

**PROFESSIONAL SERVICES AGREEMENT BETWEEN  
BERGMANN ASSOCIATES,  
AND THE CITY OF ANN ARBOR  
FOR THE ALLEN CREEK RAILROAD BERM OPENING PROJECT**

The City of Ann Arbor, a Michigan municipal corporation, having its offices at 301 E. Huron St. Ann Arbor, Michigan 48104 ("City"), and Bergmann Associates, Architects, Engineers, Landscape Architects & Surveyors, D.P.C. ("Contractor") a New York, Corporation with its address at 7050 West Saginaw Highway, Suite 200, Lansing, MI 48917 agree as follows on this 3rd day of January, 2017.

The Contractor agrees to provide services to the City under the following terms and conditions:

**I. DEFINITIONS**

Administering Service Area/Unit means Project Management.

Contract Administrator means Nicholas Hutchinson, P.E., City Engineer, 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 Allen Creek Railroad Berm Opening Project; File No. 2016-032.

**II. DURATION**

This Agreement shall become effective on January 3, 2017, and shall remain in effect until satisfactory completion of the Services specified below unless terminated as provided for in Article XI.

**III. SERVICES**

- A. The Contractor agrees to provide Professional Engineering Services ("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 contract sum 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.
- 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.

#### **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 Section 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) 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 during the life of this contract 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 which may arise under this contract; 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. In the case of all contracts involving on-site work, the

Contractor shall provide to the City, before the commencement of any work under this contract, documentation satisfactory to the City demonstrating it has obtained the policies and endorsements required by Exhibit C.

- B. Any insurance provider of Contractor shall be admitted and 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-admitted 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 necessary to perform the Services specified in this Agreement.
- C. The Contractor warrants that it has available, or will engage, at its own expense, sufficient trained employees to provide the Services specified in this Agreement.
- D. 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.
- E. 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 perform or firm to submit or not to submit a proposal for the purpose of restricting competition.

**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 in this Agreement 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:

Jeremy Hedden, P.E.  
Bergmann Associates, Architects, Engineers, Landscape Architects & Surveyors,  
D.P.C.  
7050 West Saginaw Highway, Suite 200,  
Lansing, MI 48917

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

City of Ann Arbor

Attn: Anne M. Warrow, P.E., Project Manager  
301 E. Huron St.  
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.

Unless otherwise stated in this Agreement, any intellectual property owned by Contractor prior to the effective date of this Agreement (i.e., Preexisting Information) shall remain the exclusive property of Contractor even if such Preexisting Information is embedded or otherwise incorporated in materials or products first produced as a result of this Agreement or used to develop Deliverables. The City's right under this provision shall not apply to any Preexisting Information or any component thereof regardless of form or media.

## **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 with any affixed exhibits, schedules or other documentation, 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.

**For Bergmann Associates**


By  \_\_\_\_\_  
JEREMY A. HEDDEN, PE

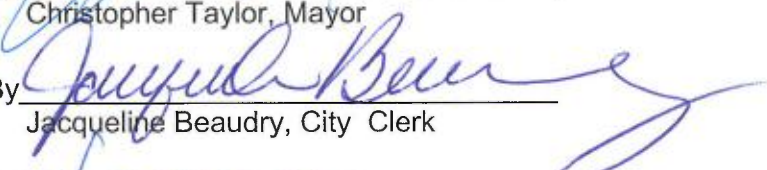
Its: VICE PRESIDENT - INFRASTRUCTURE

**Approved as to form and content**

By  \_\_\_\_\_  
for Stephen K. Postema, City Attorney

**For City of Ann Arbor**

By  \_\_\_\_\_  
Christopher Taylor, Mayor

By  \_\_\_\_\_  
Jacqueline Beaudry, City Clerk

**Approved as to substance**

By  \_\_\_\_\_  
Howard S. Lazarus, City Administrator

By  \_\_\_\_\_  
Craig Hupy, Public Service Area Administrator



## **EXHIBIT A SCOPE OF SERVICES**

### **A. OBJECTIVE**

The City of Ann Arbor has entered into this agreement with Bergmann to provide engineering design and assistance with preparing the necessary grant applications and all supporting documentation for the Allen Creek Railroad Berm Opening Project (hereafter “Berm Opening Project”).

The City of Ann Arbor had received a Federal Emergency Management Agency (FEMA) Hazard Mitigation Grant for the design of the Berm Opening Project.

The scope of work is intended to advance the work conducted under a previous engineering feasibility study titled, Allen Creek Berm: Feasibility of Flood Reduction and Pedestrian Options, dated December 16, 2013, (“Feasibility Study”). The Consultant shall manage all aspects of the environmental review and approval process and project design up to the award of the construction contract for this project.

In addition to engineering design and grant assistance, services sought the scope also includes: performing a complete topographical survey of the project area evaluating; collaborating with the City in determining the final pedestrian access location; acquiring access easements or easement agreements; preparation of cost estimates for all needed work and submittals to the various oversight agencies; coordination of all proposed activities with the affected railroad agencies; and defining and obtaining any necessary environmental clearances needed for a FEMA grant application for construction.

### **B. DESCRIPTION**

The railroad berm near the mouth of Allen Creek in the vicinity of Depot Street and Main Street, just west of the Ann Arbor Amtrak Station, is oriented perpendicular to the overland drainage flow pattern and causes the floodplain depth in this area of the City to be as deep as 10 feet during heavy storm events. Upstream of the influence of this berm, flood depths are more typically in the 3 to 5 foot range. .

In December 2013, the City and its consultant completed a Feasibility Study to determine if it was possible to create openings in the railroad berm to accommodate passage of floodwaters and to allow pedestrians to cross the railroad safely via an underground tunnel.

The study determined that such dual openings are feasible and a preferred concept was selected.

The Feasibility Study indicated that it is possible to lower the floodplain elevation in the area by as much as 6.5 feet, as well as accommodate non-motorized access under the railroad.

MDOT (railroad owner) is supportive of the preferred alternative to accommodate continuous train passage during all construction activities.

Two potential pedestrian routes to, and from, the proposed railroad berm opening area were identified, but a preferred route was not determined during the feasibility study. Access issues remain to be studied and resolved at the terminus of those routes.

The Consultant shall complete engineering design, construction plan and specification preparation, and the assemble of a complete set of bid documents based upon the preferred alternative identified in the feasibility study and the to-be-determined safety path location between the proposed berm opening and the Allen Creek pedestrian bridge.

### **C. TASKS**

All improvements shall be designed in accordance with the applicable AASHTO, City of Ann Arbor, MDOT, MDEQ, ADA, AREMA, Amtrak, and any other relevant standards.

In general, the following scope items shall be completed by the Consultant:

- 1) The Lead Consultant shall manage all aspects of the project design up to the award of the construction contract(s) for the project. This includes, but is not limited to; managing all aspects of the project, including the work of all sub-consultants and project coordination with all affected agencies. The project manager must ensure the timely and cost-effective delivery of the project design, as well as provide oversight and review of all project deliverables. The Project Manager will be responsible for the overall review and coordination of the contract documents in order to ensure preparation of plans that are detailed, thorough, and accurate and meet all the requirements of the City of Ann Arbor, MDOT, FEMA, Amtrak, MDEQ, and any other agency with oversight responsibilities. This task requires the services of a professional project manager(s) to ensure uninterrupted progress of the project.
- 2) **Review the Feasibility Study Preferred Alternative** – Review the Feasibility Study in detail to gain familiarity with the proposed improvements, proposed location(s), possible pedestrian access routes, and other relevant details. A kick-off meeting with City staff to review the study and confirm the project’s objectives will be required.
- 3) **Review and update hydraulic modeling from the Feasibility Study** – Review the City’s calibrated InfoSWMM hydraulic model to provide accurate and defensible hydrographs and all other related information that will be utilized in the preparation of the Pre-disaster Mitigation Grant application and the required Benefit-Cost modeling.
- 4) **Prepare a complete, detailed, ground survey of the entire construction influence area** – The Consultant, as part of the proposal, shall include a detailed drawing delineating the areas, which will be ground surveyed. This survey may be augmented by aerial photography; however, aerial photography will not be the primary tool in developing the topographic survey for the project. At a minimum, survey should include the following elements:
  - All survey work shall be performed in accordance with the City of Ann Arbor Public Services Area’s Standards and its Geodetic Control Manual. The Consultant

shall complete and submit the City's Survey Package Submittal Checklist upon completion of all survey work for the City's review and approval;

- Locate all trees or shrubs 6" in diameter or greater and provide genus, species, and health breakdown;
- Locate all cultural features (if any) within the requested survey boundaries;
- Locate all existing property irons and monuments within the survey limits;
- Provide a survey with 1' contour intervals. Survey area shall include:
  - a) Potential pedestrian path areas;
  - b) Area of proposed Depot Street Relief Storm Sewer;
  - c) Railroad right-of-way (including track elevations) within the project limits and at least 100' past the anticipated tie-in points of the shoo-fly alignment;
  - d) Area across which the storm water discharge will travel to the river;
  - e) Riverbank areas (including existing trees and vegetation) and estimated river bottom elevation at the proposed discharge point of the Huron River; and,
  - f) Any other necessary areas to complete the design;
- Locate all "breaklines" and any other features as necessary to develop accurate contours;
- Provide detailed spot elevations at all existing sidewalk and sidewalk ramp areas impacted by the project;
- Provide all survey work to national map accuracy standards
- Locate existing public and private utilities in the survey area, determining both horizontal and vertical location;
- Establish and define the existing right-of-way of the railroad, as well as all streets that are affected by the project; and
- Create all needed easement descriptions and Exhibit Drawings needed for the chosen pedestrian access path and drainage easements from the railroad and DTE (Detroit Edison) (owner of the property from the railroad to the Huron River) as well as for the Depot Street Relief Storm Sewer. All permanent easement descriptions shall be tied into at least one section corner or other similar permanent survey point.

**5) Gather and review information pertaining to existing public and private utilities –**

- Determine the precise location, both horizontally and vertically, of all existing utilities.
- Obtain record drawings from the private utility companies where any might be impacted by proposed construction.
- Coordinate all aspects of the proposed work with the private utility companies.
- Where critical crossings of utilities are believed to exist (such as the known fiber optic duct bank on the north side of the railroad right-of-way), or the elevation(s) of existing utilities may significantly affect the proposed design(s), or relocation, of utilities, retaining walls, and the like, test holes shall be dug at all such locations to determine the precise location, both horizontally and vertically, of these points. The Consultant shall arrange for these test holes to be dug and shall arrange to have the necessary inspection and survey personnel on hand to observe, locate, and verify the results of each excavation. The Consultant shall work with MDOT, private utility owners, and MISS-DIG for test holes. The Consultant's proposed budget shall

clearly detail the necessary resources to complete this element of this task.

- 6) **Determine preferred pedestrian access location**– The feasibility study identified potential pedestrian access routes between the North Main Street and Depot Street intersection area to the pedestrian opening. Taking into consideration grade change, existing site conditions, willingness of affected property owners to grant easements, and the existing and proposed Depot Street Relief Storm Sewer (see attached plan detail), select the most functional and agreeable access location in the vicinity of the identified routes.

Additionally, determine the location for the pedestrian safety path to be constructed between the shoo-fly bridge over Allen Creek and the new pedestrian berm opening under the railroad.

- 7) **Environmental/Historic Preservation** – This task shall include:
- Review the environmental documentation related to the Detroit Edison property to gain familiarity with the areas of contamination on that site as they are near the area of the proposed stormwater discharge path from the berm opening culvert to the Huron River. The City also has the results of the complete geotechnical investigation for the Broadway Bridges Reconstruction Project that was performed in 2003/2004 that contains information with regard to the Detroit Edison parcel and the railroad right-of-way adjacent to the project limits. This document is available for review.
  - Perform all tasks necessary to complete the environmental/historic preservation requirements of a FEMA Hazard Mitigation and/or Pre-disaster Mitigation Grant for construction of this project.
  - Determine what environmental/historic preservation approval will be required from the Federal Railroad Association (FRA) and MDOT in order to construct this project and perform all tasks necessary to obtain such approvals. This may require preparation of categorical exclusions, environmental assessments, environmental impact statements, Section 4(f) evaluations, or other determinations or documents.
  - The Consultant should coordinate and work with all appropriate local, state, and federal entities to ascertain any potential adverse impacts on the environment due to the proposed berm opening, determine any appropriate mitigation measures, and develop documents to support environmental clearance for the opening.
  - The Consultant should be prepared to conduct studies and research based on data or on-site analysis, as needed. The environmental review may require traffic studies, noise and vibration studies, testing for environmental contamination, reviewing environmental records for the presence of hazardous materials, archaeological investigations, wetland delineation, threatened or endangered species and other environmental analytics.
  - The Consultant must evaluate the proposed layout with respect to applicable environmental requirements including: the National Environmental Policy Act (42 U.S.C. 4332); the Council on Environmental Quality's regulations implementing NEPA (40 CFR part 1500 et seq.); and FRA's "Procedures for Considering

Environmental Impacts” (45 FR 40854, June 16, 1980, as revised May 26, 1999, 64 FR 28545).

- The Consultant must evaluate other related laws and regulations such as: Section 4(f) of NEPA, Section 6(f) of the Land and Water Conservation Fund; Section 106 of the National Historic Preservation Act; and applicable requirements of the Clean Water Act and Endangered Species Act.
  - If any of these clearances require public input the Consultant shall work with City Staff to determine the correct procedure.
- 8) Design live loading for the bridges shall be as determined by the appropriate Railroad Agency. Review and critique proposed sub- and superstructure members from the Feasibility Study. Propose refinements for constructability, cost savings, or other reasons, as necessary.
- 9) Several retaining walls will be required for this project. The Consultant shall propose a minimum of three different types of wall systems to be used on this project. Also, different retaining wall systems may be used and/or required in different locations or situations (temporary vs. permanent) of the project. The selection criteria shall be based on aesthetics, constructability, and/or cost as appropriate. Further, based on the chosen retaining wall system(s), different colors, textures, geometric patterns, etc. will be sketched and illustrated for comparison purposes in order to assist in making the final choice of a permanent retaining wall system for a given location.
- 10) Perform a complete and detailed geotechnical evaluation and analysis to determine the properties of the existing soils throughout the construction influence area for the purposes of evaluating support soils for the railway, retaining walls, bridges, and culverts.
- 11) **Engineering Design** – Utilizing the preferred alternative from the Feasibility Study and input from City Staff, create final engineering design and construction plans for all project elements. Project elements include, but are not limited to, the following; the pedestrian access paths; temporary shoo-fly rail alignment; proposed berm opening structures (stormwater culvert and pedestrian opening); storm water discharge culvert to the river; the Depot Street Relief Storm Sewer; any necessary retaining or flood walls; and, all related components necessary to construct this project. Tasks include, but are not limited to;
- Revise proposed culvert and Depot Street Relief Storm Sewer size as warranted based on the updated hydraulic modeling and calculation review;
  - The feasibility study indicated a shoo-fly rail alignment would be necessary to divert train traffic during construction operations. MDOT is the owner of the railroad in this area and coordination with them is necessary for all aspects of the opening design, construction methods, and process. Additionally, users of the railroad, such as Amtrak and or Norfolk Southern Railroad, must be a part of the design process. The Consultant will work with the railroads to determine all appropriate railway geometrics meeting current AREMA Standards for the

railway design speed as required by MDOT/Amtrak to determine the appropriate length and deflections that accounts for the speed of trains expected at the time of construction. The engineering design plans must include the temporary shoo-fly and temporary bridge over Allen Creek. Bridge design shall also include modifications necessary to convert the shoo-fly bridge into a pedestrian bridge;

- Determine the optimal design location for the dual berm opening that minimizes shoo-fly length and expense while allowing for safe pedestrian access;
- Determine the optimal discharge path and method from the berm opening to the Huron River;
- Determine the optimal path for the Depot Street Relief Storm Sewer;
- Design of shoo-fly, switches, and bridges shall be in accordance with the current American Railway Engineering and Maintenance-of-Way Association (AREMA) Manual for Railway Engineering;
- Be prepared to create at least three successive iterative draft designs for review and comment by City Staff, MDOT/Amtrak and other stakeholders.
- Develop final engineering design and construction plans for all proposed improvements.
- All plan sheets shall be drawn and prepared in accordance with the City of Ann Arbor Public Services Area Drafting Standards. All scales shall be approved by the City of Ann Arbor Project Management Services Unit. The format of the drawings shall be completely compatible with the City's drawing preparation standards and layout(s). The City currently uses AutoCAD 2016 Civil 3D and it is expected that all drawings will be provided in a compatible format without the need to reconfigure drawings for plotting or other purposes.

- 12) **MDEQ and other Permits** – Prepare all permit applications necessary to construct this project. This includes but not limited to, an MDEQ Joint Permit application (Floodplain, Wetlands, Inland Lakes and Streams), MDOT Right-of-Way permits, Washtenaw County Water Resources Commissioner Drain Permit, Amtrak Railroad Permit, Grading Permit, and Soil Erosion and Sedimentation Control Permit.
- 13) **Cost Estimate Preparation** – Prepare detailed cost estimate(s) for all improvements. Estimate should define which costs are eligible for FEMA grant funding and which are not. This estimate will form the basis for funds sought from FEMA for the Phase 2 construction component of the Hazard Mitigation Grant. The cost estimate will also be utilized in other City grant applications related to the proposed pedestrian facilities.
- 14) Prepare visual aids and attend at least five public meetings to coordinate the design of the project with other City Departments, City Council, and other formal and informal committees.
- 15) Prepare complete, detailed, and accurate construction plans and specifications meeting the requirements of the City of Ann Arbor Public Services Area, FEMA, MDOT, AREMA, and Amtrak in order to satisfactorily complete the project.



- 16) Prepare all plans necessary to meet pertinent City of Ann Arbor requirements. For example, Natural Features Protection Plans, Soil Erosion, Grading, Landscaping and Planting plans, etc. These requirements can be found in Chapter 57 of the City of Ann Arbor Code of Ordinances. The requirements of the City of Ann Arbor Code of Ordinances shall take precedence over all other MDOT standard practices, unless otherwise directed by the City of Ann Arbor.
- 17) Prepare rendered drawings in order to illustrate the chosen design concept and overall depiction of the project in its finished state. This shall include, at a minimum, a 24" x 36" overall site plan; elevation and section views of each structure and their relationship to the surrounding project elements; elevation and section views of the proposed sidewalks and retaining walls at key locations along the Huron River and Depot Street and/or S. Main Street depending upon the final route chosen for the safety path.
- 18) Identify, define, and prepare all legal descriptions and exhibit drawings for all easements and grading permits that will be required to construct the proposed improvements. This is to include technical assistance, surveying, metes and bounds legal descriptions, and the preparation of the corresponding recordable, exhibit drawings in an 8½" x 11" format, as required and directed by the City. The areas where the expected grading permits and easements are necessary will be determined as the design of the project progresses. Coordinate with City of Ann Arbor personnel such that the appropriate title work and appraisals can be obtained for the purposes of right-of-way and grading easement acquisition. **The City of Ann Arbor will obtain the title work and appraisals needed for the project.** Assist the city in communicating with the five (5) affected property owners as determined by the previous study (DTE Energy, Inc., MDOT, First Martin Corporation, Peter Allen, and Main Street Motors) about the technical aspects of the project. The Consultant shall actively participate in the acquisition of the necessary easements and grading permits by: contacting the affected property owners; attending negotiation meetings; providing technical assistance during the negotiations; and documenting the acquisition process. The documentation shall be in accordance with the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended; the provisions of 23 USC, 23 CFR and 49 CFR; and the provisions of P.A. 1980, No. 87, as amended. The City will be the primary agent for easement or easement agreement negotiations.
- 19) Coordinate all elements of the design with all affected parties, including, but not limited to FEMA, FRA, MDOT, MDEQ, Amtrak, Washtenaw County Parks, various City Departments, private utility companies, other formal and informal committees, and the public in general.
- 20) Schedule and chair design progress meetings to be held on a bi-monthly basis. This is to include a design kick-off meeting in which all affected parties to the design will be contacted and invited to attend. Prepare and distribute meeting minutes for all progress and coordination meetings.

- 21) Prepare complete contract documents including plans, specifications, bid forms, etc. to allow the project to be bid either as one project, or as multiple projects, depending on available funding, right-of-way acquisition, and constructability related issues. For the purposes of the preparation of this request, we ask that the Consultant prepare their work plan and schedule around the deliverable and milestone schedule as shown in Table #1.
- 22) **Prepare FEMA Hazard Mitigation Grant Application** – Prepare all required supporting exhibits, cost estimates, or other required materials needed for the City to submit a complete Phase 2 (construction) FEMA grant application.
- 23) **CLOMR and LOMR** – After the design is accepted by FEMA and all other appropriate agencies, the Consultant shall prepare the needed documentation in order to allow the City of Ann Arbor to obtain a Conditional Letter of Map Revision from FEMA. After construction of the project, a LOMR will be sought. The Consultant shall provide the needed documentation and support to obtain both a CLOMR and LOMR.

**Table #1 – Project Schedule**

Notice to proceed	01/03/17
Project Kickoff Meeting	01/05/17
30% Design Plans for review by the City and Stakeholders	02/27/17
Easement Agreement Documents - Draft	03/13/17
60% Design Plans for review by the City and Stakeholder	04/03/17
Easement Agreement Documents - Final	04/17/17
Permit submittal application(s)	05/08/17
Environmental Clearance Documentation	05/12/17
90% Design Plans, Specifications and Cost Estimate for review by the City and Stakeholder	06/05/17
Completed Construction Bid Package	07/11/17
FEMA Grant application for Phase 2	08/01/17
Issue ITB for construction contractor	11/06/17
Council Approval of Construction Contract	01/22/18
Begin Construction	02/19/18
Complete Construct project	05/15/19
LOMR Process	06/10/19

- 24) **Stakeholder Engagement** - Consultant shall perform stakeholder awareness and involvement strategies throughout the course of the design of the project, including, but not limited to; stakeholder meetings; informational diagrams; e-mail communication; and, other information sharing techniques. The Consultant must effectively communicate the purpose and the benefits of the project with the public and the stakeholders and assist with all necessary negotiations with the affected property

owners and public and private agencies. While no formal community engagement plan is required for this project, the Consultant's Project Manager will maintain open and directed communication with adjacent property owners throughout the design process. The Consultant will provide materials for updating the project website as needed. The project website will be hosted and managed by the City.

- 25) **Other Tasks** – In the proposed work plan, Consultant may include any additional tasks, which it deems necessary to advance the project to the Phase 2 FEMA grant application stage. Such additional tasks must be clearly called out in the Proposal and costs of same clearly defined in the sealed Fee Proposal.
- 26) **Project deliverables** - The Consultant shall provide the following project deliverables as required throughout the course of the design process as needed to meet all relevant project milestones and/or deliverable dates:
- **Engineering Plans** – Complete construction plans and specifications.
  - Provide 30%, 60%, 90% plans for Michigan State Police – Emergency Management review, and FEMA review. These plans shall also be provided to the City of Ann Arbor and all affected agencies for their review and comment as well.
  - Provide 100% complete plans, specifications, and cost estimates to the City of Ann Arbor for advertising and bidding the project. Due to multiple funding sources that, most probably, will be involved with this project, the Consultant shall be prepared to prepare the needed project deliverables to either City of Ann Arbor or MDOT Standards. A final decision will be made regarding the appropriate standards after the the project is underway and the project funding scenarios have been finalized.
  - **Environmental Deliverables** – All documentation necessary to complete the environmental/historic preservation requirements of a FEMA Hazard Mitigation Grant for construction of this project will need to be submitted. All documentation necessary for any environmental/historic preservation approvals from the Federal Railroad Association (FRA) and MDOT in order to construct this project per Task 7 shall also be submitted to the City.
  - **Permit deliverables** - All completed permit applications necessary to construct this project per Task 12 above.
  - **Construction Cost Estimate** – A detailed cost estimate per Task 13 above.
  - **Easement Agreement Documents** – Legal descriptions and exhibit drawings for all easements that will be required to construct the proposed improvements as set forth in Task 18 above.
  - **Project progress and web site materials** – Progress meeting minutes and materials for project website updates shall be prepared on a bimonthly basis as set forth in Tasks 20 and 24 above.
  - **Grant Application Materials** – Supporting exhibits, cost estimates, or other required materials needed for the City to submit a complete Phase 2 (construction) FEMA grant application as set forth in Task 22.
  - **Electronic Copies of Materials** – The City of Ann Arbor shall be provided with one portable flash drive containing all Project Deliverables and other project related files upon completion of the project's design.

- **Project Billing** - The Consultant shall be aware that all project invoicing must be split between the flood mitigation and the non-motorized project components of the project based upon the actual hours spent. Provide invoices in a format that clearly and concisely details all expenditures on the project in this manner. The City of Ann Arbor reserves the right to request changes to the invoice formatting in order to accurately determine the split and for ease of reimbursement by FEMA.

**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:

**SUMMARY OF TOTAL PROJECT COSTS**

**City of Ann Arbor RFP #984**

**PRIME CONSULTANT NAME:**

**Bergmann Associates**

**PROJECT DESCRIPTION:**

**Allen Creek Berm Opening**

Consultant	Firm Role:	Contracted to:	Payment Method:	City of Ann Arbor RFP #984	Job Number Contingency	Job Number	Job Number	Job Number	DBE (Y/N)	Total	% of Contract
<b>HOURS</b>				<b>4,406</b>	-	-	-	-		<b>4,406</b>	
Bergmann Associates	P	A2	LDHRLY	2,349	-	-	-	-		2,349	
OHM Advisors	T1	BA	LDHRLY	1,117	-	-	-	-		1,117	
ASTI	T1	BA	LDHRLY	854	-	-	-	-		854	
CTI and Associates	T1	BA	LDHRLY	86	-	-	-	-		86	
<b>LABOR</b>				<b>\$ 569,092.50</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>		<b>\$ 569,092.50</b>	
Bergmann Associates	P	A2	LDHRLY	\$ 320,425.00	\$ -	\$ -	\$ -	\$ -		\$ 320,425.00	
OHM Advisors	T1	BA	LDHRLY	\$ 145,883.00	\$ -	\$ -	\$ -	\$ -		\$ 145,883.00	
ASTI	T1	BA	LDHRLY	\$ 95,442.00	\$ -	\$ -	\$ -	\$ -		\$ 95,442.00	
CTI and Associates	T1	BA	LDHRLY	\$ 7,342.50	\$ -	\$ -	\$ -	\$ -		\$ 7,342.50	
<b>TOTAL COSTS SUMMARY</b>											
Consultant Totals	Firm Role:	Contracted to:	Payment Method:	City of Ann Arbor RFP #984	Job Number Contingency	Job Number	Job Number	Job Number	DBE (Y/N)	Total	% of Contract
<b>Bergmann Associates</b>	<b>P</b>	<b>A2</b>	<b>LDHRLY</b>	<b>\$ 332,025.00</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>N</b>	<b>\$ 332,025.00</b>	<b>54.2%</b>
OHM Advisors	T1	BA	LDHRLY	\$ 145,883.00	\$ -	\$ -	\$ -	\$ -	N	\$ 145,883.00	23.8%
ASTI	T1	BA	LDHRLY	\$ 107,006.00	\$ -	\$ -	\$ -	\$ -	N	\$ 107,006.00	17.5%
CTI and Associates	T1	BA	LDHRLY	\$ 27,742.50	\$ -	\$ -	\$ -	\$ -	Y	\$ 27,742.50	4.5%
Firm Role Key: P = Prime Firm, T1 = Tier 1 Sub, T2 = Tier 2 Sub											
<b>TOTAL COSTS</b>				<b>\$ 612,656.50</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>		<b>\$ 612,656.50</b>	<b>100.0%</b>



**DERIVATION OF PRIME CONSULTANT COSTS**

Summary of all Prime Costs for all services provided.

<b>City of Ann Arbor RFP No. 984</b>	<b>FIRM ROLE: Prime Firm</b>
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<b>PRIME CONSULTANT NAME: Bergmann Associates</b>	<b>PROJECT DESCRIPTION: Allen Creek Berm Opening</b>
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<b>PRIME LABOR:</b>							
<i>CLASSIFICATION</i>	<i>CODE</i>	<i>HOURS</i>	<i>x</i>	<i>RATE/HR</i>	<i>=</i>	<i>LABOR COST</i>	
Project Manager	PM	334	x	\$ 195.00	=	\$	65,130.00
Senior Engineer (Structural)	SES	143	x	\$ 150.00	=	\$	21,450.00
Senior Engineer (Rail)	SER	561	x	\$ 175.00	=	\$	98,175.00
Senior Engineer (Civil)	SEC	85	x	\$ 130.00	=	\$	11,050.00
Engineer (Structural)	ES	360	x	\$ 110.00	=	\$	39,600.00
Engineer (Rail)	ER	126	x	\$ 110.00	=	\$	13,860.00
Engineer (Civil)	EC	80	x	\$ 100.00	=	\$	8,000.00
QA/QC Engineer	QA	56	x	\$ 180.00	=	\$	10,080.00
Senior Cadd Technician	SCT	166	x	\$ 100.00	=	\$	16,600.00
Cadd Technician	CT	366	x	\$ 80.00	=	\$	29,280.00
Landscape Architect	LA	72	x	\$ 100.00	=	\$	7,200.00
<b>Total Hours:</b>		<b>2349</b>				<b>Total Labor</b>	<b>\$ 320,425.00</b>

<b>PRIME OTHER DIRECT EXPENSES: (List each item once at Actual Cost - NO MARKUP.)</b>							
<i>Items</i>	<i>Quantity</i>	<i>@</i>	<i>Unit Price</i>	<i>Unit</i>	<i>=</i>	<i>Item Price</i>	
Fiber Optic Pothole	1.00	@	\$ 4,000.000	LS	=	\$	4,000.00
RR - Permit to Enter	1.00	@	\$ 1,000.000	LS	=	\$	1,000.00
RR - Insurance	1.00	@	\$ 1,000.000	LS	=	\$	1,000.00
RR - Flagging	1.00	@	\$ 5,600.000	LS	=	\$	5,600.00
<b>Total Other Direct Expenses</b>						<b>\$</b>	<b>11,600.00</b>

**TOTAL PRIME FIRM COSTS \$ 332,025.00**

*Firm Role: Prime Firm*

*Note: Payment Method = LDHRLY*

**DERIVATION OF SUBCONSULTANT COSTS**

Summary of all Sub Costs for all services provided.

City of Ann Arbor RFP No. 984		FIRM ROLE: Tier 1 Sub - Survey, Hydraulics, and Engineering Support
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SUBCONSULTANT NAME:  OHM Advisors	PROJECT DESCRIPTION:  Allen Creek Berm Opening
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<b>SUB LABOR:</b>							
<i>CLASSIFICATION</i>	<i>NAME</i>	<i>HOURS</i>	<i>x</i>	<i>AVG. RATE/HR</i>	<i>=</i>	<i>LABOR COST</i>	
HH Modeling Overview	Greg Kacvinsky	166	x	\$ 170.00	=	\$ 28,220.00	
Project Engineer I	Murat Ulasir	32	x	\$ 165.00	=	\$ 5,280.00	
Project Engineer II	Rich Hobgood	180	x	\$ 140.00	=	\$ 25,200.00	
2 Person Survey Crew		136	x	\$ 195.00	=	\$ 26,520.00	
Surveyor III		88	x	\$ 100.00	=	\$ 8,800.00	
Professional Surveyor	Andrew Schripsema	23	x	\$ 145.00	=	\$ 3,335.00	
HH Modeler	Rachael Barlock	236	x	\$ 108.00	=	\$ 25,488.00	
Cadd Tech		256	x	\$ 90.00	=	\$ 23,040.00	
	Total Hours:	<u>1117</u>				Total Labor \$	<u>145,883.00</u>

**TOTAL SUBCONSULTANT COSTS \$ 145,883.00**

Firm Role: Tier 1 Sub to BA

Note: Payment Method = LDHRLY

**DERIVATION OF SUBCONSULTANT COSTS**

Summary of all Sub Costs for all services provided. Use additional pages as necessary.

<b>City of Ann Arbor RFP No. 984</b>	<b>FIRM ROLE: Tier 1 Sub - Environmental</b>
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<b>SUBCONSULTANT NAME: ASTI</b>	<b>PROJECT DESCRIPTION: Allen Creek Berm Opening</b>
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<b>SUB LABOR:</b>							
CLASSIFICATION	CODE	HOURS	x	RATE/HR	=	LABOR COST	
Director	D	194	x	\$ 165.00	=	\$ 32,010.00	
Associate III	A3	396	x	\$ 109.00	=	\$ 43,164.00	
Associate II	A2	56	x	\$ 89.00	=	\$ 4,984.00	
Associate I	A1	72	x	\$ 79.00	=	\$ 5,688.00	
Technician	T		x	\$ 63.00	=	\$ -	
Drafting	Dr	110	x	\$ 74.00	=	\$ 8,140.00	
Administrative	Ad	26	x	\$ 56.00	=	\$ 1,456.00	
		Total Hours: <u>854</u>				Total Labor \$ <u>95,442.00</u>	

<b>SUB OTHER DIRECT EXPENSES: (List each item once at Actual Cost - NO MARKUP.)</b>							
Items	Quantity	@	Unit Price	Unit	=	Item Price	
Mileage	740.00	@	\$ 0.650	/mile	=	\$ 481.00	
Michigan Natural Features Inventory Fee	1.00	@	\$ 575.000	/ea	=	\$ 575.00	
Wetland Flagging and Misc. Expenses	1.00	@	\$ 200.000	/ea	=	\$ 200.00	
Miscellaneous	1.00	@	\$ 508.000	/ea	=	\$ 508.00	
Site sampling, testing, and geoprobe	1.00	@	\$ 9,800.000	LS	=	\$ 9,800.00	
						Total Other Direct Expenses \$ <u>11,564.00</u>	

	<b>TOTAL SUBCONSULTANT COSTS \$ <u>107,006.00</u></b>
<i>Firm Role: Tier 1 Sub to BA</i>	<i>Note: Payment Method = LDHRLY</i>

**DERIVATION OF SUBCONSULTANT COSTS**

Summary of all Sub Costs for all services provided. Use additional pages as necessary.

**City of Ann Arbor RFP No. 984**

FIRM ROLE:

**Tier 1 Sub - Geotechnical**

SUBCONSULTANT NAME:

**CTI and Associates**

PROJECT DESCRIPTION:

**Allen Creek Berm Opening**

**SUB LABOR:**

<u>CLASSIFICATION</u>	<u>NAME</u>	<u>HOURS</u>	<u>x</u>	<u>RATE/HR</u>	<u>=</u>	<u>LABOR COST</u>
Project Manager	Beth Taylor	20	x	\$ 105.00	=	\$ 2,047.50
Staff Engineer	Mohammad Kabalan	50	x	\$ 80.00	=	\$ 3,960.00
Drafter	Dave Henderson	12	x	\$ 75.00	=	\$ 900.00
Senior Engineer	Kevin Foye	2	x	\$ 135.00	=	\$ 270.00
Administrative	Renee Barr	3	x	\$ 55.00	=	\$ 165.00
<b>Total Hours:</b>		<b>86</b>				<b>Total Labor \$ 7,342.50</b>

**SUB OTHER DIRECT EXPENSES: (List each item once at Actual Cost - NO MARKUP.)**

<u>Items</u>	<u>Quantity</u>	<u>@</u>	<u>Unit Price</u>	<u>Unit</u>	<u>=</u>	<u>Item Price</u>
Structure Borings (4 @ 80' assumed)	1.00	@	\$ 10,000.000	LS	=	\$ 10,000.00
Mobilization	1.00	@	\$ 200.000	LS	=	\$ 200.00
Lab Testing	1.00	@	\$ 2,000.000	LS	=	\$ 2,000.00
Private Locates	1.00	@	\$ 700.000	LS	=	\$ 700.00
RR Flagging, Insurance, Permits	-	@	\$ 5,000.000	LS	=	\$ -
Shoo Fly Borings (8 @ 40' assumed)	1.00	@	\$ 5,000.000	LS	=	\$ 5,000.00
Channel Borings (4 @ 40' assumed)	1.00	@	\$ 2,500.000	LS	=	\$ 2,500.00
Vibration Monitoring (if needed)	-	@	\$ 3,000.000	LS	=	\$ -
Additional Drilling Depth (if needed)	-	@	\$ 15.000	Ft	=	\$ -
Drill through Obstructions (if needed)	-	@	\$ 10.000	Ft	=	\$ -
Drill through hard soil (if needed)	-	@	\$ 8.000	Ft	=	\$ -
Loss-on-Ignition Testing (if needed)	-	@	\$ 65.000	Ea	=	\$ -
<b>Total Other Direct Expenses</b>						<b>\$ 20,400.00</b>

**TOTAL SUBCONSULTANT COSTS \$ 27,742.50**

Firm Role: Tier 1 Sub to BA

Note: Payment Method = LDHRLY

PROPOSED PERSON HOURS BY TASK

City of Ann Arbor RFP No. 984

Bergmann Associates

PROJECT DESCRIPTION:  
Allen Creek Berm Opening

FIRM ROLE:  
Prime Firm

CONSULTANT NAME:

SUMMARY OF PERSON HOURS PER TASK

Task Code	Task Description	Project Manager	Senior Engineer (Structural)	Senior Engineer (Rail)	Senior Engineer (Civil)	Engineer (Structural)	Engineer (Rail)	Engineer (Civil)	QA/QC Engineer	Senior Cadd Technician	Cadd Technician	Landscape Architect	HOURS FOR TASK
Task 2	Review Feasibility Study Alternative	8	3	3	1								15
Task 4	Survey & Mapping	2		2	2								6
Task 5	Utility Coordination	10	2	6	30	4	4	12		4	8		80
Task 7	Environmental and Historic Preservation	40			12					12			64
Task 8	Review Crossing Alternatives	4	16	22		32	52			8			134
Task 9	Relating Walls	6	18			36					32		92
Task 11	Engineering Design		80	14		288	30		48	122	222	72	874
Task 12	MDEQ & Other Permits	180		490	24		40	68	10	20			812
Task 14	Public Meeting Participation	104	24	24	16						104		272
<b>SUMMARY OF PERSON HOURS</b>													
Classification:		Project Manager	Senior Engineer (Structural)	Senior Engineer (Rail)	Senior Engineer (Civil)	Engineer (Structural)	Engineer (Rail)	Engineer (Civil)	QA/QC Engineer	Senior Cadd Technician	Cadd Technician	Landscape Architect	HOURS FOR FIRM
Total Hours:		334	143	581	85	380	126	80	56	166	366	72	2349

PROPOSED PERSON HOURS BY TASK

City of Ann Arbor RFP No. 984

OHM Advisors

Allen Creek Berm Opening

FIRM ROLE:  
Tier 1 Sub - Survey, Hydraulics, and  
Engineering Support

PROJECT DESCRIPTION:

Allen Creek Berm Opening

CONSULTANT NAME:

SUMMARY OF PERSON HOURS PER TASK												
Task Code	Task Description	HH Modeling Overview	Project Engineer I	Project Engineer II	2 Person Survey Crew	Surveyor III	Professional Surveyor	HH Modeler	Cadd Tech	BE Designer I	Landscape Designer I	HOURS FOR TASK
Task 2	Review Feasibility Study Alternative	12		12				6				30
Task 3	Review and Update Hydraulic Modeling	24	16					80				120
Task 4	Survey & Mapping	2			136	40	15					193
Task 6	Preferred Pedestrian Path Location	8		24				6	40			78
Task 11	Engineering Design	20		80				16	160			276
Task 12	MDEQ & Other Permits	6		12				24				42
Task 13	Cost Estimating			8								8
Task 14	Public Meeting Participation	32		20					16			68
Task 18	Right-of-Way	2				48	8					58
Task 19-20, 24	Stakeholder Engagement	40	4	24				8	16			92
Task 22-23	Grant Application & CLOM/RLOMR	20	12					96	24			152
<b>SUMMARY OF PERSON HOURS</b>												
Classification: HH Modeling Overview		166	32	180	136	88	23	236	256			1117
Classification: Project Engineer I			32									
Classification: Project Engineer II				180								
Classification: 2 Person Survey Crew					136							
Classification: Surveyor III						88						
Classification: Professional Surveyor							23					
Classification: HH Modeler								236				
Classification: Cadd Tech									256			
Classification: BE Designer I												
Classification: Landscape Designer I												
<b>Total Hours:</b>		<b>166</b>	<b>32</b>	<b>180</b>	<b>136</b>	<b>88</b>	<b>23</b>	<b>236</b>	<b>256</b>			<b>1117</b>





**PROPOSED PERSON HOURS BY TASK**

City of Ann Arbor RFP No. 984

FIRM ROLE:  
Tier 1 Sub -  
Geotechnical

CONSULTANT NAME:

CTI and Associates

PROJECT DESCRIPTION:  
Allen Creek Berm Opening

<b>SUMMARY OF PERSON HOURS PER TASK</b>									
Task Code	Task Description	Project Manager	Staff Engineer	Drafter	Senior Engineer	Administrative			HOURS FOR TASK
Task 10	Geotechnical	20	50	12	2	3			86
<b>SUMMARY OF PERSON HOURS</b>									
	Classification:	Project Manager	Staff Engineer	Drafter	Senior Engineer	Administrative			HOURS FOR FIRM
	Total Hours:	20	50	12	2	3			86

### Allen Creek Berm Opening - Work Task Summary of Hours

Title	Employee	Location	Firm	Tasks														Hours per Employee					
				1	2	3	4	5	6	7	8	9	10	11	12	13	14						
				15-17, 21 & 26	18	19-20, & 24	22-23																
Project Manager	Jeremy Hedden	Lansing, MI	Bergmann Associates	0	8	0	2	10	0	40	4	6	0	0	0	180	0	104	0	0	0	334	
Senior Engineer (Structural)	Mario Quagliata	Lansing, MI		0	3	0	0	2	0	0	16	18	0	80	0	0	0	24	0	0	0	143	
Senior Engineer (Rail)	Carmen Garozzo	Buffalo, NY		0	3	0	2	6	0	0	22	0	14	490	0	0	0	24	0	0	0	561	
Senior Engineer (Civil)	Paul Furlaw	Lansing, MI		0	1	0	2	30	0	12	0	0	0	24	0	16	0	0	0	0	0	85	
Engineer (Structural)	Various	Lansing, MI		0	0	0	0	4	0	0	32	36	0	288	0	0	40	0	0	0	0	360	
Engineer (Rail)	Various	Buffalo, NY		0	0	0	0	4	0	0	52	0	30	40	0	0	68	0	0	0	0	126	
Engineer (Civil)	Various	Lansing, MI		0	0	0	0	12	0	0	0	0	0	0	0	0	0	0	0	0	0	80	
QA/QC Engineer	Rick Chelotti	Lansing, MI		0	0	0	0	0	0	0	0	0	0	46	10	0	0	0	0	0	0	56	
Senior Cadd Technician	Scott Rumsey	Lansing, MI		0	0	0	0	4	0	0	8	0	0	122	20	0	0	0	0	0	0	166	
Cadd Technician	Various	Lansing, MI		0	0	0	0	8	0	0	0	32	0	222	0	0	104	0	0	0	0	366	
Landscape Architect	Mark Johns	Rochester, NY		0	0	0	0	0	0	0	0	0	0	72	0	0	0	0	0	0	0	72	
HH Modeling Overview	Greg Kacvinsky	Livonia, MI		0	12	24	2	0	0	0	0	0	20	6	0	0	32	0	0	2	40	20	166
Project Engineer I	Murat Ulasir	Livonia, MI		0	0	16	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4	12	32
Project Engineer II	Rich Hogood	Livonia, MI		0	12	0	0	0	0	24	0	0	0	80	12	8	20	0	0	0	24	0	180
2 Person Survey Crew	Various	Livonia, MI	0	0	0	136	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	136	
Surveyor III	Various	Livonia, MI	0	0	0	40	0	0	0	0	0	0	0	0	0	48	0	0	0	0	0	88	
Professional Surveyor	Andrew Schipsema	Livonia, MI	0	0	0	15	0	0	0	0	0	0	0	0	0	0	0	0	8	0	0	23	
HH Modeler	Rachael Barock	Livonia, MI	0	6	80	0	6	0	0	0	0	16	24	0	0	0	0	0	0	8	96	236	
Cadd Tech	Various	Livonia, MI	0	0	0	0	40	0	0	0	0	0	160	0	16	0	0	0	0	16	24	256	
Director	Dianne Martin	Brighton, MI	30	0	0	0	0	0	0	120	0	0	44	0	0	0	0	0	0	0	0	194	
Associate III	Various	Brighton, MI	24	0	0	0	0	0	0	328	0	0	44	0	0	0	0	0	0	0	0	396	
Associate II	Various	Brighton, MI	6	0	0	0	0	0	0	50	0	0	0	0	0	0	0	0	0	0	0	56	
Associate I	Various	Brighton, MI	0	0	0	0	0	0	0	72	0	0	0	0	0	0	0	0	0	0	0	72	
Technician	Various	Brighton, MI	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Drafting	Various	Brighton, MI	0	0	0	0	0	0	0	110	0	0	0	0	0	0	0	0	0	0	0	110	
Administrative	Various	Brighton, MI	0	0	0	0	0	0	0	26	0	0	0	0	0	0	0	0	0	0	0	26	
Project Manager	Beth Taylor	Novi, MI	0	0	0	0	0	0	0	0	20	0	0	0	0	0	0	0	0	0	0	20	
Staff Engineer	Mohamad Kabanian	Novi, MI	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	50	
Drafter	Dave Henderson	Novi, MI	0	0	0	0	0	0	0	0	12	0	0	0	0	0	0	0	0	0	0	12	
Senior Engineer	Kevin Foye	Novi, MI	0	0	0	0	0	0	0	0	2	0	0	0	0	0	0	0	0	0	0	2	
Administrative	Renee Barr	Novi, MI	0	0	0	0	0	0	0	0	3	0	0	0	0	0	0	0	0	0	0	3	
<b>Total Hours per Task</b>				60	45	120	199	80	78	770	134	92	86	1150	942	8	340	0	58	92	152	4406	

**EXHIBIT C**  
**INSURANCE REQUIREMENTS**

Effective the 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 07 98 or current equivalent. The City of Ann Arbor shall be an additional insured. There shall be no added exclusions or limiting endorsements which 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 Job General Aggregate
\$1,000,000	Personal and Advertising Injury

4. Motor Vehicle Liability Insurance, including Michigan No-Fault Coverages, equivalent to, as a minimum, Insurance Services Office form CA 00 01 07 97 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 which 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.
- 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 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; name of insurance company; name and address 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 shall 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. Upon request, the Contractor shall provide within 30 days a copy of the policy(ies) to the City. If any of the above coverages expire by their terms during the term of this contract, 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.





Policy Number: PSB00006461

RLI Insurance Company

Named Insured: Bergmann Associates; Bergmann Associates Architects Engineers Landscape Architects & Surveyors, DPC

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **RLIPack® FOR PROFESSIONALS BLANKET ADDITIONAL INSURED ENDORSEMENT**

This endorsement modifies insurance provided under the following:

### **BUSINESSOWNERS COVERAGE FORM - SECTION II - LIABILITY**

1. **C. WHO IS AN INSURED** is amended to include as an additional insured any person or organization that you agree in a contract or agreement requiring insurance to include as an additional insured on this policy, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused in whole or in part by you or those acting on your behalf:
  - a. In the performance of your ongoing operations;
  - b. In connection with premises owned by or rented to you; or
  - c. In connection with "your work" and included within the "product-completed operations hazard".
2. The insurance provided to the additional insured by this endorsement is limited as follows:
  - a. This insurance does not apply on any basis to any person or organization for which coverage as an additional insured specifically is added by another endorsement to this policy.
  - b. This insurance does not apply to the rendering of or failure to render any "professional services".
  - c. This endorsement does not increase any of the limits of insurance stated in **D. Liability And Medical Expenses Limits of Insurance**.
3. The following is added to **SECTION III H.2. Other Insurance - COMMON POLICY CONDITIONS (BUT APPLICABLE ONLY TO SECTION II - LIABILITY)**

However, if you specifically agree in a contract or agreement that the insurance provided to an additional insured under this policy must apply on a primary basis, or a primary and non-contributory basis, this insurance is primary to other insurance that is available to such additional insured which covers such additional insured as a named insured, and we will not share with that other insurance, provided that:

  - a. The "bodily injury" or "property damage" for which coverage is sought occurs after you have entered into that contract or agreement; or
  - b. The "personal and advertising injury" for which coverage is sought arises out of an offense committed after you have entered into that contract or agreement.
4. The following is added to **SECTION III K. 2. Transfer of Rights of Recovery Against Others to Us - COMMON POLICY CONDITIONS (BUT APPLICABLE TO ONLY TO SECTION II - LIABILITY)**

We waive any rights of recovery we may have against any person or organization because of payments we make for "bodily injury", "property damage" or "personal and advertising injury" arising out of "your work" performed by you, or on your behalf, under a contract or agreement with that person or organization. We waive these rights only where you have agreed to do so as part of a contract or agreement with such person or organization entered into by you before the "bodily injury" or "property damage" occurs, or the "personal and advertising injury" offense is committed.

**ALL OTHER TERMS AND CONDITIONS OF THIS POLICY REMAIN UNCHANGED.**

General Liability

Policy Number: PSB0006461

Named Insured: Bergmann Associates, Inc.

RLI Insurance Company

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**RLIPack<sup>®</sup> NOTICE OF CANCELLATION OR NONRENEWAL –  
DESIGNATED PERSON OR ORGANIZATION**

**Schedule**

Designated Person or Organization:

As per schedule to be provided upon request

City of Ann Arbor  
301 East Huron Street  
Ann Arbor, MI 48104

Email Address: [awarrow@a2gov.org](mailto:awarrow@a2gov.org)

US Mail Address: 301 East Huron Street, Ann Arbor, MI 48104

If we cancel or chose to nonrenew this policy for any reason other than nonpayment of premium we will provide written notice at least (30) days before the effective date of the cancellation or nonrenewal to the designated person or organization in the above schedule.

Such notice will be sent via the US mail address or E-mail address listed above. Proof of mailing or e-mailing will be sufficient proof of notice.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **RLIPack<sup>®</sup> BUSINESS AUTO ENHANCEMENT**

### **SCHEDULE OF COVERAGES ADDRESSED BY THIS ENDORSEMENT**

- A. Broad Form Named Insured**
- B. Employees As Insureds**
- C. Blanket Additional Insured**
- D. Blanket Waiver Of Subrogation**
- E. Employee Hired Autos**
- F. Fellow Employee Coverage**
- G. Auto Loan Lease Gap Coverage**
- H. Glass Repair – Waiver Of Deductible**
- I. Personal Effects Coverage**
- J. Hired Auto Physical Damage Coverage**
- K. Hired Auto Physical Damage – Loss Of Use**
- L. Hired Car – Worldwide Coverage**
- M. Temporary Transportation Expenses**
- N. Amended Bodily Injury Definition – Mental Anguish**
- O. Airbag Coverage**
- P. Amended Insured Contract Definition – Railroad Easement**
- Q. Coverage Extensions – Audio, Visual And Data Electronic Equipment Not Designed Solely For The Production Of Sound**
- R. Notice Of And Knowledge Of Occurrence**
- S. Unintentional Errors Or Omissions**
- T. Towing Coverage**

This endorsement modifies insurance provided under the following:

## BUSINESS AUTO COVERAGE FORM

### A. Broad Form Named Insured

The following is added to the **SECTION II – COVERED AUTOS LIABILITY COVERAGE**, Paragraph **A.1. Who Is An Insured** Provision:

Any business entity newly acquired or formed by you during the policy period, provided you own fifty percent (50%) or more of the business entity and the business entity is not separately insured for Business Auto Coverage. Coverage is extended up to a maximum of one hundred eighty (180) days following the acquisition or formation of the business entity.

This provision does not apply to any person or organization for which coverage is excluded by endorsement.

### B. Employees As Insureds

The following is added to the **SECTION II – COVERED AUTOS LIABILITY COVERAGE**, Paragraph **A.1. Who Is An Insured** Provision:

Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

### C. Blanket Additional Insured

The following is added to the **SECTION II – COVERED AUTOS LIABILITY COVERAGE**, Paragraph **A.1. Who Is An Insured** Provision:

Any person or organization that you are required to include as an additional insured on this coverage form in a contract or agreement that is executed by you before the "bodily injury" or "property damage" occurs is an "insured" for liability coverage, but only for damages to which this insurance applies and only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in **SECTION II – COVERED AUTOS LIABILITY COVERAGE**.

The insurance provided to the additional insured will be on a primary and non-contributory basis to the additional insured's own business auto coverage if you are required to do so in a contract or agreement that is executed by you before the "bodily injury" or "property damage" occurs.

### D. Blanket Waiver Of Subrogation

The following is added to the **SECTION IV – BUSINESS AUTO CONDITIONS, A. Loss Conditions, 5. Transfer Of Rights Of Recovery Against Others To Us**:

We waive any right of recovery we may have against any person or organization to the extent required of you by a contract executed prior to any "accident" or

"loss", provided that the "accident" or "loss" arises out of the operations contemplated by such contract. The waiver applies only to the person or organization designated in such contract.

### E. Employee Hired Autos

1. The following is added to the **SECTION II – COVERED AUTOS LIABILITY COVERAGE**, Paragraph **A.1. Who Is An Insured** Provision:

An "employee" of yours is an "insured" while operating an "auto" hired or rented under a contract or agreement in that "employee's" name, with your permission, while performing duties related to the conduct of your business.

2. Changes In General Conditions:

Paragraph **5.b.** of the **Other Insurance** Condition in the **BUSINESS AUTO CONDITIONS** is deleted and replaced with the following:

b. For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

- (1) Any covered "auto" you lease, hire, rent or borrow; and
- (2) Any covered "auto" hired or rented by your "employee" under a contract in that individual "employee's" name, with your permission, while performing duties related to the conduct of your business. However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

### F. Fellow Employee Coverage

**SECTION II – COVERED AUTOS LIABILITY COVERAGE, Exclusion B.5.** does not apply if you have workers compensation insurance in-force covering all of your employees.

### G. Auto Loan Lease Gap Coverage

**SECTION III – PHYSICAL DAMAGE COVERAGE, C. Limit Of Insurance**, is amended by the addition of the following:

In the event of a total "loss" to a covered "auto" shown in the Schedule of Declarations, we will pay any unpaid amount due on the lease or loan for a covered "auto", less:

1. The amount paid under the **PHYSICAL DAMAGE COVERAGE** section of the policy; and
2. Any:
  - a. Overdue lease/loan payments at the time of the "loss";

- b. Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage.
- c. Security deposits not returned by the lessor;
- d. Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease; and
- e. Carry-over balances from previous loans or leases.

#### H. Glass Repair – Waiver Of Deductible

##### SECTION III – PHYSICAL DAMAGE COVERAGE, D. Deductible is amended by adding the following:

No deductible for a covered “auto” will apply to glass damage if the glass is repaired rather than replaced.

#### I. Personal Effects Coverage

The following is added to SECTION III – PHYSICAL DAMAGE COVERAGE, A. Coverage, 4. Coverage Extensions:

##### c. Personal Effects Coverage

In the event of a total theft loss of your covered “auto” we will pay up to \$400 for “loss” to wearing apparel and other personal effects which are:

- (1) Owned by an “insured”; and
- (2) In or on your covered “auto”;

No deductible applies to Personal Effects Coverage.

#### J. Hired Auto Physical Damage Coverage

The following is added to SECTION III – PHYSICAL DAMAGE COVERAGE, A. Coverage, 4. Coverage Extensions:

##### d. Hired Auto Physical Damage Coverage

If hired “autos” are covered “autos” for Liability Coverage and this policy also provides Physical Damage Coverage for an owned “auto”, then the Physical Damage Coverage is extended to “autos” that you hire, rent or borrow subject to the following:

- (1) The most we will pay for “loss” in any one “accident” to a hired, rented or borrowed “auto” is the lesser of:
  - (a) \$60,000
  - (b) The actual cash value of the damaged or stolen property as of the time of the “loss”; or
  - (c) The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.

- (2) An adjustment for depreciation and physical condition will be made in the event of a total “loss”.
- (3) If a repair or replacement results in better than like kind or quality, we will not pay for the betterment.
- (4) A deductible equal to the highest Physical Damage deductible applicable to any owned auto will apply.
- (5) This Coverage Extension will not apply to:
  - (a) Any “auto” that is hired, rented or borrowed with a driver; or
  - (b) Any “auto” that is hired, rented or borrowed from your “employee”.

#### K. Hired Auto Physical Damage – Loss Of Use

The following is added to SECTION II – COVERED AUTOS LIABILITY COVERAGE, A.2. Coverage Extensions:

- e. We will pay sums which you legally must pay to the lessor of a covered “auto” which you have leased without a driver for thirty (30) days or less for the lessor’s loss of use of the covered “auto”, provided:
  - (1) This insurance provides comprehensive, specified causes of loss or collision covered on the covered “auto”;
  - (2) The loss of use results from the covered “auto” being damaged in an “accident” while you are leasing it.

We will pay up to a maximum limit of \$1,500 for this covered extension.

#### L. Hired Car – Worldwide Coverage

The following is added to SECTION II – COVERED AUTOS LIABILITY COVERAGE, A.2. Coverage Extensions:

##### f. Hired Car – Worldwide Coverage

- (1) We will pay all sums an “insured” legally must pay as damages because of “bodily injury” or “property damage” to which this insurance applies, caused by an “accident” which occurs outside of the United States of America, the territories and possessions of the United States of America, Puerto Rico and Canada resulting from the maintenance, or use of any covered “auto” of the private passenger type you lease, hire, rent or borrow without a driver for thirty (30) days or less.
- (2) With respect to any claim made or “suit” instituted outside the United States of America, the territories and possessions of the United States of America, Puerto Rico, and Canada:

(a) You shall undertake the investigation, settlement and defense of such claims and "suits" and keep us advised of all proceedings and actions.

(b) You will not make any settlement without our consent.

(c) We will reimburse you:

(i) For the amount of damages because of liability imposed upon you by law on account of "bodily injury" or "property damage" to which this insurance applies, and

(ii) For all reasonable expenses incurred with our consent in connection with the investigation, settlement or defense of such claims or "suits". Reimbursement for expenses will be part of the Limit of Insurance for liability coverage shown in the Business Auto Coverage Declarations, and not in addition to such limits.

(3) The limit of Insurance for Liability Coverage shown in the Business Auto Coverage Declarations is the most we will reimburse you for the sum of all damages imposed on you, as set forth in paragraph 2.c. above, and all expenses incurred by you arising out of any single "accident" or "loss".

(4) You must maintain the greater of the following primary auto liability insurance limits:

(a) Compulsory admitted insurance with limits required to be in force to satisfy the legal requirements of the jurisdiction where the accident occurs; or

(b) Insurance limits required by law and issued by a government entity or by an insurer licensed or permitted by law to do business in the jurisdiction where the "accident" occurs; or

(c) Auto liability insurance limits of at least \$300,000 combined single limit or \$100,000 per person/\$300,000 per accident Bodily Injury, \$100,000 Property Damage.

If you fail to comply with the above, this insurance is not invalidated. However, in the event of a "loss", we will pay only to the extent that we would have been liable had you so complied.

(5) The insurance provided by this coverage extension is excess over any other collectible insurance available to you whether on a primary, excess contingent or any other basis.

## M. Temporary Transportation Expenses

### SECTION III – PHYSICAL DAMAGE COVERAGE,

A.4. Coverage Extensions, subparagraph a. Transportation Expenses is deleted and replaced by the following:

#### a. Transportation Expenses

(1) We will pay up to a maximum of \$1,500 for temporary transportation expense incurred by you because of Physical Damage to a covered "auto".

(2) We will pay only for those covered "autos" for which you carry Comprehensive, Collision or Specified Case of Loss Coverage.

(3) We will pay only for those expenses incurred by you during the period of time that begins twenty-four (24) hours after the covered "loss" and ends at the time when the covered "auto" can be reasonably repaired or replaced.

(4) This coverage does not apply while there are spare or reserve "autos" available to you for your operations.

## N. Amended Bodily Injury Definition – Mental Anguish

The following is added to SECTION V – DEFINITIONS, Definition C.:

"Bodily injury" also includes mental anguish, but only when the mental anguish arises from other bodily injury, sickness or disease.

## O. Airbag Coverage

The following is added to SECTION III – PHYSICAL DAMAGE COVERAGE B. Exclusions 3.a.:

However, this exclusion will not apply to accidental discharge of an airbag due to mechanical or electrical breakdown.

## P. Amended Insured Contract Definition – Railroad Easement

SECTION V – DEFINITIONS paragraph H. "Insured contact" is modified as follows:

1. Paragraph H.3. is replaced by the following:

3. Any easement or license agreement.

2. Paragraph H.6.a. is deleted.

## Q. Coverage Extensions – Audio, Visual And Data Electronic Equipment Not Designed Solely For The Production Of Sound

SECTION III – PHYSICAL DAMAGE COVERAGE B. Exclusions, exception paragraph a. to exclusion 4.c. and 4.d. is deleted and replaced with the following:

- a. Equipment and accessories used with such equipment, except for tapes, records, discs or other electronic media device, provided such equipment is permanently installed in the covered "auto" at the time of the "loss" or is removable from the housing unit which is permanently installed in the covered "auto" at the time of the "loss", and such equipment is designed to be solely operated by use of the power from the "autos" electrical system, in or upon the covered "autos"; or

**R. Notice Of And Knowledge Of Occurrence**

**SECTION IV – BUSINESS AUTO CONDITIONS, A.2. Duties In The Event Of Accident, Claim Suit Or Loss**, subparagraph a. is deleted and replaced with the following:

- a. In the event of "accident", claim, "suit" or "loss", you must give us or our authorized representative prompt notice of the "accident" or "loss" including:
  - (1) How, when and where the "accident" or "loss" occurred;
  - (2) The "insured's" name and address; and
  - (3) To the extent possible, the names and addresses of any injured person and witnesses.

Your duty to give us or our authorized representative prompt notice of the "accident" or "loss" applies only when the "accident" or "loss" is known to:

- (1) You, if you are an individual;
- (2) A partner if you are a partnership; or

- (3) An executive officer or insurance manager, if you are a corporation.

**S. Unintentional Errors Or Omissions**

**SECTION IV – BUSINESS AUTO CONDITIONS, B. General Conditions; 2. Concealment Misrepresentation Or Fraud** is amended by adding the following:

The unintentional omission of, or unintentional error in, any information given by you shall not prejudice your rights under this insurance. However this provision does not affect our right to collect additional premium or exercise our right of cancellation or nonrenewal.

**T. Towing Coverage**

**SECTION III – PHYSICAL DAMAGE COVERAGE, A.2. Towing**, is deleted and replaced by the following:

- 2. We will pay up to \$750 for towing and labor costs incurred each time a covered "auto" is disabled due to a covered cause of loss. However:
  - a. All labor must be performed at the place of disablement; and
  - b. If the covered auto is a private passenger type no deductible applies; and
  - c. If the covered auto is not of the private passenger type our obligation to pay will be reduced by a \$250 deductible per disablement.

**ALL OTHER TERMS AND CONDITIONS OF THIS POLICY REMAIN UNCHANGED.**