation.

The fee proposals will not be reviewed at the initial evaluation. After initial evaluation, the City will determine top proposals, and open only those fee proposals. The City will then determine which, if any, firms will be interviewed. During the interviews, the selected firms will be given the opportunity to discuss their proposal, qualifications, past experience, and their fee proposal in more detail. The City further reserves the right to interview the key personnel assigned by the selected offeror to this project. If the City chooses to interview any respondents, the interviews will be held in August or September, 2021.

All proposals submitted may be subject to clarifications and further negotiation. All agreements resulting from negotiations that differ from what is represented within the RFP or in the proposal response shall be documented and included as part of the final contract.

F. SEALED PROPOSAL SUBMISSION

All proposals are due and must be delivered to the City on or before Thursday, August 5, 2021, at 2:00 p.m. (local time). Proposals submitted late or via oral, telephonic, telegraphic, electronic mail or facsimile **will not** be considered or accepted.

Each respondent must submit in a sealed envelope

- one (1) original proposal
- four (4) additional proposal copies
- one (1) digital copy of the proposal preferably on a USB/flash drive as one file in PDF format

Each respondent must submit in a single separate sealed envelope marked Fee Proposal

- four (4) copies of the fee proposal, plus a digital copy

The fee proposal and all costs must be separate from the rest of the proposal.

Proposals submitted must be clearly marked: **“RFP No. 21-21 – Barton Dam – Right Embankment Remediation”** and list the offeror’s name and address.

Proposals must be addressed and delivered to:
City of Ann Arbor
c/o Customer Service
301 East Huron Street
Ann Arbor, MI 48107

All proposals received on or before the due date will be publicly opened and recorded on the due date. No immediate decisions will be rendered.

Hand delivered bids may be dropped off in the Purchasing drop box located in the Ann Street (north) vestibule/entrance of City Hall. The City will not be liable to any prospective offeror for any unforeseen circumstances, delivery, or postal delays. Postmarking on the due date will not substitute for receipt of the proposal. Offerors are responsible for submission of their proposal. Additional time will not be granted to a single prospective offeror. However, additional time may be granted to all prospective offerors at the discretion of the City.

A proposal may be disqualified if the following required forms are not included with the proposal:

- **Attachment C - City of Ann Arbor Non-Discrimination Declaration of Compliance**
- **Attachment D - City of Ann Arbor Living Wage Declaration of Compliance**
- **Attachment E - Vendor Conflict of Interest Disclosure Form of the RFP Document**

Proposals that fail to provide these forms listed above upon proposal opening may be deemed non-responsive and may not be considered for award.

Please provide the forms outlined above (Attachments C, D and E) within your narrative proposal, not within the separately sealed Fee Proposal envelope.

All proposed fees, cost or compensation for the services requested herein should be provided in the separately sealed Fee Proposal envelope only.

G. DISCLOSURES

Under the Freedom of Information Act (Public Act 442), the City is obligated to permit review of its files, if requested by others. All information in a proposal is subject to disclosure under this provision. This act also provides for a complete disclosure of contracts and attachments thereto.

H. TYPE OF CONTRACT

A sample of the Professional Services Agreement is included as Appendix A. Those who wish to submit a proposal to the City are required to review this sample agreement carefully. **The City will not entertain changes to its Professional Services Agreement.**

The City reserves the right to award the total proposal, to reject any or all proposals in whole or in part, and to waive any informality or technical defects if, in the City's sole judgment, the best interests of the City will be so served.

This RFP and the selected offeror's response thereto, shall constitute the basis of the scope of services in the contract by reference.

I. NONDISCRIMINATION

All offerors proposing to do business with the City shall satisfy the contract compliance administrative policy adopted by the City Administrator in accordance with the Section 9:158 of the Ann Arbor City Code. Breach of the obligation not to discriminate as outlined in Attachment C shall be a material breach of the contract. Contractors are required to post a copy of Ann Arbor's Non-Discrimination Ordinance attached at all work locations where its employees provide services under a contract with the City.

J. WAGE REQUIREMENTS

The Attachments provided herein outline the requirements for payment of prevailing wages or of a "living wage" to employees providing service to the City under this contract. The successful offeror must comply with all applicable requirements and provide documentary proof of compliance when requested.

K. CONFLICT OF INTEREST DISCLOSURE

The City of Ann Arbor Purchasing Policy requires that the consultant complete a Conflict-of-Interest Disclosure form. A contract may not be awarded to the selected offeror unless and until the Procurement Unit and the City Administrator have reviewed the Disclosure form and determined that no conflict exists under applicable federal, state, or local law or administrative regulation. Not every relationship or situation disclosed on the Disclosure Form may be a disqualifying conflict. Depending on applicable law and regulations, some contracts may be awarded on the recommendation of the City Administrator after full disclosure, where such action is allowed by law, if demonstrated competitive pricing exists and/or it is determined the award is in the best interest of the City. A copy of the Conflict-of-Interest Disclosure Form is attached.

L. COST LIABILITY

The City of Ann Arbor assumes no responsibility or liability for costs incurred by the offeror prior to the execution of a Professional Services Agreement. The liability of the City is limited to the terms and conditions outlined in the Agreement. By submitting a proposal, offeror agrees to bear all costs incurred or related to the preparation, submission, and selection process for the proposal.

M. DEBARMENT

Submission of a proposal in response to this RFP is certification that the Respondent is not currently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from participation in this transaction by any State or Federal

departments or agency. Submission is also agreement that the City will be notified of any changes in this status.

N. PROPOSAL PROTEST

All proposal protests must be in writing and filed with the Purchasing Manager within five (5) business days of the award action. The offeror must clearly state the reasons for the protest. If an offeror contacts a City Service Area/Unit and indicates a desire to protest an award, the Service Area/Unit shall refer the offeror to the Purchasing Manager. The Purchasing Manager will provide the offeror with the appropriate instructions for filing the protest. The protest shall be reviewed by the City Administrator or designee, whose decision shall be final.

Any inquiries or requests regarding this procurement should be only submitted in writing to the Designated City Contacts provided herein. Attempts by the offeror to initiate contact with anyone other than the Designated City Contacts provided herein that the offeror believes can influence the procurement decision, e.g., Elected Officials, City Administrator, Selection Committee Members, Appointed Committee Members, etc., may lead to immediate elimination from further consideration.

O. SCHEDULE

The proposals submitted should define an appropriate schedule in accordance with the requirements of the Proposed Work Plan in Section III.

The following is the schedule for this RFP process.

Activity/Event	Anticipated Date
Pre-proposal meeting/walk-through	Tuesday, July 13, 2021, 2:00 p.m.
Written Question Deadline	Tuesday, July 20, 2021, 5:00 p.m.
Addendums Published by (if needed)	Tuesday, July 27, 2021, 5:00 p.m.
Proposal Due Date	Thursday, August 5, 2021, 2:00 p.m.
Tentative Interviews (if needed)	August/September 2021
Selection/Negotiations	September 2021
Expected City Council Authorization	November/December 2021

The above schedule is for information purposes only and is subject to change at the City's discretion.

P. IRS FORM W-9

The selected offeror will be required to provide the City of Ann Arbor an IRS form W-9.

Q. RESERVATION OF RIGHTS

1. The City reserves the right in its sole and absolute discretion to accept or reject any or all proposals, or alternative proposals, in whole or in part, with or without cause.
2. The City reserves the right to waive, or not waive, informalities or irregularities in of any proposal if determined by the City to be in its best interest.
3. The City reserves the right to request additional information from any or all offerors.
4. The City reserves the right to reject any proposal that it determines to be unresponsive and deficient in any of the information requested within RFP.
5. The City reserves the right to determine whether the scope of the project will be entirely as described in the RFP, a portion of the scope, or a revised scope be implemented.
6. The City reserves the right to select one or more consultants to perform services.
7. The City reserves the right to retain all proposals submitted and to use any ideas in a proposal regardless of whether that proposal is selected. Submission of a proposal indicates acceptance by the firm of the conditions contained in this RFP, unless clearly and specifically noted in the proposal submitted.
8. The City reserves the right to disqualify proposals that fail to respond to any requirements outlined in the RFP, or failure to enclose copies of the required documents outlined within RFP.

R. ENVIRONMENTAL COMMITMENT

The City of Ann Arbor recognizes its responsibility to minimize negative impacts on human health and the environment while supporting a vibrant community and economy. The City further recognizes that the products and services the City buys have inherent environmental and economic impacts, and that the City should make procurement decisions that embody, promote, and encourage the City's commitment to the environment.

The City encourages potential vendors to bring forward emerging and progressive products and services that are best suited to the City's environmental principles.

SECTION II - SCOPE OF SERVICES

1. Background

Barton Dam has operated continually since its construction in 1913. The dam generates electricity and provides drinking water for the City of Ann Arbor. The facility has a relatively short left embankment, a powerhouse, a concrete spillway with tainter gates, and a 1,500+ foot right embankment (Figure 1). The right embankment has a maximum height of approximately 23 feet and a 10 to 12-foot-wide crest. Slopes are typically 1v:2.5h on the upstream and 1v:2h on the downstream side. At the upstream end, the right embankment abuts to railroad property. The embankment is composed of mixed sand, gravel, silt, and clay soils.

Barton Dam right embankment has an internal drainage system consisting of 75 toe drains, spaced at approximately 15 feet, and a collector ditch. Toe drainpipes are thought to be clay tiles bedded in coarse stone, projecting into the embankment on a slope (Figure 2). PVC extensions were added to the tiles. The collector ditch empties into the dam's tailwater via a small in-line pond at the downstream end. The pond was not part of the original embankment plan but was built later, at a time that has not been determined. The full length of the ditch runs between the right embankment and the MDOT/Amtrak Railroad property to the southwest. NOTE: The collector ditch extends the full length of the 1,500+ foot embankment and captures the embankment upstream of Toe Drain 75, which has no toe drains.

The railroad is a constraint on accessing the right embankment.

Barton Dam is regulated under the Federal Energy Regulatory Commission (FERC), and is classified as a High hazard potential dam. The latest Part 12D inspection report was completed in 2018.

2. Construction History related to the Right Embankment

In addition to initial construction in 1913, construction projects have included: regrading selected areas of the slope and extending toe drainpipes; installing filters on select pipes; building a granular reverse filter; installing piezometers; and placing rock ballast stabilization with a short retaining wall. The following construction projects relate to the right embankment.

1913	Original construction of embankment with the rest of the dam.
1971	Repair sloughing and other irregularities.
1978	Improvements to collector ditch outlet area.
1991	Downstream slope regraded and seeded. Toe drainpipes relocated and un-blocked. Collector ditch cleared of growth.

2000	Locate and extend toe drains. Re-construct seepage ditch.
2006	Add V-notch weirs to collector ditch for monitoring total discharge at various points along the ditch. (Weirs have since been removed.)
2007	Placed well screens in toe drains 23, 33, 34, 40 and 50. Sloughing between Toe Drains 43 and 44 was repaired.
2011	Repairs made to Toe Drains 23, 24, 31 and 44.
2013	Reverse filter built on the side opposite the collector ditch, between Toe Drains 33 and 45.
2014	Six piezometer (standpipes) were installed in the area of Toe Drain 41.
2017	Sinkhole next to the spillway right abutment wall was observed, studied, and remediated. Thought this is the same embankment, the issue is not thought to be directly related to the seepage collection system.
2018	Granular and crushed aggregate ballast blanket was added to mitigate boils between Toe Drains 37 and 41, on the embankment side of the collector ditch.

3. Available Documentation

Information and documents listed below, and other documents included in this RFP, are provided for reference purposes. NOTE: The City does not guarantee conformance of documents to current conditions. It is the responsibility of bidders to assess the information and draw appropriate conclusions. Potential proposers are required to sign the Non-Disclosure Agreements before any materials will be made available for examination:

Engineering Reports and Studies

Engineering reports from 1992 to the present are on file for Barton Right Embankment. The latest, *Seepage and Stability Analysis Report* (NTH 2021), summarizes available information and makes recommendations for remediating the embankment on that basis.

The following engineering reports and studies are relevant to the right embankment. These are uploaded to a share site, which will be made available to those who sign the non-disclosure/security release form.

- *Supplement No. 1 to the 8th Part 12D Consultant's Safety Inspection Report: FERC Project No. 03142.* GEI Consultants. June 29, 2021.
- *Seepage and Stability Analysis Report: Barton Dam (P-3142).* NTH Consultants, Ltd. March 2, 2021.
- *Barton Hydroelectric Project 8th Part 12D Consultants Safety Inspection Report: FERC Project No. 03142.* GEI Consultants of Michigan, PC. November 29, 2018.
- *2018 Supplemental Potential Failure Modes Analysis Report: Barton Hydroelectric Project.* GEI Consultants of Michigan, PC. November 29, 2018.
- *Toe Drain 40 Boil Mitigation: Barton Dam (FERC ID 3142).* NTH Consultants, Ltd. October 25, 2018.
- *Piezometer Installation: Barton Dam (P-3142).* NTH Consultants, Ltd. April 18, 2018.
- *Memorandum on Recent Field Exploration Activities: DCP Testing, Weep Hole Observations, and Dye Testing.* NTH Consultants, Ltd. December 12, 2017.
- *Barton Dam (3142) Piezometer 1 – 6; Engineering Peer Review.* NTH Consultants, Ltd. June 30, 2016.
- *Slope Stability Analysis Barton Dam Right Embankment.* CTI and Associates, Inc. November 30, 2015.
- *Piezometer Installation Report Barton Dam Right Embankment.* CTI and Associates, Inc. January 14, 2015.
- *Barton Dam (FERC #3142) Right Embankment Drainage Blanket Installation Final Construction Report.* Stantec Consulting Michigan Inc. October 1, 2014.
- *2013 Seventh Part 12D Consultant's Safety Inspection Report: Barton Hydroelectric Project, FERC Project No. 3142.* Mead & Hunt. December 2013.
- *Final Construction Report: Barton Dam Improvements, Toe Drain Repairs.* Stantec Consulting Michigan Inc. June 2007.
- *Stability Analyses at Barton Dam.* Harza Engineering Company. July 23, 1999.
- *Liquefaction Analysis: Barton Development.* Harza Engineering Company. 1992.

4. Project Stakeholders

The following entities are stakeholders in this project:

- Federal Energy Regulatory Commission (FERC)
- FERC Department of Hydropower Administration and Compliance (DHAC)
- National Passenger Railroad Corporation (Amtrak)
- Michigan Department of Transportation (MDOT)
- Michigan Department of Environment, Great Lakes and Energy (EGLE)
- Michigan Department of Natural Resources (MDNR)
- Washtenaw County Road Commission (WCRC)
- Huron River Watershed Council (HRWC)
- Ann Arbor Township
- City of Ann Arbor Water Treatment Services Unit
- City of Ann Arbor Parks and Recreation, PAC, and NAP
- City of Ann Arbor and Ann Arbor Township Residents

Stantec is functioning as the City's representative on this project.

5. Objective

The City seeks a qualified engineering Consultant to design a long-term remediation of the Barton Dam Right Embankment. The Consultant's design will guide construction of a project that achieves the following (please reference Figure 3):

- Long-term remediation of the right embankment for improved seepage control. Remediation will address, at a minimum, the length of the embankment from Toe Drain 23 to Toe Drain 59 (note, the drawing only shows toe drains up to #57 – the others continue at roughly the same interval up to #75), which comprises a length of approximately 540 feet along the toe. The design must allow continued monitoring of seepage. The Consultant is expected to address the findings of the March 2, 2021 *Seepage and Stability Analysis Report* and the June 29, 2021 *Supplement No. 1 to the 8th Part 12D Consultant's Safety Inspection Report*, which comments on the former document.
- Removal of the existing reverse filters and ballast blankets, including geotextile fabric, on either side of the collector ditch, including between Toe Drains 33 and 45. Extension of piezometer tubes and resetting of piezometer casings as required. Removal of short retaining wall along the ditch in this area. Removal of geotextile fabric in ditch and other areas where fills are to be proposed.
- Repair and improve the existing underpass at the railroad bridge, to underlying structural improvements (i.e., rock gabions, concrete slab, etc.).

The path will be re-positioned as necessary, including possible modification of the short retaining wall, to allow better access for small vehicles. Includes new vehicular guards (as needed) and pedestrian guards from the underpass to the spillway. Includes examination of and possible modification of entire path from gravel parking lot to the dam.

- Improve access to the right embankment for construction. This will consist of either a temporary railroad crossing at the upstream end of the embankment, temporary provisions at the existing crossing under the railroad bridge at the downstream end (in addition to permanent improvements), or both. Overall, the Consultant shall be responsible for designing access to the site for construction.
- Improve permanent access along the toe of the right embankment. This will consist of constructing a machine-accessible pathway along the full length of the collector ditch on the side opposite the embankment, including along remediation areas and areas along the remainder of the trench, upstream and downstream the remediation. Include removal of trees on the embankment and from adjacent areas as necessary.
- Eliminate the small pond that is in-line with the collector ditch, extending roughly from Toe Drain 1 to 10. Replace the pond with a collector ditch of similar size and construction as the existing ditch, without ponded areas. It may be necessary to extend some toe drains to achieve a well-aligned ditch. The culvert draining to the tailwater and headwall may have to be rebuilt at a lower elevation to allow a consistent slope of the ditch bottom.
- Replace the existing stairway along the spillway right abutment wall. The new stairs will meet current building and safety codes for use by the general public. The stairs will be positioned and designed to allow inspection access to the back of the retaining wall and to the embankment. The design will include new guard railing on top of the retaining wall as necessary.
- Provide an improved service deck around the vent shaft opening. Service deck shall provide a level surface for setting up a tripod over the shaft and shall include guard rail improvements as needed.
- Project design shall include drawings for a full site restoration plan for all areas affected by the project, piezometer modifications, and pedestrian traffic control and signage plans.

6. Requirements

The Consultant shall produce a complete design for remediation of the right embankment and shall design other features as indicated in this proposal, and all appurtenances. The Consultant's efforts shall include: project coordination and

correspondence, stake-holder engagement and meetings, permit applications and requirements, and updates to the City, and deliverables, in particular to FERC. The following summarizes key project tasks:

- Collection and review of relevant documentation. The City will provide available documents in PDF format.
- Analysis. Perform required design analysis, including new stability and seepage analyses. It is anticipated that, at a minimum, new stability and seepage analysis will be performed at the location of the small pond that is to be drained and filled, and near Toe Drain 40. All analysis and calculations shall meet FERC requirements.
- Design basis report. Before proceeding with detailed design, the Consultant shall produce a brief design basis report, detailing the rationale of the design (including major documents referenced, assumptions, project limits and suggestions about potential future phases that may be recommended), concept sketches with new grades and contours, etc. Include the results of any new analysis. Include a cost opinion with the design basis report.
- Engagement and coordination with all agencies pertinent to delivering a complete permitted project. Agency contacts are for the purpose of obtaining any needed access permission during design, for determining requirements of temporary construction access and permanent work, and for integrating in design documents, to an appropriate level of detail, the eventual construction contractor's requirements under each agency:
 - FERC/DHAC
 - Submission of design concept and intermediate design documents for feedback.
 - Correspondence during design phase.
 - Receive comments from FERC and make revisions.
 - Submission of final design documents.
 - All related work necessary to obtain FERC approval.
 - If lowering pond is recommended or possible during construction phase, provide required submittals and obtain approval from DHAC.
 - Confer with FERC on design of Toe Drain #23 remediation and obtain approval.
 - Amtrak
 - Coordinate with Amtrak through the duration of the design process on all project elements concerning Amtrak, including but not limited to: a) proposed modifications to existing access path crossing under the railroad bridge; b) temporary or permanent crossings at the upstream end of the embankment; c) modifications to site drainage that could

impact railroad drainage; d) proximity of modifications to the railroad property line.

- Obtain permission to access the property for design and survey. This will likely be in the form either of a Temporary Permit to Enter Upon Property or a Design Phase Agreement.
 - Provide insurance as required by Amtrak for temporary use of railroad property during design.
 - Attend Amtrak safety training for design/survey access.
 - Coordinate with Amtrak personnel for specific times of entry for design/survey.
 - Comply with Amtrak's Drug and Alcohol-Free Workplace Program for the project.
 - Comply with Amtrak's standards, guidelines, documents, safety requirements and engineering practices for elements of the design that interface with railroad property.
 - Perform other related work necessary to obtain railroad approval.
 - Current Amtrak contact person is Madeleine Respler: madeleine.respler@amtrak.com.
- MDOT
 - Coordinate with MDOT through the duration of the design process pertaining to railroad crossings.
 - If required, submit a Diagnostic Study Team Review request.
 - Apply for and secure a permanent occupancy permit for construction work in the right of way, as required.
 - Current MDOT rail contact person is Jeannie Cleveland: clevelandj1@michigan.gov.
 - RAILROAD GENERAL
 - It is advised that the process for obtaining permission to perform survey work and design investigations on railroad property, and for securing approval for any modifications within railroad property, is extensive and requires engagement with both Amtrak and MDOT.
 - The Consultant shall perform all coordination and complete all application requirements for the duration of the process.
 - The Consultant is strongly encouraged to contact MDOT and Amtrak as part of the proposal process to obtain a clear understanding of the requirements.
 - *Permission for entry is required before proceeding with design field work on railroad property.*
 - EGLE
 - Arrange and attend pre-permit meeting to discuss requirements of the Joint Permit.

- Prepare and submit Joint Permit application for wetland, endangered species, flood-plain and other requirements of the project.
 - Make public notifications, if required.
 - Revise permit application, based on EGLE comments.
- MDNR
 - Before submitting the Joint Permit Application, correspond with MDNR to provide information on potential environmental impacts in the areas.
 - Receive MDNR comments and integrate into design/permit application.
- HRWC
 - Correspond about wetland modifications and mitigation strategies.
 - Coordinate on trail modifications, especially as related to canoe portages.
- City of Ann Arbor Parks
 - Coordinate with Parks and Recreation planners to receive and incorporate their input, including for:
 - Stair and trail modifications.
 - Temporary requirements for limiting park access during construction.
 - Trail modifications, especially as related to canoe portages.
 - Present the of existing conditions and proposed changes of the project to the Natural Area Preservation group of the Parks and Recreation department. (Approximately a ½ hour meeting to include a 10 minute electronic slide presentation and time for questions).
- WCRC
 - Dependent on the results of the railroad crossing evaluations. Correspond and coordinate on roadway requirements pertaining to the new railroad crossing as needed.
 - Provide review drawings to WCRC and include in the design roadway modifications or signage that may be required.
- City of Ann Arbor/Ann Arbor Township
 - Submit erosion drawings for comment and approval on erosion control requirements, as needed.
 - Site plan drawings for comment and approval, as needed.

- City of Ann Arbor/Ann Arbor Township Residents
 - Develop public engagement plan using the City's Public Engagement Toolkit (this will be made available after award). The Consultant shall work with the City to develop a public engagement plan, which will include identifying stakeholders, reviewing the impact on the public, assisting with engagement, and informing the public.
 - Coordinate the presenting and facilitating a minimum of two (2) public meetings.
 - Coordination with City Staff to post project updates via social media and web pages.

- Wetland delineation
 - The Consultant shall perform a wetlands delineation for the area between the collector ditch and the railroad tracks, for the full length of the right embankment.
 - Wetland delineation shall include all other areas proposed for disturbance by the design.
 - Delineation findings shall be presented in a brief report that meets the requirements for submission(s) to regulator(s).

- Endangered species identification
 - The consultant shall identify and catalogue existing and probable endangered species within the areas proposed for disturbance by the design.
 - Endangered species findings shall be presented in a brief report that meets requirements for submission(s) to regulator(s).

- Survey
 - Survey work shall include, at a minimum, topography of: the entire right embankment (upstream slope to the waterline, downstream slope, including collector ditch and the area between the collector ditch and railroad tracks); areas of proposed pathway modifications; area of new railroad crossing including the tracks, embankments and ditches and connection to Barton Drive roadway. Survey efforts shall include complete topography of any other areas proposed for disturbance by the design. Survey shall stake property boundaries adjacent to areas of proposed disturbance.
 - Topographic survey shall include the wooded areas extending approximately 350' upstream of the existing illegal pedestrian railroad crossing, between the railroad tracks and the water.
 - Survey shall pick up delineated wetland features.
 - Survey shall use vertical datum referenced in the 2018 Bathymetric & Movement Monitoring Survey (SME, 08-03-2018), which is available in the 8th Part 12 D Consultant's Safety Inspection Report.
 - Accuracy shall be to 0.01' vertical and horizontal.

- The Consultant's scope shall include preliminary development of a strategy for wetland mitigation, which may include consideration of a wetland bank. Detailed design of wetland mitigation is not part of the scope.
- Documents. The Consultant shall develop design concepts for approval by the City and for early contact with agencies, particularly FERC and Amtrak. In addition, the Consultant shall provide 30, 60 and 90% review sets, permit documents and final bid documents. Consultant shall provide a cost opinion with the Design Basis Report and with the 90% review set. All submittals shall be in bundled PDF format. Consultant shall provide all Contract Documents (Specifications and Drawings) in PDF and editable versions. Provide CAD files of final drawings.
- Maintain project files for documents and deliverables. Turn over the following files to the City at the end of the project with sufficient directories and subdirectories to efficiently navigate the project files:
 - All deliverables.
 - Design calculations.
 - Significant external correspondence and meeting notes.
 - Permit applications and permits issued.
 - Field reports and photos.
- Permit and bid documents shall be sealed by a professional engineer licensed in the State of Michigan.
- Permit fees will be paid out of the Allowance included in the separate Fee Proposal.
- Bid assistance. The Consultant's services shall include assistance with finding suitable contractors to suggest as potential bidders, organizing and conducting a pre-bid meeting and walk-through, answering bidder questions via bid addendums, compiling a tabulation of bids received, reviewing bids received, requesting additional information from the apparent low bidder(s) as needed, and writing a bid review letter to the City, summarizing the bid results.

7. Project Schedule

The respondent shall include a project schedule with the proposal. Proposers shall include detail on the railroad permitting in their project schedule, including submissions, milestones, etc. The following general milestones are to serve as a guide (note: the scope of this RFP only extends through bid phase):

- November 2021 Notice to proceed
- August 2022 95% design/permit submittals
- November 2022 Permits issued
- January 2023 Advertise for bid
- July 2023 Begin construction
- June 2025 Finish construction

SECTION III - MINIMUM INFORMATION REQUIRED

PROPOSAL FORMAT

Offerors should organize Proposals into the following Sections:

- A. Professional Qualifications
- B. Past Involvement with Similar Projects
- C. Proposed Work Plan
- D. Fee Proposal (include in a separate sealed envelope clearly marked "Fee Proposal")
- E. Authorized Negotiator
- F. Attachments

The following describes the elements that should be included in each of the proposal sections and the weighted point system that will be used for evaluation of the proposals.

A. Professional Qualifications – 20 points

1. State the full name and address of your organization and, if applicable, the branch office or other subsidiary element that will perform, or assist in performing, the work hereunder. Indicate whether it operates as an individual, partnership, or corporation. If as a corporation, include whether it is licensed to operate in the State of Michigan.
2. Include the name of executive and professional personnel by skill and qualification that will be employed in the work. Show where these personnel will be physically located during the time they are engaged in the work. Indicate which of these individuals you consider key to the successful completion of the project. Identify only individuals who will do the work on this project by name and title. Resumes and qualifications are required for all proposed project personnel, including all subcontractors. Qualifications and capabilities of any subcontractors must also be included.
3. State history of the firm, in terms of length of existence, types of services provided, etc. Identify the technical details that make the firm uniquely qualified for this work.

B. Past involvement with Similar Projects – 30 points

The written proposal must include a list of specific experience in the project area and indicate proven ability in implementing similar projects for the firm **and** the individuals to be involved in the project. A complete list of client references must be provided for similar projects recently completed. The list shall include the firm/agency name, address, telephone number, project title, and contact person.

C. Proposed Work Plan – 30 points

Provide a detailed and comprehensive description of how the offeror intends to provide the services requested in this RFP. This description shall include, but not be limited to: how the project(s) will be managed and scheduled, how and when data and materials will be delivered to the City, communication and coordination, the working relationship between the offeror and City staff, and the company's general philosophy in regards to providing the requested services.

Offerors shall be evaluated on the clarity, thoroughness, and content of their responses to the above items.

Required: Submit with proposal a design concept description. This may be written or written with sketches.

Include decision points for key items (e.g., access alternatives, wetlands mitigation.)

Submit project schedule including milestones of railroad coordination.

D. Fee Proposal - 20 points

Fee schedules shall be submitted in a separate, sealed, envelope as part of the proposal. Fee quotations are to include the names, title, billing rates, and any other relevant details. The proposal should highlight key staff and positions that would likely be involved with projects. Offerors shall be capable of justifying the details of the fee proposal relative to personnel costs, overhead, how the overhead rate is derived, material and time.

Fee proposal shall include separate line items for:

- Analysis and preliminary design
- Design basis report
- Detailed design
- Survey
- Public engagement
- Permitting (excluding fees, which are covered by the Allowance)
- Preliminary development of strategy for wetlands mitigation
- Bid assistance
- \$15,000 Allowance for Permit Fees (Allowance is to be used only for reimbursing permit fee invoices that have been paid and presented to the City. The Allowance may not be used for other expenses, including insurance policies required by the railroad or other stake-holders.)

E. Authorized Negotiator

Include the name, phone number, and e-mail address of persons(s) in your organization authorized to negotiate the agreement with the City

F. Attachments

Legal Status of Offeror, Conflict of Interest Form, Living Wage Compliance Form, and the Non-Discrimination Form must be returned with the proposal. These elements should be included as attachments to the proposal submission.

PROPOSAL EVALUATION

1. The selection committee will evaluate each proposal by the above-described criteria and point system (A through C) to select a short-list of firms for further consideration. The City reserves the right to reject any proposal that it determines to be unresponsive and deficient in any of the information requested for evaluation. A proposal with all the requested information does not guarantee the proposing firm to be a candidate for an interview. The committee may contact references to verify material submitted by the offerors.
2. The committee then will schedule interviews with the selected firms if necessary. The selected firms will be given the opportunity to discuss in more detail their qualifications, past experience, proposed work plan and fee proposal.
3. The interview must include the project team members expected to complete a majority of work on the project, but no more than six members total. The interview shall consist of a presentation of up to thirty minutes (or the length provided by the committee) by the offeror, including the person who will be the project manager on this contract, followed by approximately thirty minutes of questions and answers. Audiovisual aids may be used during the oral interviews. The committee may record the oral interviews.
4. The firms interviewed will then be re-evaluated by the above criteria (A through D), and adjustments to scoring will be made as appropriate. After evaluation of the proposals, further negotiation with the selected firm may be pursued leading to the award of a contract by City Council, if suitable proposals are received.

The City reserves the right to waive the interview process and evaluate the offerors based on their proposals and fee schedules alone and open fee schedules before or prior to interviews.

The City will determine whether the final scope of the project to be negotiated will be entirely as described in this RFP, a portion of the scope, or a revised scope.

Work to be done under this contract is generally described through the detailed specifications and must be completed fully in accordance with the contract documents.

Any proposal that does not conform fully to these instructions may be rejected.

PREPARATION OF PROPOSALS

Proposals should have no plastic bindings but will not be rejected as non-responsive for being bound. Staples or binder clips are acceptable. Proposals should be printed double sided on recycled paper. Proposals should not be more than 30 sheets (60 sides), not including required attachments and resumes.

Each person signing the proposal certifies that they are a person in the offeror's firm/organization responsible for the decisions regarding the fees being offered in the Proposal and has not and will not participate in any action contrary to the terms of this provision.

ADDENDUMS

If it becomes necessary to revise any part of the RFP, notice of the addendum will be posted to Michigan Inter-governmental Trade Network (MITN) www.mitn.info and/or the City of Ann Arbor web site www.A2gov.org for all parties to download.

Each offeror must acknowledge in its proposal all addendums it has received. The failure of an offeror to receive or acknowledge receipt of any addendums shall not relieve the offeror of the responsibility for complying with the terms thereof. The City will not be bound by oral responses to inquiries or written responses other than official written addendums.

SECTION IV - ATTACHMENTS

Attachment A – Figures

Attachment B – Legal Status of Offeror

Attachment C – Non-Discrimination Ordinance Declaration of Compliance Form

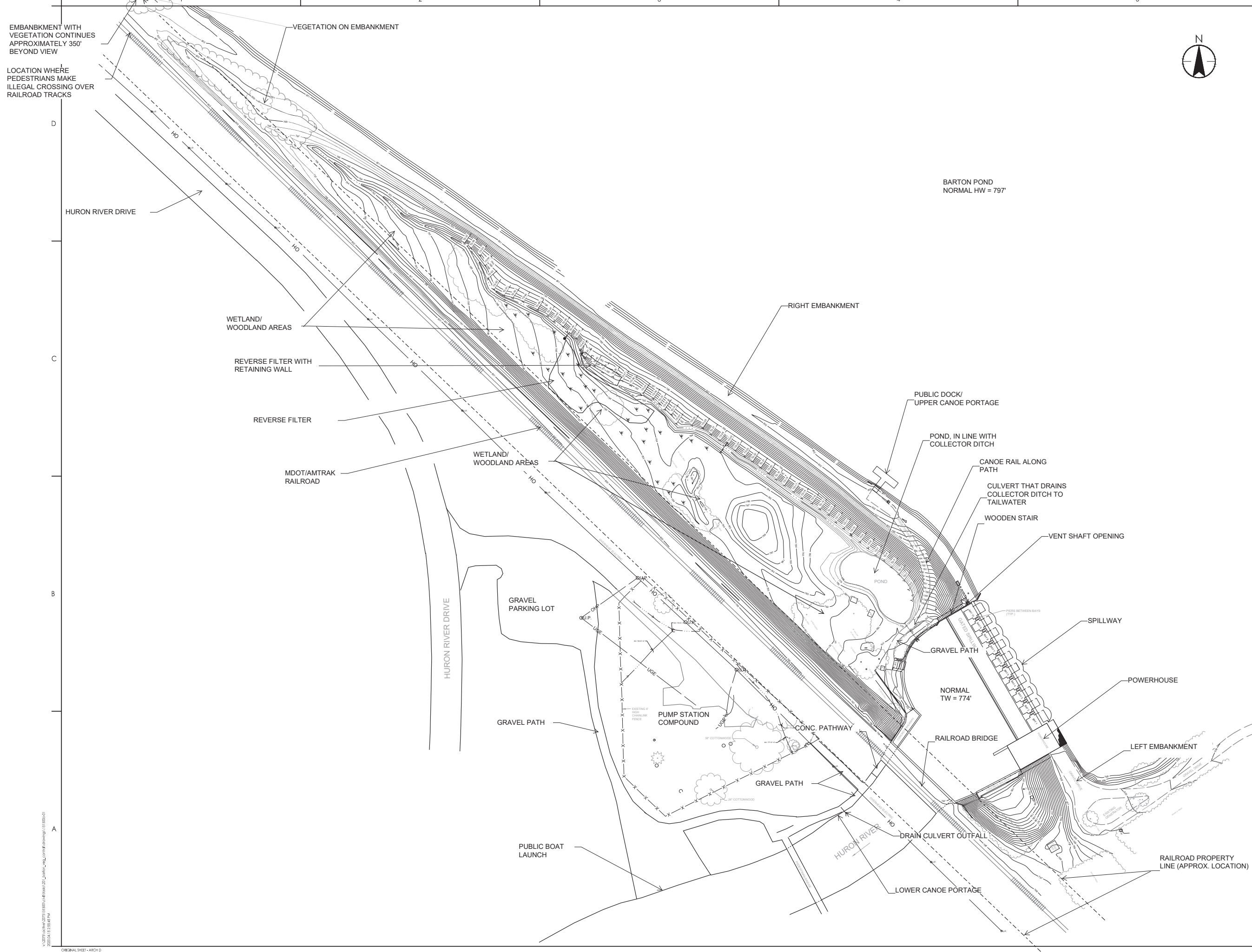
Attachment D – Living Wage Declaration of Compliance Form

Attachment E – Vendor Conflict of Interest Disclosure Form

Attachment F – Non-Discrimination Ordinance Poster

Attachment G – Living Wage Ordinance Poster

**ATTACHMENT A
(FIGURES)**



Stantec Consulting Michigan Inc.
 3754 Ranchero Drive
 Ann Arbor MI 48108-2771
 Tel: (734) 761-1010
 www.stantec.com

Copyright Reserved
 The Contractor shall verify and be responsible for all dimensions. DO NOT scale the drawing - any errors or omissions shall be reported to Stantec without delay.
 The Copyrights to all designs and drawings are the property of Stantec. Reproduction or use for any purpose other than that authorized by Stantec is forbidden.

Consultant

Notes

DEPICTIONS OF EXISTING FEATURES AND THEIR LOCATIONS AND SIZES ARE APPROXIMATE AND NOT TO SCALE.

Issued	By	Appd	YYYY.MM.DD
File Name: 151500C-01	PJM	PJM	2021.06.30
	Dwn.	Dgn.	Chkd.
			YYYY.MM.DD

Permit/Seal

Client/Project Logo

Client/Project
 CITY OF ANN ARBOR

BARTON DAM-RIGHT EMBANKMENT

Ann Arbor, MI

Title
FIGURE 1 - EXISTING CONDITIONS

Project No. 2075151503	Scale 0 60' 120'
Revision Sheet	Drawing No.

V:\2075151503\2075151503.dwg
 2021.06.30 11:25:45 AM
 ORIGINAL SHEET - ARCH D

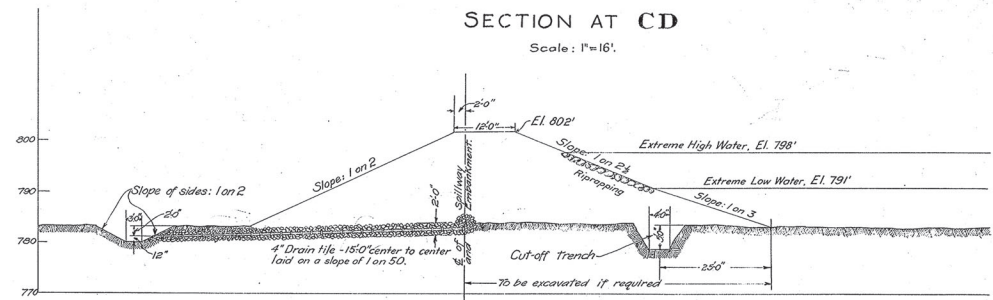


FIGURE 2

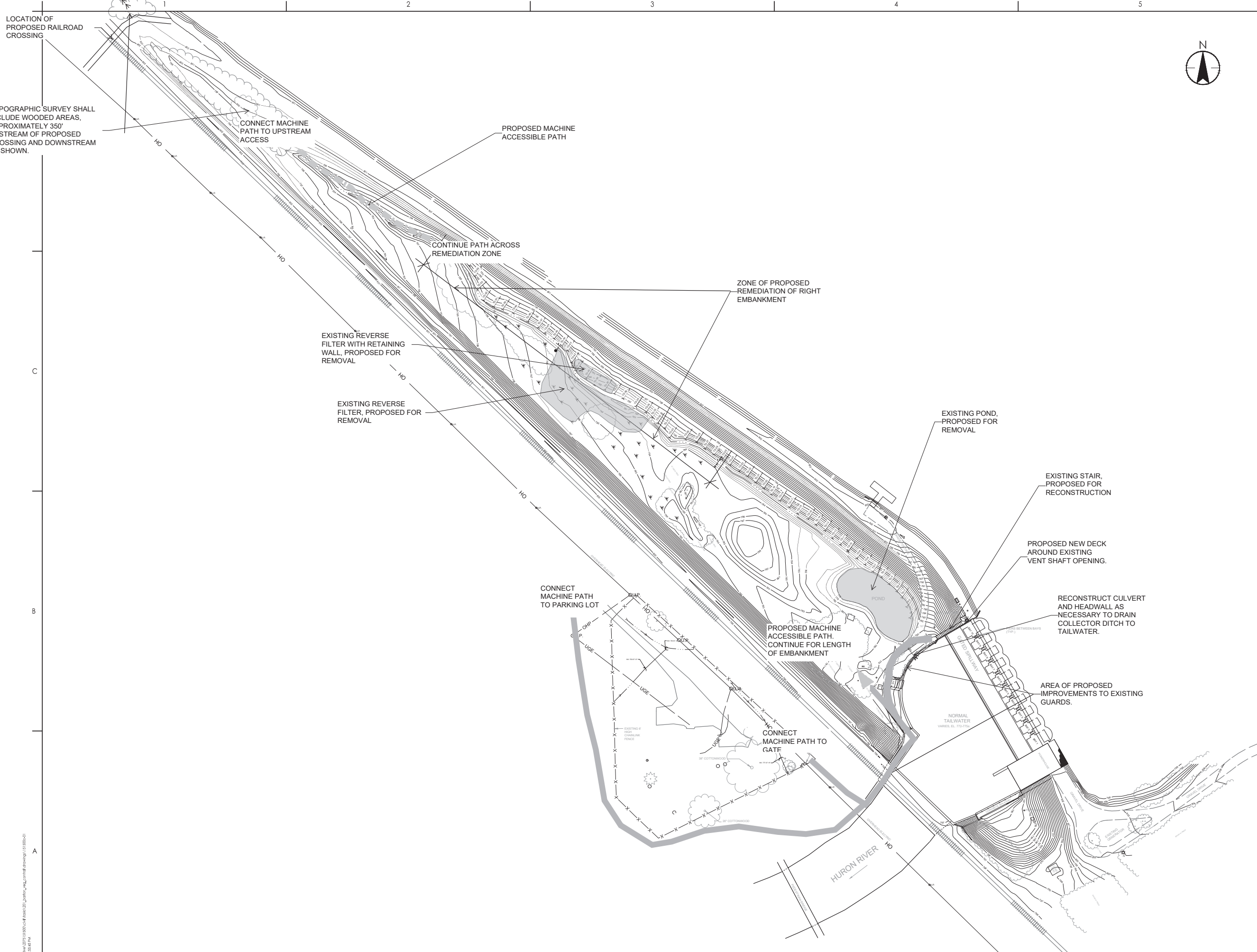
2021.06.30

EASTERN MICHIGAN EDISON COMPANY
BARTON POWER PLANT
 GENERAL LOCATION MAP
 SHOWING EMBANKMENT SECTIONS

GARDNER S. WILLIAMS, CONSULTING ENGINEER
 ANN ARBOR, MICHIGAN.
 1911-9-21

Scale: 1"=200'

Sheets: _____ Sheet 1



Stantec Consulting Michigan Inc.
 3754 Ranchero Drive
 Ann Arbor MI 48108-2771
 Tel: (734) 761-1010
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 The Copyrights to all designs and drawings are the property of Stantec. Reproduction or use for any purpose other than that authorized by Stantec is forbidden.

Consultant

- Notes
1. PLANNED IMPROVEMENT AREAS INDICATED.
 2. LOCATIONS AND SIZES ARE SHOWN APPROXIMATE ONLY.

Issued	By	Appd	YYYY.MM.DD
File Name: 151500C-01	PJM	PJM	2021.06.30
	Dwn	Dgn	Chd
			YYYY.MM.DD

Permit/Seal

Client/Project Logo

Client/Project
 CITY OF ANN ARBOR

BARTON DAM-RIGHT EMBANKMENT

Ann Arbor, MI

Title
 FIGURE 3 - CONCEPT

Project No. 207515103	Scale 0 60' 120'
Revision Sheet	Drawing No.

V:\207515103\207515103\Drawings\Arch\Arch\FIGURE 3 - CONCEPT.dwg (1:1) (2021.06.30)
 2021.06.30 11:25:45 AM
 ORIGINAL SHEET - ARCH-D

**ATTACHMENT B
LEGAL STATUS OF OFFEROR**

(The Respondent shall fill out the provision and strike out the remaining ones.)

The Respondent is:

- A corporation organized and doing business under the laws of the state of _____, for whom _____ bearing the office title of _____, whose signature is affixed to this proposal, is authorized to execute contracts on behalf of respondent.*

*If not incorporated in Michigan, please attach the corporation's Certificate of Authority

- A limited liability company doing business under the laws of the State of _____, whom _____ bearing the title of _____ whose signature is affixed to this proposal, is authorized to execute contract on behalf of the LLC.
- A partnership organized under the laws of the State of _____ and filed with the County of _____, whose members are (attach list including street and mailing address for each.)
- An individual, whose signature with address, is affixed to this RFP.

Respondent has examined the basic requirements of this RFP and its scope of services, including all Addendum (if applicable) and hereby agrees to offer the services as specified in the RFP.

_____ Date: _____,
Signature

(Print) Name _____ Title _____

Firm: _____

Address: _____

Contact Phone _____ Fax _____

Email _____

**CITY OF ANN ARBOR
LIVING WAGE ORDINANCE DECLARATION OF COMPLIANCE**

The Ann Arbor Living Wage Ordinance (Section 1:811-1:821 of Chapter 23 of Title I of the Code) requires that an employer who is (a) a contractor providing services to or for the City for a value greater than \$10,000 for any twelve-month contract term, or (b) a recipient of federal, state, or local grant funding administered by the City for a value greater than \$10,000, or (c) a recipient of financial assistance awarded by the City for a value greater than \$10,000, shall pay its employees a prescribed minimum level of compensation (i.e., Living Wage) for the time those employees perform work on the contract or in connection with the grant or financial assistance. The Living Wage must be paid to these employees for the length of the contract/program.

Companies employing fewer than 5 persons and non-profits employing fewer than 10 persons are exempt from compliance with the Living Wage Ordinance. If this exemption applies to your company/non-profit agency please check here No. of employees__

The Contractor or Grantee agrees:

- (a) To pay each of its employees whose wage level is not required to comply with federal, state or local prevailing wage law, for work covered or funded by a contract with or grant from the City, no less than the Living Wage. The current Living Wage is defined as \$14.05/hour for those employers that provide employee health care (as defined in the Ordinance at Section 1:815 Sec. 1 (a)), or no less than \$15.66/hour for those employers that do not provide health care. The Contractor or Grantor understands that the Living Wage is adjusted and established annually on April 30 in accordance with the Ordinance and covered employers shall be required to pay the adjusted amount thereafter to be in compliance with Section 1:815(3).

Check the applicable box below which applies to your workforce

Employees who are assigned to any covered City contract/grant will be paid at or above the applicable living wage without health benefits

Employees who are assigned to any covered City contract/grant will be paid at or above the applicable living wage with health benefits

- (b) To post a notice approved by the City regarding the applicability of the Living Wage Ordinance in every work place or other location in which employees or other persons contracting for employment are working.
- (c) To provide to the City payroll records or other documentation within ten (10) business days from the receipt of a request by the City.
- (d) To permit access to work sites to City representatives for the purposes of monitoring compliance, and investigating complaints or non-compliance.
- (e) To take no action that would reduce the compensation, wages, fringe benefits, or leave available to any employee covered by the Living Wage Ordinance or any person contracted for employment and covered by the Living Wage Ordinance in order to pay the living wage required by the Living Wage Ordinance.

The undersigned states that he/she has the requisite authority to act on behalf of his/her employer in these matters and has offered to provide the services or agrees to accept financial assistance in accordance with the terms of the Living Wage Ordinance. The undersigned certifies that he/she has read and is familiar with the terms of the Living Wage Ordinance, obligates the Employer/Grantee to those terms and acknowledges that if his/her employer is found to be in violation of Ordinance it may be subject to civil penalties and termination of the awarded contract or grant of financial assistance.

Company Name

Street Address

Signature of Authorized Representative

Date

City, State, Zip

Print Name and Title

Phone/Email address



Vendor Conflict of Interest Disclosure Form

All vendors interested in conducting business with the City of Ann Arbor must complete and return the Vendor Conflict of Interest Disclosure Form in order to be eligible to be awarded a contract. Please note that all vendors are subject to comply with the City of Ann Arbor's conflict of interest policies as stated within the certification section below.

If a vendor has a relationship with a City of Ann Arbor official or employee, an immediate family member of a City of Ann Arbor official or employee, the vendor shall disclose the information required below.

1. No City official or employee or City employee's immediate family member has an ownership interest in vendor's company or is deriving personal financial gain from this contract.
2. No retired or separated City official or employee who has been retired or separated from the City for less than one (1) year has an ownership interest in vendor's Company.
3. No City employee is contemporaneously employed or prospectively to be employed with the vendor.
4. Vendor hereby declares it has not and will not provide gifts or hospitality of any dollar value or any other gratuities to any City employee or elected official to obtain or maintain a contract.
5. Please note any exceptions below:

Conflict of Interest Disclosure*	
Name of City of Ann Arbor employees, elected officials or immediate family members with whom there may be a potential conflict of interest.	<input type="checkbox"/> Relationship to employee <hr style="border: 0; border-top: 1px solid black;"/> <input type="checkbox"/> Interest in vendor's company <input type="checkbox"/> Other (please describe in box below)

*Disclosing a potential conflict of interest does not disqualify vendors. In the event vendors do not disclose potential conflicts of interest and they are detected by the City, vendor will be exempt from doing business with the City.

I certify that this Conflict of Interest Disclosure has been examined by me and that its contents are true and correct to my knowledge and belief and I have the authority to so certify on behalf of the Vendor by my signature below:		
Vendor Name	Vendor Phone Number	
Signature of Vendor Authorized Representative	Date	Printed Name of Vendor Authorized Representative

Questions about this form? Contact Procurement Office City of Ann Arbor Phone: 734/794-6500, procurement@a2gov.org

CITY OF ANN ARBOR NON-DISCRIMINATION ORDINANCE

Relevant provisions of Chapter 112, Nondiscrimination, of the Ann Arbor City Code are included below.
You can review the entire ordinance at www.a2gov.org/humanrights.

Intent: It is the intent of the city that no individual be denied equal protection of the laws; nor shall any individual be denied the enjoyment of his or her civil or political rights or be discriminated against because of actual or perceived age, arrest record, color, disability, educational association, familial status, family responsibilities, gender expression, gender identity, genetic information, height, HIV status, marital status, national origin, political beliefs, race, religion, sex, sexual orientation, source of income, veteran status, victim of domestic violence or stalking, or weight.

Discriminatory Employment Practices: No person shall discriminate in the hire, employment, compensation, work classifications, conditions or terms, promotion or demotion, or termination of employment of any individual. No person shall discriminate in limiting membership, conditions of membership or termination of membership in any labor union or apprenticeship program.

Discriminatory Effects: No person shall adopt, enforce or employ any policy or requirement which has the effect of creating unequal opportunities according to actual or perceived age, arrest record, color, disability, educational association, familial status, family responsibilities, gender expression, gender identity, genetic information, height, HIV status, marital status, national origin, political beliefs, race, religion, sex, sexual orientation, source of income, veteran status, victim of domestic violence or stalking, or weight for an individual to obtain housing, employment or public accommodation, except for a bona fide business necessity. Such a necessity does not arise due to a mere inconvenience or because of suspected objection to such a person by neighbors, customers or other persons.

Nondiscrimination by City Contractors: All contractors proposing to do business with the City of Ann Arbor shall satisfy the contract compliance administrative policy adopted by the City Administrator in accordance with the guidelines of this section. All city contractors shall ensure that applicants are employed and that employees are treated during employment in a manner which provides equal employment opportunity and tends to eliminate inequality based upon any classification protected by this chapter. All contractors shall agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of any applicable protected classification. All contractors shall be required to post a copy of Ann Arbor's Non-Discrimination Ordinance at all work locations where its employees provide services under a contract with the city.

Complaint Procedure: If any individual believes there has been a violation of this chapter, he/she may file a complaint with the City's Human Rights Commission. The complaint must be filed within 180 calendar days from the date of the individual's knowledge of the allegedly discriminatory action or 180 calendar days from the date when the individual should have known of the allegedly discriminatory action. A complaint that is not filed within this timeframe cannot be considered by the Human Rights Commission. To file a complaint, first complete the complaint form, which is available at www.a2gov.org/humanrights. Then submit it to the Human Rights Commission by e-mail (hrc@a2gov.org), by mail (Ann Arbor Human Rights Commission, PO Box 8647, Ann Arbor, MI 48107), or in person (City Clerk's Office). For further information, please call the commission at 734-794-6141 or e-mail the commission at hrc@a2gov.org.

Private Actions For Damages or Injunctive Relief: To the extent allowed by law, an individual who is the victim of discriminatory action in violation of this chapter may bring a civil action for appropriate injunctive relief or damages or both against the person(s) who acted in violation of this chapter.

THIS IS AN OFFICIAL GOVERNMENT NOTICE AND
MUST BE DISPLAYED WHERE EMPLOYEES CAN READILY SEE IT.

**CITY OF ANN ARBOR
LIVING WAGE ORDINANCE**

RATE EFFECTIVE APRIL 30, 2021 - ENDING APRIL 29, 2022

\$14.05 per hour

If the employer provides health care benefits*

\$15.66 per hour

If the employer does **NOT** provide health care benefits*

Employers providing services to or for the City of Ann Arbor or recipients of grants or financial assistance from the City of Ann Arbor for a value of more than \$10,000 in a twelve-month period of time must pay those employees performing work on a City of Ann Arbor contract or grant, the above living wage.

ENFORCEMENT

The City of Ann Arbor may recover back wages either administratively or through court action for the employees that have been underpaid in violation of the law. Persons denied payment of the living wage have the right to bring a civil action for damages in addition to any action taken by the City.

Violation of this Ordinance is punishable by fines of not more than \$500/violation plus costs, with each day being considered a separate violation. Additionally, the City of Ann Arbor has the right to modify, terminate, cancel or suspend a contract in the event of a violation of the Ordinance.

* Health Care benefits include those paid for by the employer or making an employer contribution toward the purchase of health care. The employee contribution must not exceed \$.50 an hour for an average work week; and the employer cost or contribution must equal no less than \$1/hr for the average work week.

The Law Requires Employers to Display This Poster Where Employees Can Readily See It.

**For Additional Information or to File a Complaint contact
Colin Spencer at 734/794-6500 or cspencer@a2gov.org**

APPENDIX A: SAMPLE PROFESSIONAL SERVICES AGREEMENT

If a contract is awarded, the selected Firm(s) will be required to adhere to a set of general contract provisions which will become a part of any formal agreement. Firm(s) shall review the Contract in advance, as the City is not able to make changes to the agreement. These provisions are general principles which apply to all contractors/service providers to the City of Ann Arbor. The required provisions are:

(2020 PSA Auto AI over \$25,000 Rev. 1)

This agreement ("Agreement") is between the City of Ann Arbor, a Michigan municipal corporation, having its offices at 301 E. Huron St. Ann Arbor, Michigan 48104 ("City"), and _____ ("Contractor"), a(n) _____, with its address at _____ (State where organized) _____ (Partnership, Sole Proprietorship, or Corporation). City and Contractor are referred to collectively herein as the "Parties." The Parties agree as follows:

I. DEFINITIONS

Administering Service Area/Unit means _____.

Contract Administrator means _____, acting personally or through any assistants authorized by the Administrator/Manager of the Administering Service Area/Unit.

Deliverables means all Plans, Specifications, Reports, Recommendations, and other materials developed for and delivered to City by Contractor under this Agreement.

Project means _____.
Project name

II. DURATION

Contractor shall commence performance on _____, 20____ ("Commencement Date"). This Agreement shall remain in effect until satisfactory completion of the Services specified below unless terminated as provided for in Article XI. The terms and conditions of this Agreement shall apply to the earlier of the Effective Date or Commencement Date.

III. SERVICES

A. The Contractor agrees to provide _____
Type of service

("Services") in connection with the Project as described in Exhibit A. The City retains the right to make changes to the quantities of service within the general

scope of the Agreement at any time by a written order. If the changes add to or deduct from the extent of the services, the compensation shall be adjusted accordingly. All such changes shall be executed under the conditions of the original Agreement.

- B. Quality of Services under this Agreement shall be of the level of quality performed by persons regularly rendering this type of service. Determination of acceptable quality shall be made solely by the Contract Administrator.
- C. The Contractor shall perform its Services for the Project in compliance with all statutory, regulatory, and contractual requirements now or hereafter in effect as may be applicable to the rights and obligations set forth in the Agreement. The Contractor shall also comply with and be subject to the City of Ann Arbor policies applicable to independent contractors.
- D. The Contractor may rely upon the accuracy of reports and surveys provided to it by the City (if any) except when defects should have been apparent to a reasonably competent professional or when it has actual notice of any defects in the reports and surveys.

IV. INDEPENDENT CONTRACTOR

The Parties agree that at all times and for all purposes under the terms of this Agreement each Party's relationship to any other Party shall be that of an independent contractor. Each Party will be solely responsible for the acts of its own employees, agents, and servants. No liability, right, or benefit arising out of any employer/employee relationship, either express or implied, shall arise or accrue to any Party as a result of this Agreement.

Contractor does not have any authority to execute any contract or agreement on behalf of the City and is not granted any authority to assume or create any obligation or liability on the City's behalf, or to bind the City in any way.

V. COMPENSATION OF CONTRACTOR

- A. The Contractor shall be paid in the manner set forth in Exhibit B. Payment shall be made monthly, unless another payment term is specified in Exhibit B, following receipt of invoices submitted by the Contractor, and approved by the Contract Administrator.
- B. The Contractor will be compensated for Services performed in addition to the Services described in Article III, only when the scope of and compensation for those additional Services have received prior written approval of the Contract Administrator.
- C. The Contractor shall keep complete records of work performed (e.g., tasks performed, hours allocated, etc.) so that the City may verify invoices submitted by the Contractor. Such records shall be made available to the City upon request and submitted in summary form with each invoice.

VI. INSURANCE/INDEMNIFICATION

- A. The Contractor shall procure and maintain from the Effective Date or Commencement Date of this Agreement (whichever is earlier) through the conclusion of this Agreement, such insurance policies, including those set forth in Exhibit C, as will protect itself and the City from all claims for bodily injuries, death or property damage that may arise under this Agreement; whether the act(s) or omission(s) giving rise to the claim were made by the Contractor, any subcontractor, or anyone employed by them directly or indirectly. Prior to commencement of work under this Agreement, Contractor shall provide to the City documentation satisfactory to the City, through City-approved means (currently myCOI), demonstrating it has obtained the policies and endorsements required by Exhibit C. Contractor shall add registration@mycoitracking.com to its safe sender's list so that it will receive necessary communication from myCOI. When requested, Contractor shall provide the same documentation for its subcontractor(s) (if any).

- B. Any insurance provider of Contractor shall be authorized to do business in the State of Michigan and shall carry and maintain a minimum rating assigned by A.M. Best & Company's Key Rating Guide of "A-" Overall and a minimum Financial Size Category of "V". Insurance policies and certificates issued by non-authorized insurance companies are not acceptable unless approved in writing by the City.

- C. To the fullest extent permitted by law, Contractor shall indemnify, defend, and hold the City, its officers, employees and agents harmless from all suits, claims, judgments and expenses, including attorney's fees, resulting or alleged to result, from any acts or omissions by Contractor or its employees and agents occurring in the performance of or breach in this Agreement, except to the extent that any suit, claim, judgment or expense are finally judicially determined to have resulted from the City's negligence or willful misconduct or its failure to comply with any of its material obligations set forth in this Agreement.

VII. COMPLIANCE REQUIREMENTS

- A. Nondiscrimination. The Contractor agrees to comply, and to require its subcontractor(s) to comply, with the nondiscrimination provisions of MCL 37.2209. The Contractor further agrees to comply with the provisions of Section 9:158 of Chapter 112 of the Ann Arbor City Code and to assure that applicants are employed and that employees are treated during employment in a manner which provides equal employment opportunity.

- B. Living Wage. If the Contractor is a “covered employer” as defined in Chapter 23 of the Ann Arbor City Code, the Contractor agrees to comply with the living wage provisions of Chapter 23 of the Ann Arbor City Code. The Contractor agrees to pay those employees providing Services to the City under this Agreement a “living wage,” as defined in Section 1:815 of the Ann Arbor City Code, as adjusted in accordance with Section 1:815(3); to post a notice approved by the City of the applicability of Chapter 23 in every location in which regular or contract employees providing services under this Agreement are working; to maintain records of compliance; if requested by the City, to provide documentation to verify compliance; to take no action that would reduce the compensation, wages, fringe benefits, or leave available to any employee or person contracted for employment in order to pay the living wage required by Section 1:815; and otherwise to comply with the requirements of Chapter 23.

VIII. WARRANTIES BY THE CONTRACTOR

- A. The Contractor warrants that the quality of its Services under this Agreement shall conform to the level of quality performed by persons regularly rendering this type of service.
- B. The Contractor warrants that it has all the skills, experience, and professional licenses (if applicable) necessary to perform the Services pursuant to this Agreement.
- C. The Contractor warrants that it has available, or will engage, at its own expense, sufficient trained employees to provide the Services pursuant to this Agreement.
- D. The Contractor warrants that it has no personal or financial interest in the Project other than the fee it is to receive under this Agreement. The Contractor further certifies that it shall not acquire any such interest, direct or indirect, which would conflict in any manner with the performance of the Services it is to provide pursuant to this Agreement. Further Contractor agrees and certifies that it does not and will not employ or engage any person with a personal or financial interest in this Agreement.
- E. The Contractor warrants that it is not and shall not become overdue or in default to the City for any contract, debt, or any other obligation to the City including real and personal property taxes. Further Contractor agrees that the City shall have the right to set off any such debt against compensation awarded for Services under this Agreement.
- F. The Contractor warrants that its proposal for services was made in good faith, it arrived at the costs of its proposal independently, without consultation, communication, or agreement, for the purpose of restricting completion as to any matter relating to such fees with any competitor for these Services; and no attempt has been made or shall be made by the Contractor to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.
- G. The person signing this Agreement on behalf of Contractor represents and warrants that she/he has express authority to sign this Agreement for Contractor

and agrees to hold the City harmless for any costs or consequences of the absence of actual authority to sign.

IX. OBLIGATIONS OF THE CITY

- A. The City agrees to give the Contractor access to the Project area and other City-owned properties as required to perform the necessary Services under this Agreement.
- B. The City shall notify the Contractor of any defects in the Services of which the Contract Administrator has actual notice.

X. ASSIGNMENT

- A. The Contractor shall not subcontract or assign any portion of any right or obligation under this Agreement without prior written consent from the City. Notwithstanding any consent by the City to any assignment, Contractor shall at all times remain bound to all warranties, certifications, indemnifications, promises and performances, however described, as are required of it under the Agreement unless specifically released from the requirement, in writing, by the City.
- B. The Contractor shall retain the right to pledge payment(s) due and payable under this Agreement to third parties.

XI. TERMINATION OF AGREEMENT

- A. If either party is in breach of this Agreement for a period of fifteen (15) days following receipt of notice from the non-breaching party with respect to a breach, the non-breaching party may pursue any remedies available to it against the breaching party under applicable law, including but not limited to, the right to terminate this Agreement without further notice. The waiver of any breach by any party to this Agreement shall not waive any subsequent breach by any party.
- B. The City may terminate this Agreement, on at least thirty (30) days advance notice, for any reason, including convenience, without incurring any penalty, expense, or liability to Contractor, except the obligation to pay for Services actually performed under the Agreement before the termination date.
- C. Contractor acknowledges that, if this Agreement extends for several fiscal years, continuation of this Agreement is subject to appropriation of funds for this Project. If funds to enable the City to effect continued payment under this Agreement are not appropriated or otherwise made available, the City shall have the right to terminate this Agreement without penalty at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of termination to Contractor. The Contract Administrator shall give Contractor written notice of such non-appropriation within thirty (30) days after it receives notice of such non-appropriation.

- D. The provisions of Articles VI and VIII shall survive the expiration or earlier termination of this Agreement for any reason. The expiration or termination of this Agreement, for any reason, shall not release either party from any obligation or liability to the other party, including any payment obligation that has already accrued and Contractor's obligation to deliver all Deliverables due as of the date of termination of the Agreement.

XII. REMEDIES

- A. This Agreement does not, and is not intended to, impair, divest, delegate, or contravene any constitutional, statutory and/or other legal right, privilege, power, obligation, duty, or immunity of the Parties.
- B. All rights and remedies provided in this Agreement are cumulative and not exclusive, and the exercise by either party of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available at law, in equity, by statute, in any agreement between the parties or otherwise.
- C. Absent a written waiver, no act, failure, or delay by a Party to pursue or enforce any rights or remedies under this Agreement shall constitute a waiver of those rights with regard to any existing or subsequent breach of this Agreement. No waiver of any term, condition, or provision of this Agreement, whether by conduct or otherwise, in one or more instances, shall be deemed or construed as a continuing waiver of any term, condition, or provision of this Agreement. No waiver by either Party shall subsequently effect its right to require strict performance of this Agreement.

XIII. NOTICE

All notices and submissions required under this Agreement shall be delivered to the respective party in the manner described herein to the address stated below or such other address as either party may designate by prior written notice to the other. Notices given under this Agreement shall be in writing and shall be personally delivered, sent by next day express delivery service, certified mail, or first-class U.S. mail postage prepaid, and addressed to the person listed below. Notice will be deemed given on the date when one of the following first occur: (1) the date of actual receipt; (2) the next business day when notice is sent next day express delivery service or personal delivery; or (3) three days after mailing first class or certified U.S. mail.

If Notice is sent to the CONTRACTOR, it shall be addressed and sent to:

If Notice is sent to the CITY, it shall be addressed and sent to:

City of Ann Arbor

(insert name of Administering Service Area Administrator)

301 E. Huron St.
Ann Arbor, Michigan 48104

With a copy to: The City of Ann Arbor
ATTN: Office of the City Attorney
301 East Huron Street, 3rd Floor
Ann Arbor, Michigan 48104

XIV. CHOICE OF LAW AND FORUM

This Agreement will be governed and controlled in all respects by the laws of the State of Michigan, including interpretation, enforceability, validity, and construction, excepting the principles of conflicts of law. The parties submit to the jurisdiction and venue of the Circuit Court for Washtenaw County, State of Michigan, or, if original jurisdiction can be established, the United States District Court for the Eastern District of Michigan, Southern Division, with respect to any action arising, directly or indirectly, out of this Agreement or the performance or breach of this Agreement. The parties stipulate that the venues referenced in this Agreement are convenient and waive any claim of non-convenience.

XV. OWNERSHIP OF DOCUMENTS

Upon completion or termination of this Agreement, all documents (i.e., Deliverables) prepared by or obtained by the Contractor as provided under the terms of this Agreement shall be delivered to and become the property of the City. Original basic survey notes, sketches, charts, drawings, partially completed drawings, computations, quantities, and other data shall remain in the possession of the Contractor as instruments of service unless specifically incorporated in a deliverable, but shall be made available, upon request, to the City without restriction or limitation on their use. The City acknowledges that the documents are prepared only for the Project. Prior to completion of the contracted Services the City shall have a recognized proprietary interest in the work product of the Contractor.

XVI. CONFLICTS OF INTEREST OR REPRESENTATION

Contractor certifies it has no financial interest in the Services to be provided under this Agreement other than the compensation specified herein. Contractor further certifies that it presently has no personal or financial interest, and shall not acquire any such interest, direct or indirect, which would conflict in any manner with its performance of the Services under this Agreement.

Contractor agrees to advise the City if Contractor has been or is retained to handle any matter in which its representation is adverse to the City. The City's prospective consent to the Contractor's representation of a client in matters adverse to the City, as identified above, will not apply in any instance where, as the result of Contractor's representation, the Contractor has obtained

sensitive, proprietary, or otherwise confidential information of a non-public nature that, if known to another client of the Contractor, could be used in any such other matter by the other client to the material disadvantage of the City. Each matter will be reviewed on a case-by-case basis.

XVII. SEVERABILITY OF PROVISIONS

Whenever possible, each provision of this Agreement will be interpreted in a manner as to be effective and valid under applicable law. However, if any provision of this Agreement or the application of any provision to any party or circumstance will be prohibited by or invalid under applicable law, that provision will be ineffective to the extent of the prohibition or invalidity without invalidating the remainder of the provisions of this Agreement or the application of the provision to other parties and circumstances.

XVIII. EXTENT OF AGREEMENT

This Agreement, together Exhibits A, B, and C, constitutes the entire understanding between the City and the Contractor with respect to the subject matter of the Agreement and it supersedes, unless otherwise incorporated by reference herein, all prior representations, negotiations, agreements, or understandings whether written or oral. Neither party has relied on any prior representations, of any kind or nature, in entering into this Agreement. No terms or conditions of either party's invoice, purchase order or other administrative document shall modify the terms and conditions of this Agreement, regardless of the other party's failure to object to such form. This Agreement shall be binding on and shall inure to the benefit of the parties to this Agreement and their permitted successors and permitted assigns and nothing in this Agreement, express or implied, is intended to or shall confer on any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement. This Agreement may only be altered, amended, or modified by written amendment signed by the Contractor and the City. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement.

XIX. ELECTRONIC TRANSACTION

The parties agree that signatures on this Agreement may be delivered electronically in lieu of an original signature and agree to treat electronic signatures as original signatures that bind them to this Agreement. This Agreement may be executed and delivered by facsimile and upon such delivery, the facsimile signature will be deemed to have the same effect as if the original signature had been delivered to the other party.

XX. EFFECTIVE DATE

This Agreement will become effective when all parties have signed it. The Effective Date of this Agreement will be the date this Agreement is signed by the last party to sign it.

[REMAINDER OF PAGE LEFT BLANK; SIGNATURE PAGE FOLLOWS]

FOR CONTRACTOR

By _____
Type Name

Its

Date: _____

FOR THE CITY OF ANN ARBOR

By _____
Christopher Taylor, Mayor

By _____
Jacqueline Beaudry, City Clerk

Date: _____

Approved as to substance

Craig Hupy, Public Services Area
Administrator

Tom Crawford, City Administrator

Approved as to form and content

Stephen K. Postema, City Attorney

**EXHIBIT A
SCOPE OF SERVICES**

(Insert/Attach Scope of Work & Deliverables Schedule)

EXHIBIT B COMPENSATION

General

Contractor shall be paid for those Services performed pursuant to this Agreement inclusive of all reimbursable expenses (if applicable), in accordance with the terms and conditions herein. The Compensation Schedule below/attached states nature and amount of compensation the Contractor may charge the City:

(insert/Attach Negotiated Fee Arrangement)

**EXHIBIT C
INSURANCE REQUIREMENTS**

From the earlier of the Effective Date or the Commencement Date of this Agreement and continuing without interruption during the term of this Agreement, Contractor shall have, at a minimum, the following insurance, including all endorsements necessary for Contractor to have or provide the required coverage.

A. The Contractor shall have insurance that meets the following minimum requirements:

1. Professional Liability Insurance or Errors and Omissions Insurance protecting the Contractor and its employees in an amount not less than \$1,000,000.

2. Worker's Compensation Insurance in accordance with all applicable state and federal statutes. Further, Employers Liability Coverage shall be obtained in the following minimum amounts:

Bodily Injury by Accident - \$500,000 each accident
Bodily Injury by Disease - \$500,000 each employee
Bodily Injury by Disease - \$500,000 each policy limit

3. Commercial General Liability Insurance equivalent to, as a minimum, Insurance Services Office form CG 00 01 04 13 or current equivalent. The City of Ann Arbor shall be an additional insured. There shall be no added exclusions or limiting endorsements that diminish the City's protections as an additional insured under the policy. Further, the following minimum limits of liability are required:

\$1,000,000 Each occurrence as respect Bodily Injury Liability or Property Damage Liability, or both combined
\$2,000,000 Per Project General Aggregate
\$1,000,000 Personal and Advertising Injury

4. Motor Vehicle Liability Insurance equivalent to, as a minimum, Insurance Services Office form CA 00 01 10 13 or current equivalent. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles. The City of Ann Arbor shall be an additional insured. There shall be no added exclusions or limiting endorsements that diminish the City's protections as an additional insured under the policy. Further, the limits of liability shall be \$1,000,000 for each occurrence as respects Bodily Injury Liability or Property Damage Liability, or both combined.

5. Umbrella/Excess Liability Insurance shall be provided to apply in excess of the Commercial General Liability, Employers Liability and the Motor Vehicle coverage enumerated above, for each occurrence and for aggregate in the amount of \$1,000,000.

- B. Insurance required under A.3 and A.4 above shall be considered primary as respects any other valid or collectible insurance that the City may possess, including any self-insured retentions the City may have; and any other insurance the City does possess shall be considered excess insurance only and shall not be required to contribute with this insurance. Further, the Contractor agrees to waive any right of recovery by its insurer against the City for any insurance listed herein.

- C. Insurance companies and policy forms are subject to approval of the City Attorney, which approval shall not be unreasonably withheld. Documentation must provide and demonstrate an unconditional and unqualified 30-day written notice of cancellation in favor of the City of Ann Arbor. Further, the documentation must explicitly state the following: (a) the policy number(s); name of insurance company; name(s), email address(es), and address(es) of the agent or authorized representative; name and address of insured; project name; policy expiration date; and specific coverage amounts; (b) any deductibles or self-insured retentions, which may be approved by the City in its sole discretion; (c) that the policy conforms to the requirements specified. Contractor shall furnish the City with satisfactory certificates of insurance and endorsements prior to commencement of any work. If any of the above coverages expire by their terms during the term of this Agreement, the Contractor shall deliver proof of renewal and/or new policies and endorsements to the Administering Service Area/Unit at least ten days prior to the expiration date.

APPENDIX B: NON-DISCLOSURE AGREEMENT

NON-DISCLOSURE AGREEMENT

Whereas, the City of Ann Arbor, with municipal offices at 301 E. Huron Street, Ann Arbor 48107 ("City") is the owner of certain confidential information relating to its Water Treatment Plant, dams and components thereof.

Whereas, _____ (referred to as "Receiver") is desirous of receiving, reviewing, and/or evaluating the Confidential Information for the sole and exclusive purpose of gathering information for responding to RFP 21-21: Barton Dam – Right Embankment Remediation.

Therefore, it is agreed this ____ day of _____, 2021

That, the City shall, in its sole discretion, disclose to Receiver some or all of the Confidential Information based on Receiver's request for:

- *Documents listed in RFP 21-21*

It is understood that Receiver will secure at its sole cost any and all licenses, authorizations or other intellectual property rights necessary for the transfer of Confidential Information in the format requested by Receiver. Receiver will be required to provide documentation of it having all necessary licenses, authorizations or rights prior to transfer of the Confidential Information in the requested format.

That, Receiver shall hold and use Confidential Information only for the above-stated purpose of this Agreement and shall restrict disclosure of such Confidential Information to its employees with a need to know. Each employee of Receiver identified as "need to know" in connection with the receipt, review or evaluation of the Confidential Information shall be required to execute a Non-Disclosure Agreement under the same terms as stated herein. The City shall be provided with a copy of the executed employee Non-Disclosure Agreements and a master list of the employees, their respective jobs, and the reason for their classification as "need to know."

That, Receiver will hold the Confidential Information or any part thereof in strict confidence and will not permit any disclosure thereof to any person or persons outside its organization and not use or derive any direct or indirect benefit from the Confidential Information or any part thereof without the prior written consent of the City. Receiver agrees that it will not disseminate in any manner any part of the Confidential Information.

If the Receiver receives a subpoena, request from an administrative agency or order from a court that requires Receiver to disclose all or any of the Confidential Information, the Receiver shall notify the City immediately, including a copy of the subpoena, request or order, and shall act in cooperation with the City to seek a protective order to prevent or limit disclosure and/or impose a non-disclosure obligation on the recipient(s). Recipient shall include a copy of this Non-Disclosure Agreement along with the Confidential Information it produces or discloses.

Confidential Information disclosed in accordance with this paragraph shall remain Confidential Information for all other purposes.

That, Receiver will not make or authorize to be made any copies of any reports, plans, drawings or electronic data files supplied by the City and showing or describing or embodying the Confidential Information unless authorized by the City in writing. At any time and for any reason, prior to the completion of the work performed by the Receiver, the City may request and Receiver agrees it will return all of the said reports, plans, drawings or electronic data files together with any reports, drawings or electronic data files, including any independent notations of the Confidential Information, made by Receiver showing or describing or embodying the Confidential Information or any part thereof to the City immediately. After completion of the work, the Receiver shall return to the City any drawings, extracts, reproductions, or other documentation comprising the Confidential Information, in whatever format or media, including any independent notations of the Confidential Information made by Receiver showing or describing or embodying the Confidential Information or any part thereof. In addition, access shall be controlled by the Receiver to all Confidential Information generated as part of the work performed by the Receiver. Although the Receiver is permitted to maintain copies of their work, dissemination of this Confidential Information is not permitted without written authorization from the City.

That, the restrictions on the use or disclosure of Confidential Information by Receiver shall not include any information which:

1. at the time of disclosure to Receiver was known to Receiver free of restriction and such previous knowledge is evidenced by documentation in the possession of Receiver. A copy of which documentation will be provided to the City if requested by the City; or
2. is publicly known or later made publicly known by the City; or
3. is evidenced by documentation in the possession of Receiver as being received from a third party to this Agreement who: (a) has the legal right to so furnish such information to Receiver, and (b) is not obligated to the City to keep such information confidential; or
4. is approved for release in writing by the City.

That, nothing in this Agreement shall be construed as conferring to Receiver any right of ownership in the Confidential Information or license to use any, patents, industrial designs, copyrights or other intellectual property rights owned or licensed by the City.

That, nothing in this Agreement shall be construed as restricting the City's right to restrain use or dissemination of the Confidential Information in accordance with applicable federal, state or local law and regulation or at common law.

Receiver acknowledges that a breach by him/her of the provisions of this Agreement will cause the City irreparable damage for which the City cannot be reasonably or adequately compensated in damages. The City shall therefore be entitled, in addition to all other remedies available to it including, but not limited to, attorney fees and costs, to injunctive and/or other equitable relief to prevent a breach of this Agreement, or any part of it, and to secure its enforcement.

This Agreement shall be construed in accordance with the laws of the State of Michigan.

This Agreement and any amendments hereto may be executed by facsimile signature and in any number of counterparts, all of which taken together shall constitute one and the same instrument.

CITY OF ANN ARBOR

By: _____
Howard Lazurus

By: _____

Print Name: _____

Title: City Administrator

Title: _____

Date: _____

Approved as to substance:

Craig Hupy, P.E.
Public Services Area Administrator

Approved as to form:

Stephen K. Postema
City Attorney