



225 S Camburn St  
Stanton, MI, 48888  
Phone (989) 831.4440  
Fax (989) 831.5756  
[www.StantonOnline.com](http://www.StantonOnline.com)

**STANTON CITY COMMISSION**  
**Regular Meeting Agenda**  
**November 24, 2020**  
**7:00 PM**

**1. Call to Order**

**2. Pledge of Allegiance**

**3. Roll Call:**

Mayor Lori Williams

Mayor Pro Tem

Vladimir Edelman

Commissioner Jane Basom

Commissioner Ray Holloway

Commissioner Tamara Kuhn

Commissioner Michael Mazzola

Commissioner Charles Miel

**4. Approval of Agenda**

**5. Public Comments and/or Questions** (Public Comments shall be limited to 3 minutes per person. A person wishing to address the Commission shall state their name and address for the official record. The Commission may at their discretion respond to comments and/or questions after all have been received.)

**6. Standing Items**

- a. Approval of Commission Special meeting minutes November 7, 2020.
- b. Approval of commission Regular meeting minutes of November 10, 2020
- c. Approval of bill payments for the month of November in the total amount of \$25,025.46.

**7. Monthly Reports**

- a. Stanton Public Works
- b. Clerk/Treasurer Report

**8. New Business**

- a. Consideration by City Commission to approve 2021 City of Stanton Meeting Schedule.
- b. Consideration by City Commission to consider proposal to obtain the Drinking Water Asset Management Grant.

**9. Committee Reports**

**10. Public Comments**

**11. Commission Comments**

**12. Adjournment**

**City of Stanton  
Special Meeting Minutes  
November 7, 2020**

1. **Call to Order: Pledge of Allegiance** – The City of Stanton special meeting was called to order via zoom conference video at 11:00a.m. by Mayor Lori Williams with the Pledge of Allegiance.
2. **Roll Call:** Mayor Lori Williams, Jane Basom, Ray Holloway, Tamara Kuhn, Michael Mazzola, Chuck Miel  
Absent: Vladimir Edelman
3. **Approval of Agenda**  
Motion made by Miel second by Mazzola to approve the agenda. Motion carried on a voice vote.
4. **Public Comments:** None
5. **New Business**
  - a. Swearing in of new City Commissioner Tamara Kuhn.
  - b. Review of candidates for City Manager position, there was much discussion from the commissioners.
  - c. Motion made by Mazzola second by Miel to select candidates #1,3, and 4 for interviews for the City of Stanton, City Manager position. Motion passed on a voice vote.
  - d. Motion made by Mazzola second by Kuhn to approve Saturday November 21,2020 at 9:00a.m., for interviews for the City Manager position in person at the Fire Barn to allow for social distancing regulations. Motion carried on a voice vote.
6. **Public Comments:** None
7. **Commission Comments:** None
8. **Adjournment**  
Motion made by Mazzola second by Holloway to adjourn meeting at 12:00p.m.  
Motion carried on a voice vote.

Lori Williams, Mayor  
Lori Braman, Clerk

**City of Stanton**  
**Regular Meeting Minutes**  
**November 10, 2020**

1. **Call to Order: Pledge of Allegiance** – The City of Stanton regular meeting was called to order via zoom conference video at 7:00p.m. by Mayor Lori Williams with the Pledge of Allegiance.
2. **Roll Call:** Mayor Lori Williams, Jane Basom, Vladimir Edelman, Ray Holloway, Tamara Kuhn, Michael Mazzola, Chuck Miel  
Absent: None
3. **Approval of Agenda**  
Motion made by Miel second by Holloway to approve the agenda. Motion carried on a voice vote.
4. **Public Comments:** None
5. **Standing Items**
  - a. Motion made by Edelman second by Mazzola to approve the Regular Meeting Minutes of October 27, 2020. Motion carried on a voice vote.
  - b. Motion made by Edelman second by Basom to approve the bills for November 2020 in the total amount of \$26,730.57. Motion carried on a voice vote.
6. **Monthly Reports**
  - a. Stanton Police Department
  - b. DPW Report-DPW fall cleanup will end this Friday.
  - c. Clerk/Treasurer Financial Report
  - d. City Manager
7. **New Business**
  - a. Motion made by Miel second by Mazzola to approve Prein & Newhof proposal for Scope of Services for Veterans Park. Motion carried on a voice vote.
  - b. Motion made by Holloway second by Kuhn to amend the Certified Resolution CDBR IR Grant 2020 to include Mayor in the absence of a City Manager. Motion carried on a voice vote.
  - c. Motion made by Edelman second by Basom to pay Mayor Williams for Interim City Manager duties at the rate of \$30.00 per hour. Motion passed on a voice vote.  
Mayor Williams told the Commissioners that Commissioner Basom has been working on the website and she would like to have Commissioner Basom receive some pay for this. Commissioner Holloway along with the other Commissioners thanked Commissioner Basom for all she's done and asked her to produce an invoice for her services.
8. **Committee Reports:**

DDA-there was a meeting today and with heavy hearts we decided not to have a tree lighting ceremony, but the tree will be lit on December 4 at 6:30p.m. As of now we have 4 businesses that have signed up for the window display contest and we still have sweatshirts for sale.

**9. Public Comments:** None

**10. Commission Comments:**

Commissioner Edelman told the Commissioners that with great sadness he would be resigning soon due to his family moving to Sheridan.

Commissioner Miel thanked Mayor Williams and Commissioner Basom for all they are doing for the City.

Mayor Williams thanked Edelman for his time served and let residents know how to become a commissioner.

**11. Adjournment**

Motion made by Basom second by Edelman to adjourn meeting at 7:23p.m.

Motion carried on a voice vote.

Lori Williams, Mayor

Lori Braman, Clerk

11/20/2020 03:10 PM  
 User: LBRAMAN  
 DB: Stanton

CHECK DISBURSEMENT REPORT FOR CITY OF STANTON  
 CHECK DATE FROM 11/05/2020 - 11/20/2020

Check Date	Bank	Check #	Payee	Description	Account	Dept	Amount
Fund: 101 GENERAL FUND							
11/13/2020	STANT	9479	AMERITAS LIFE INSURANCE	INSURANCE	710.000	850	719.05
11/13/2020	STANT	9480#	ARROW SWIFT PRINTING	MATERIALS AND SUPPLIES	726.000	172	150.31
				MATERIALS AND SUPPLIES	726.000	253	150.31
				MATERIALS AND SUPPLIES	726.000	257	150.31
				CHECK STANT 9480 TOTAL FOR FUND 101:			<u>450.93</u>
11/13/2020	STANT	9481	CASAIR INC	TELEPHONE	850.000	448	216.27
				INTERNET	851.000	448	216.28
				CHECK STANT 9481 TOTAL FOR FUND 101:			<u>432.55</u>
11/13/2020	STANT	9482	CITY OF STANTON	WATER/SEWER	921.000	448	103.04
11/13/2020	STANT	9483*#	CONSUMERS ENERGY	UTILITIES	920.000	172	0.00
				STREET LIGHTS	920.000	448	1,021.86
				225 S. CAMBURN ST.	920.000	448	259.88
				300 S. MILL ST.	920.000	448	326.94
				119 W. MAIN ST. #WTR	920.000	448	29.11
				119 S. COURT ST.	920.000	448	113.03
				117 S. LINCOLN ST.	920.000	448	96.12
				320 S LINCOLN ST	920.000	448	28.85
				421 E. MAIN ST.	920.000	448	70.74
				125 S. CAMBURN ST.	920.000	448	31.35
				UTILITIES	920.000	448	160.33
				CHECK STANT 9483 TOTAL FOR FUND 101:			<u>2,138.21</u>
11/13/2020	STANT	9486#	MAIN STREET PLANNING COMPANY	PROFESSIONAL SERVICES	801.000	102	1,872.50
				PROFESSIONAL SERVICES	801.000	172	264.50
				CHECK STANT 9486 TOTAL FOR FUND 101:			<u>2,137.00</u>
11/13/2020	STANT	9487#	MICHIGAN FLEET FUELING SOLUTIONS	GAS	736.000	301	50.34
				GAS	736.000	441	285.35
				CHECK STANT 9487 TOTAL FOR FUND 101:			<u>335.69</u>
11/13/2020	STANT	9488	BARBARA HALL	MISCELLANEOUS	956.000	172	25.00
11/13/2020	STANT	9489	MML WORKERS' COMP FUND	INSURANCE	710.000	850	628.00
11/13/2020	STANT	9490	MICHIGAN OFFICE SOLUTIONS, INC	PROFESSIONAL SERVICES	801.000	172	78.29

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Check Date	Bank	Check #	Payee	Description	Account	Dept	Amount
Fund: 101 GENERAL FUND							
11/13/2020	STANT	9491*#	POSTMASTER	POSTAGE	727.000	172	55.00
				POSTAGE	727.000	253	385.00
				CHECK STANT 9491 TOTAL FOR FUND 101:			<u>440.00</u>
11/13/2020	STANT	9492	REPUBLIC SERVICES #239	REPAIR, MAINTENANCE	775.000	441	200.70
11/13/2020	STANT	9493*#	STANTON HARDWARE CORP	REPAIR, MAINTENANCE	775.000	209	57.57
				REPAIR, MAINTENANCE	775.000	441	77.18
				CHECK STANT 9493 TOTAL FOR FUND 101:			<u>134.75</u>
11/17/2020	STANT	9494*	CITY OF STANTON	DUE TO PAYROLL CLEARING FUND	214.750	000	8,248.27
				Total for fund 101 GENERAL FUND			16,071.48

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Check Date	Bank	Check #	Payee	Description	Account	Dept	Amount
Fund: 202 MAJOR STREET FUND							
11/17/2020	STANT	9494*	CITY OF STANTON	DUE TO PAYROLL CLEARING FUND	214.750	000	611.33
Total for fund 202 MAJOR STREET FUND							611.33

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Check Date	Bank	Check #	Payee	Description	Account	Dept	Amount
Fund: 203 LOCAL STREET FUND							
11/17/2020	STANT	9494*	CITY OF STANTON	DUE TO PAYROLL CLEARING FUND	214.750	000	611.33
Total for fund 203 LOCAL STREET FUND							611.33

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CHECK DISBURSEMENT REPORT FOR CITY OF STANTON  
CHECK DATE FROM 11/05/2020 - 11/20/2020

Check Date	Bank	Check #	Payee	Description	Account	Dept	Amount
Fund: 590 SEWER FUND							
11/13/2020	STANT	9483*#	CONSUMERS ENERGY	1100 S, CAMBURN ST.	920.000	536	314.34
				900 S. CAMBURN ST.	920.000	536	1,712.73
				717 N. CAMBURN ST.	920.000	536	47.09
				301 S. MILL	920.000	536	17.94
				301 S. MILL ST.	920.000	536	276.50
				UTILITIES	920.000	536	0.00
				CHECK STANT 9483 TOTAL FOR FUND 590:			<u>2,368.60</u>
11/13/2020	STANT	9491*#	POSTMASTER	POSTAGE	727.000	536	175.00
11/17/2020	STANT	9494*	CITY OF STANTON	DUE TO PAYROLL CLEARING FUND	214.750	000	969.11
				Total for fund 590 SEWER FUND			3,512.71

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CHECK DISBURSEMENT REPORT FOR CITY OF STANTON  
CHECK DATE FROM 11/05/2020 - 11/20/2020

Check Date	Bank	Check #	Payee	Description	Account	Dept	Amount
Fund: 591 WATER FUND							
11/13/2020	STANT	9483*#	CONSUMERS ENERGY	319 N. MILL ST.	920.000	536	33.87
				601 N. NEW ST.	920.000	536	909.14
				721 N. CAMBURN ST.	920.000	536	34.54
				UTILITIES	920.000	536	0.00
				CHECK STANT 9483 TOTAL FOR FUND 591:			<u>977.55</u>
11/13/2020	STANT	9491*#	POSTMASTER	POSTAGE	727.000	536	175.00
11/13/2020	STANT	9493*#	STANTON HARDWARE CORP	POSTAGE	727.000	536	9.83
				REPAIR, MAINTENANCE	775.000	536	9.34
				CHECK STANT 9493 TOTAL FOR FUND 591:			<u>19.17</u>
11/17/2020	STANT	9494*	CITY OF STANTON	DUE TO PAYROLL CLEARING FUND	214.750	000	969.03
				Total for fund 591 WATER FUND			2,140.75

Check Date	Bank	Check #	Payee	Description	Account	Dept	Amount
Fund: 703 TAX ACCOUNT							
11/13/2020	TAX	3561	GENERAL FUND	GENERAL FUND	818.000	000	1,187.88
11/13/2020	TAX	3562	MONTCALM COUNTY TREASURER	COUNTY OPERATING 367.99, INT 7.34	820.000	000	375.33
				SET 504.58, INT 10.07	826.000	000	514.65
				CHECK TAX 3562 TOTAL FOR FUND 703:			<u>889.98</u>
				Total for fund 703 TAX ACCOUNT			2,077.86
			TOTAL - ALL FUNDS				25,025.46

'\*'-INDICATES CHECK DISTRIBUTED TO MORE THAN ONE FUND

'#'-INDICATES CHECK DISTRIBUTED TO MORE THAN ONE DEPARTMENT

## Department of Public Works

November 20, 2020

Leaf clean-up is nearly complete. Most residents have done an excellent job this year with keeping rows of leaves nice and neat for vacuuming. The clean-up in the cemetery is well underway and should be completed next week.

Casair Inc. will be providing the aerial lift for hanging Christmas lights again this year. Lights will be hung Saturday November 21 at the Court House on Main Street.

Mayor Williams will be presenting a proposal from Prein & Newhof, to seek a grant opportunity through the State of Michigan. The grant will be geared toward funding the required “Drinking Water Service Line Material Inventory” that has been mandated by the State of Michigan. The DWSMI is a process of identifying each drinking water service line within the Public Water Supply, either visually, or through records, by 2025. Any “lead” service lines that are identified will be replaced at a rate of no less than 5% each year, over a 20-year period, starting in 2025, and it will be the responsibility of the City of Stanton to do so. This grant opportunity has been greatly anticipated by all Public Water Supplies, and I fully support the Mayor in hiring Prein & Newhof to apply.

We have finished pumping treated wastewater for this year. Our permit allows for the discharge of treated wastewater from March 15<sup>th</sup> – November 15<sup>th</sup>. We are in great shape for holding wastewater in the lagoons for the winter. Total pumpage for the year 2020 is 49,139,721 gallons of treated wastewater.

During water main flushing in October, two fire hydrants were unable to be completely turned back off. These two hydrants will soon be rebuilt. They are currently “off” and bagged with an “out of service” notice. The hydrants can still be used if necessary. Rebuilding will be done in-house as soon as parts are received.

-2020-2021 City calendar/schedule was completed for the Department of Public Works.

-Preparations for the upcoming winter plowing, snow and ice removal

-meter reading

-brush chipping



## 2021 City of Stanton Meeting Schedule

All meetings are held at Stanton City Hall - 225 S. Camburn Street unless there is a location change published by the Clerk's office. For questions, dial (989) 831-4440.

	CITY COMMISSION	PLANNING COMMISSION	DOWNTOWN DEVELOPMENT AUTHORITY
JANUARY	12 & 26	6	5
FEBRUARY	9 & 23	3	2
MARCH	9 & 23	3	2
APRIL	13 & 27	7	6
MAY	11 & 25	5	4
JUNE	8 & 22	2	1
JULY	13 & 27	7	6
AUGUST	10 & 24	4	3
SEPTEMBER	14 & 28	1	7
OCTOBER	12 & 26	6	5
NOVEMBER	9 & 23	3	9*
DECEMBER	14 & 28	1	7

CITY COMMISSION	Meetings are held on the 2nd & 4th Tuesday of the month at 7:00 P.M.
PLANNING COMMISSION	Meetings are held on the 1st Wednesday of the month at 5:30 P.M.
DOWNTOWN DEVELOPMENT AUTHORITY	Meetings are held on the 1st Tuesday of the month at 8:30 A.M. * Denotes exception due to Election Day

November 20, 2020

Ms. Lori Williams  
City of Stanton  
P.O. Box 449  
Stanton, MI 48888

**RE: Drinking Water Asset Management (DWAM) Grant**

Dear Ms. Williams:

The Michigan Department of Environment, Great Lakes and Energy (EGLE) has announced \$500 million in funding opportunities related to Michigan's Water Infrastructure (MI Clean Water Plan) including \$207 million for drinking water systems. \$37.5 million of which has been allocated to a grant program to fund Drinking Water Asset Management Plans.

This specific grant would be a great way for Stanton to complete their verified water service material inventory required by the new Lead and Copper Rule. Pursuant to the Lead and Copper Rule, the City of Stanton has until January 1, 2025 to verify the material of all 433 water services that are currently unknown. The preliminary inventory was submitted to EGLE at the end of 2019. This opportunity provides funds to complete this work in an otherwise unfunded mandate, as well as update the City's water asset management plan in accordance with the verified inventory.

Although this grant has quarterly submission dates throughout 2021, we anticipate that this grant will be highly competitive and expect the funding will be fully allocated in after the first quarterly submission. Therefore, we recommend submitting a grant application by January 1, 2021.

### **Professional Services**

Our proposed services include the following:

- Develop costs to verify the material of all services that were listed as "Material Unknown" in the Preliminary Distribution System Materials Inventory (DSMI)
- Develop costs to update the City's Water Asset Management Plan including asset inventory, condition assessment, level of service and criticality ratings
- Prepare the grant application

### **Fee Estimate**

We propose to perform professional services for a lump sum fee of \$1,200.

We appreciate the opportunity to submit this proposal and look forward to continuing our professional relationship with the City of Stanton. Please call if you have any questions.

Sincerely,

**Prein&Newhof**

A handwritten signature in blue ink, appearing to read "Kevin E. Koster".

Kevin E. Koster, P.E.

KEK/jw

Enclosures: Agreement, Terms and Conditions

Cc: James Blum, DPW Director

## Standard Terms & Conditions

- A. General** - As used in this Prein&Newhof Standard Terms and Conditions for Professional Services (hereinafter “Terms and Conditions”), unless the context otherwise indicates: the term “Agreement” means the Professional Services Agreement inclusive of all documents incorporated by reference including but not limited to this P&N Standard Terms and Conditions for Professional Services; the term “Engineer” refers to Prein & Newhof, Inc.; and the term “Client” refers to the other party to the Professional Services Agreement.

These Terms and Conditions shall be governed in all respects by the laws of the United States of America and by the laws of the State of Michigan.

- B. Standard of Care** - The standard of care for all professional and related services performed or furnished by Engineer under the Agreement will be the care and skill ordinarily used by members of Engineer’s profession of ordinary learning, judgment or skill practicing under the same or similar circumstances in the same or similar community, at the time the services are provided.
- C. Disclaimer of Warranties** - Engineer makes no warranties, expressed or implied, under the Agreement or otherwise.
- D. Construction/Field Observation** - If Client elects to have Engineer provide construction/field observation, client understands that construction/field observation is conducted to reduce, not eliminate the risk of problems arising during construction, and that provision of the service does not create a warranty or guarantee of any type. In all cases, the contractors, subcontractors, and/or any other persons performing any of the construction work, shall retain responsibility for the quality and completeness of the construction work and for adhering to the plans, specifications and other contract documents.
- E. Construction Means and Methods** - Engineer shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences, or procedures, or for any safety precautions and programs in connection with the construction work, for the acts or omissions of the Contractor, Subcontractors, or any other persons performing any of the construction work, or for the failure of any of them to carry out the construction work in accordance with the plans, specifications or other contract documents.
- F. Opinions of Probable Costs** – Client acknowledges that Engineer has no control over market or contracting conditions and that Engineer’s opinions of costs are based on experience, judgment, and information available at a specific period of time. Client agrees that Engineer makes no guarantees or warranties, express or implied, that costs will not vary from such opinions.

### **G. Client Responsibilities**

1. Client shall provide all criteria, Client Standards, and full information as to the requirements necessary for Engineer to provide the professional services. Client shall designate in writing a person with authority to act on Client’s behalf on all matters related to the Engineer’s services. Client shall assume all responsibility for interpretation of contract documents and construction observation/field observation during times when Engineer has not been contracted to provide such services and shall waive any and all claims against Engineer that may be connected thereto.
2. In the event the project site is not owned by the Client, the Client must obtain all necessary permission for Engineer to enter and conduct investigations on the project site. It is assumed that the Client possesses all necessary permits and licenses required for conducting the scope of services. Access negotiations may be performed at additional costs. Engineer will take reasonable precaution to minimize damage to land and structures with field equipment. Client assumes responsibility for all costs associated with protection and restoration of project site to conditions existing prior to Engineer’s performance of services.
3. The Client, on behalf of all owners of the subject project site, hereby grants permission to the Engineer to utilize a small unmanned aerial system (sUAS) for purposes of aerial mapping data acquisition. The Client is responsible to provide required notifications to the property owners of the subject project site and affected properties where the sUAS services will be performed. The Engineer will operate the sUAS in accordance with applicable State and Federal Laws.

### **H. Hazardous or Contaminated Materials/Conditions**

1. Client will advise Engineer, in writing and prior to the commencement of its services, of all known or suspected Hazardous or Contaminated Materials/Conditions present at the site.
2. Engineer and Client agree that the discovery of unknown or unconfirmed Hazardous or Contaminated Materials/Conditions constitutes a changed condition that may require Engineer to renegotiate the scope of or terminate its services. Engineer and Client also agree that the discovery of said Materials/Conditions may make it necessary for Engineer to take immediate measures to protect health, safety, and welfare of those performing Engineer’s services. Client agrees to compensate Engineer for any costs incident to the discovery of said Materials/Conditions.

3. Client acknowledges that Engineer cannot guarantee that contaminants do not exist at a project site. Similarly, a site which is in fact unaffected by contaminants at the time of Engineer's surface or subsurface exploration may later, due to natural phenomena or human intervention, become contaminated. The Client waives any claim against Engineer, and agrees to defend, indemnify and hold Engineer harmless from any claims or liability for injury or loss in the event that Engineer does not detect the presence of contaminants through techniques commonly employed.
4. The Client recognizes that although Engineer is required by the nature of the services to have an understanding of the laws pertaining to environmental issues, Engineer cannot offer legal advice to the Client. Engineer urges that the Client seek legal assistance from a qualified attorney when such assistance is required. Furthermore, the Client is cautioned to not construe or assume that any representations made by Engineer in written or conversational settings constitute a legal representation of environmental law or practice.
5. Unless otherwise agreed to in writing, the scope of services does not include the analysis, characterization or disposal of wastes generated during investigation procedures. Should such wastes be generated during this investigation, the Client will contract directly with a qualified waste hauler and disposal facility.

**I. Underground Utilities** – To the extent that the Engineer, in performing its services, may impact underground utilities, Engineer shall make a reasonable effort to contact the owners of identified underground utilities that may be affected by the services for which Engineer has been contracted, including contacting the appropriate underground utility locating entities and reviewing utility drawings provided by others. Engineer will take reasonable precautions to avoid damage or injury to **underground** utilities and other underground structures. Client agrees to hold Engineer harmless for any damages to below ground utilities and structures not brought to Engineers attention and/or accurately shown or described on documents provided to Engineer.

**J. Insurance**

1. Engineer will maintain insurance for professional liability, general liability, worker's compensation, auto liability, and property damage in the amounts deemed appropriate by Engineer. Client will maintain insurance for general liability, worker's compensation, auto liability, and property damage in the amounts deemed appropriate by Client. Upon request, Client and Engineer shall each deliver certificates of insurance to the other evidencing their coverages.
2. Client shall require Contractors to purchase and maintain commercial general liability insurance and other insurance as specified in project contract documents. Client shall cause Engineer, Engineer's consultants, employees, and agents to be listed as additional insureds with respect to any Client or Contractor insurances related to projects for which Engineer provides services. Client agrees and must have Contractors agree to have their insurers endorse these policies to reflect that, in the event of payment of any loss or damages, subrogation rights under these Terms and Conditions are hereby waived by the insurer with respect to claims against Engineer.

**K. Limitation of Liability** - The total liability, in the aggregate, of Engineer and Engineer's officers, directors, partners, employees, agents, and consultants, whether jointly, severally or individually, to Client and anyone claiming by, through, or under Client, for any and all injuries, losses, damages and expenses, whatsoever, arising out of, resulting from, or in any way related to the Project or the Agreement, including but not limited to the performance of services under the Agreement, from any cause or causes whatsoever, including but not limited to the negligence, professional errors or omissions, strict liability or breach of contract or warranty, expressed or implied, of Engineer or Engineer's officers, directors, partners, employees, agents, consultants, or any of them, shall not exceed the amount of the compensation paid to Engineer under this Agreement, or the sum of fifty thousand dollars and no cents (\$50,000.00), whichever is less. Recoverable damages shall be limited to those that are direct damages. Engineer shall not be responsible for or held liable for special, indirect or consequential losses or damages, including but not limited to loss of use of equipment or facility, and loss of profits or revenue.

Client acknowledges that Engineer is a corporation and agrees that any claim made by Client arising out of any act or omission of any director, officer, or employee of Engineer, in the execution or performance of the Agreement, shall be made against Engineer and not against such director, officer, or employee.

**L. Documents and Data**

1. All documents prepared or furnished by Engineer under the Agreement are Engineer's instruments of service, and are and shall remain the property of Engineer.
2. Hard copies of any documents provided by Engineer shall control over documents furnished in electronic format. Client recognizes that data provided in electronic format can be corrupted or modified by the Client or others, unintentionally or otherwise. Consequently, the use of any data, conclusions or information obtained or derived from electronic media provided by Engineer will be at the Client's sole risk and without any liability, risk or legal exposure to Engineer, its employees, officers or consultants.

3. Any extrapolations, conclusions or assumptions derived by the Client or others from the data provided to the Client, either in hard copy or electronic format, will be at the Client's sole risk and full legal responsibility.

- M. Differing Site Conditions** - Client recognizes that actual site conditions may vary from the assumed site conditions or test locations used by Engineer as the basis of its design. Consequently, Engineer does not guarantee or warrant that actual site conditions will not vary from those used as the basis of Engineer's design, interpretations and recommendations. Engineer is not responsible for any costs or delays attributable to differing site conditions. .
- N. Terms of Payment** - Unless alternate terms are included in the Agreement, Client will be invoiced on a monthly basis until the completion of the **Project**. All monthly invoices are payable within 30 days of the date of the invoice. Should full payment of any invoice not be received within 30 days, the amount due shall bear a service charge of 1.5 percent per month or 18 percent per year plus the cost of collection, including reasonable attorney's fees. If Client has any objections to any invoice submitted by Engineer, Client must so advise Engineer in writing within fourteen (14) days of receipt of the invoice. Unless otherwise agreed, Engineer shall invoice Client based on hourly billing rates and direct costs current at the time of service performance. Outside costs such as, but not limited to, equipment, meals, lodging, fees, and subconsultants shall be actual costs plus 10 percent. In addition to any other remedies Engineer may have, Engineer shall have the absolute right to cease performing any services in the event payment has not been made on a current basis.
- O. Termination** - Either party may terminate services, either in part or in whole, by providing 10 calendar days written notice thereof to the other party. In such an event, Client shall pay Engineer for all services performed prior to receipt of such notice of **termination**, including reimbursable expenses, and for any shut-down costs incurred. Shut-down costs may, at Engineer's discretion, include expenses incurred for completion of analysis and records necessary to document Engineer's files and to protect its professional reputation.
- P. Severability and Waiver of Provisions** - Any provision or part of the Agreement held to be void or unenforceable under any laws or regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Client and P&N, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable **provision** that comes as close as possible to expressing the intention of the stricken provision. Non-enforcement of any provision by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of the Agreement.
- Q. Dispute Resolution** - If a dispute arises between the parties relating to the Agreement, the parties agree to use the following procedure prior to either party pursuing other available remedies:
1. Prior to commencing a lawsuit, the parties must attempt mediation to resolve any dispute. The parties will jointly appoint a mutually acceptable person not affiliated with either of the parties to act as mediator. If the parties are unable to agree on the mediator within twenty (20) calendar days, they shall seek assistance in such regard from the Circuit Court of the State and County wherein the Project is located, who shall appoint a mediator. Each party shall be responsible for paying all costs and expenses incurred by it, but shall split equally the fees and expenses of the mediator. The mediation shall proceed in accordance with the procedures established by the mediator.
  2. The parties shall pursue mediation in good faith and in a timely manner. In the event the mediation does not result in resolution of the dispute within thirty (30) calendar days, then, upon seven (7) calendar days' written notice to the other party, either party may pursue any other available remedy.
  3. In the event of any litigation arising from the Agreement, including without limitation any action to enforce or interpret any terms or conditions or performance of services under the Agreement, Engineer and Client agree that such action will be brought in the District or Circuit Court for the County of Kent, State of Michigan (or, if the federal courts have exclusive jurisdiction over the subject matter of the dispute, in the U.S. District Court for the Western District of Michigan), and the parties hereby submit to the exclusive jurisdiction of said court.
- R. Force Majeure** - Engineer shall not be liable for any loss or damage due to failure or delay in rendering any services called for under the Agreement resulting from any cause beyond Engineer's reasonable control.
- S. Assignment** - Neither party shall assign its rights, interests or obligations under this Agreement without the express written consent of the other party.
- T. Modification** - The Agreement may not be modified except in writing signed by the party against whom a modification is sought to be enforced.
- U. Survival** - All express representations, indemnifications, or limitations of liability included in the Agreement shall survive its completion or termination for any reason.
- V. Third-Party Beneficiary** - Client and Engineer agree that it is not intended that any provision of this Agreement establishes a third party beneficiary giving or allowing any claim or right of action whatsoever by a third party.