




500 West Big Beaver
Troy, MI 48084
troymi.gov

CITY COUNCIL AGENDA ITEM

Date: February 28, 2022 

To: Mark F. Miller, City Manager

From: Robert J. Bruner, Assistant City Manager
Kurt Bovensiepe, Public Works Director
Paul Trosper, Water and Sewer Operations Manager

Subject: Contract Agreement-Installation and Operation of Rain Gauges on City of Troy Property

History

The City of Troy and Oakland County Water Resources Commission have a long-standing working relationship associated with Waste Water and Storm Water Disposal and Management. Rain events have a very large influence on both waste water and storm flows. The gathering of precipitation levels in various locations aids in real time actions and in future asset management. This data allows system operators valuable information that can be used in response to events and in future planning.

Financial

The cost of this project is fully funded by Oakland County Water Resources Commission. After installation the City of Troy will assume the cost of electric service to the two sites. The cost associated to this electrical would be equivalent to operating two desk top computers.

Recommendation

It is recommended that the City enter into a contract with Oakland County Water Resources Commission for the installation and operation of two (2) rain gauges, utilizing City of Troy owned facilities for placement, with the understanding that City of Troy staff will have access to the data provided by these sites.

Legal Review

This item was submitted to the City Attorney for review pursuant to City Charter Section 3.17.

RAIN GAUGE SITE LICENSE AGREEMENT

THIS AGREEMENT is entered into on this _____ day of _____, 2022 between the CITY OF TROY (“TROY”) a Michigan Municipal Corporation, whose address is 500 West Big Beaver Road, Troy, Michigan, 48084-5285 and the GEORGE W. KUHN DRAIN DRAINAGE DISTRICT, a Michigan statutory public corporation established in accordance with Chapter 20 of the Michigan Drain Code, Public Act 40 of the Public Acts of 1956, as amended (MCL 280.461 *et seq.*), whose address is One Public Works Drive, Building 95 West, Waterford, Michigan 48328-1907 (hereafter, the “DISTRICT”).

RECITATIONS:

WHEREAS the DISTRICT has requested TROY’S permission to install, operate and maintain a rain gauge collection system (“RAIN GAUGE”) and related facilities on certain property (“SUBJECT PROPERTY”) owned by TROY identified on the attached **Exhibits A and B**; and

WHEREAS the DISTRICT intends and represents that it will perform an interference study and structural engineering analysis to determine the location for the RAIN GAUGE system and related facilities to be installed; and

WHEREAS the DISTRICT intends and represents that the RAIN GAUGE system and related facilities will not cause any radio frequency or other interference to other communication facilities and will be used by the DISTRICT to monitor rainfall data; and

WHEREAS the DISTRICT will make available to TROY such rainfall data as collected by the rain gauge(s) without charge upon written request.

NOW THEREFORE in consideration of mutual promises, responsibilities and obligations set forth herein, TROY and the DISTRICT agree:

1. Grant of License. Subject to, and conditioned upon, the DISTRICT’S continued conformance to and fulfillment of the terms and conditions set forth in this Agreement, the DISTRICT shall be, and hereby is, granted a license allowing the RAIN GAUGE system and related facilities to be constructed and/or installed on the SUBJECT PROPERTY, as approved by TROY’S City Council. Except as specifically provided in this Agreement, nothing contained herein shall be construed to lessen or otherwise alter TROY’S rights or interests in the SUBJECT PROPERTY, and the license may be revoked by TROY any time as provided in paragraph 10.
2. District Responsibility. During this Agreement, the DISTRICT shall have full and exclusive responsibility for the design, installation, operation, maintenance, repair and removal of the RAIN GAUGE system and related facilities. The DISTRICT shall perform and conduct the installation, operation, maintenance, repair and removal of the RAIN GAUGE system and related facilities in a neat and workmanlike manner consistent with good engineering practices. The DISTRICT shall undertake all appropriate measures to ensure the safety of the site during and following installation.

3. Compliance with Laws. The DISTRICT shall conform with and remain subject to all applicable federal, state and local laws, ordinances, regulations, rules and requirements relating to the installation, operation, and maintenance, repair and removal of the RAIN GAUGE system and related facilities.
4. Access. The DISTRICT shall have access to the SUBJECT PROPERTY throughout the duration of this Agreement to perform the obligations as identified in this Agreement. If the DISTRICT is undertaking any maintenance, repair, installation or removal of equipment or related facilities on the SUBJECT PROPERTY that requires entry into the City of Troy facilities, the DISTRICT shall notify the TROY City Manager or his/her delegate prior to entry.
5. Indemnification. To the extent permitted by law, the DISTRICT shall hold harmless, indemnify, represent and defend TROY, its elected and appointed officials, employees, volunteers and agents from and against claims, demands, suits, liability or loss, including all costs and reasonable attorney fees and/or damages connected therewith, for personal injury, property damage or other claims related to or arising out of this Agreement, including but not limited to the design, installation, operation, use, maintenance, repair and removal of the RAIN GAUGE system and related facilities. Notwithstanding the foregoing, nothing herein shall be construed to constitute a waiver of governmental immunity; all immunities provided by law are reserved to the DISTRICT and TROY.
6. Insurance. It is understood that the DISTRICT is self-insured. In addition, in the event that the DISTRICT engages contractors, the DISTRICT shall require such contractors involved in the installation, operation, maintenance, repair and removal of the RAIN GAUGE system and related facilities to obtain the following insurance coverages:
 - (a) Workers' Compensation Insurance. Workers' Compensation Insurance, including employer's liability coverage, shall be in accordance with all applicable statutes of the State of Michigan.
 - (b) Commercial General Liability Insurance. Commercial General Liability Insurance on an "occurrence basis" with limits of liability not less than \$5,000,000.00 per occurrence for personal injury and property damage combined. Coverage shall include the following: (i) contractual liability; (ii) products and completed operations; (iii) independent contractor's coverage, and (iv) broad form general liability endorsement or equivalents.
 - (c) Motor Vehicles Liability Insurance. Motor Vehicle Liability Insurance, including Michigan's no-fault coverage, with limits of liability of not less than \$1,000,000.00 per occurrence for personal injury and property damage combined. Coverage shall include all owned, not owned and hired vehicles.
 - (d) Additional Insured. Commercial General Liability coverage, as described above, shall include an endorsement stating the following shall be "additional insureds" the George W. Kuhn Drain Drainage District and the

City of TROY, including their respective elected and appointed officials, employees and volunteers, boards, commissions and/or authorities and board members, including employees and volunteers thereof. These coverages shall be primary to the additional insureds and not contributing with other insurance or similar protection available to the additional insureds even though other available insurance be primary, contributing or excess for claims arising out of activities of the undertaken pursuant to this Agreement.

- (e) Cancellation Notice. Commercial General Liability Insurance, as described above, shall include an endorsement stating that the DISTRICT and TROY shall be given thirty (30) days' advance written notice of cancellation, non-renewal, reduction and/or material change in such coverages.

- 7. Third-Party Use of RAIN GAUGE System. The DISTRICT shall not lease, or otherwise assign, delegate or convey any rights and/or obligations under this Agreement, nor shall the DISTRICT allow the RAIN GAUGE system or related facilities to be used by any third parties without first obtaining TROY'S written consent, and subject to such other terms and conditions as TROY may require.
- 8. Electrical Work. The DISTRICT agrees that any electrical work required for the RAIN GAUGE system located at TROY'S property, will be performed by a licensed electrician and in accordance with applicable codes and standards.
- 9. No Representations as to Use. Except as expressly stated in this Agreement, TROY makes no representations with respect to the SUBJECT PROPERTY'S suitability for the DISTRICT'S installation and operation of the RAIN GAUGE system and related facilities.
- 10. Duration. This Agreement shall be revocable at TROY'S sole discretion. TROY shall provide the DISTRICT ninety (90) days' prior written notice of its intent to revoke this Agreement. Upon revocation of this Agreement, the DISTRICT shall dismantle and remove the RAIN GAUGE system and related facilities and shall restore the SUBJECT PROPERTY to its prior condition.
- 11. General. This Agreement shall inure to the benefit of, and shall be binding upon, the parties hereto, their respective successors, or grantees.
- 12. Notices. Any notices which either party may be required to give shall be delivered by First-Class Mail, postage prepaid and addressed to:

TROY: City Manager's Office
 City of Troy
 500 West Big Beaver Road
 Troy, Michigan, 48084-5285

DISTRICT: Gary Nigro, P.E., Chief Engineer
Water Resources Commissioner
One Public Works Drive Bldg. 95-West
Waterford, Michigan 48328-1907

13. Headings. Topical headings appearing in this Agreement are for convenience only. They do not define, limit, or construe the contents of any paragraphs or clauses.
14. Amendment. This Agreement can be modified or amended only by written agreement signed by both TROY and the DISTRICT.
15. Law. The laws of the State of Michigan will control in the construction and enforcement of this Agreement.
16. Entire Agreement. This Agreement sets forth the entire agreement of the parties and supersedes any prior understandings and agreements that may have existed between the parties. Any amendment or modification of this Agreement shall be in writing.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by the duly authorized officers as of the day and year indicated above.

CITY OF TROY

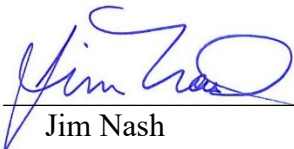
By: _____
Ethan Baker
Its: Mayor

Date: _____

By: _____
Aileen Dickson
Its: City Clerk

Date: _____

GEORGE W. KUHN DRAIN DRAINAGE DISTRICT

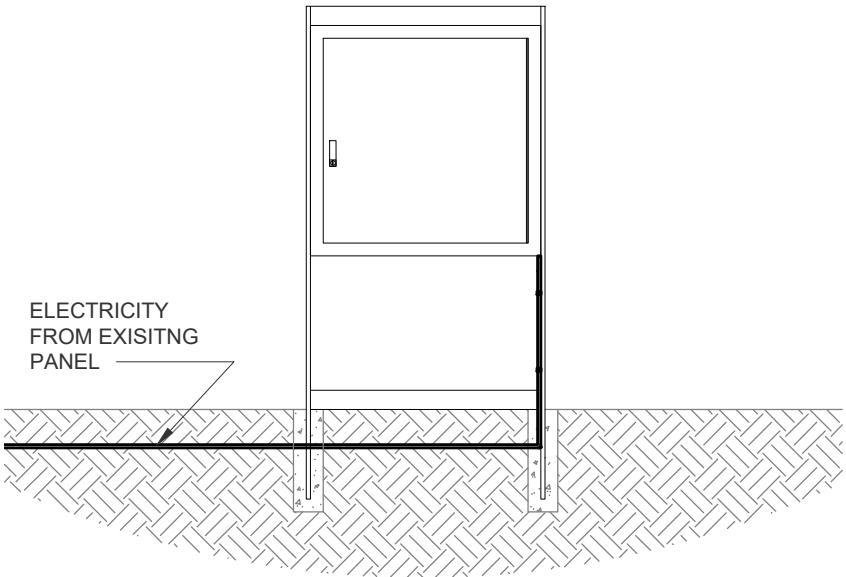
By:  _____
Jim Nash
Its: Chairman

Date: Feb. 17, 2022

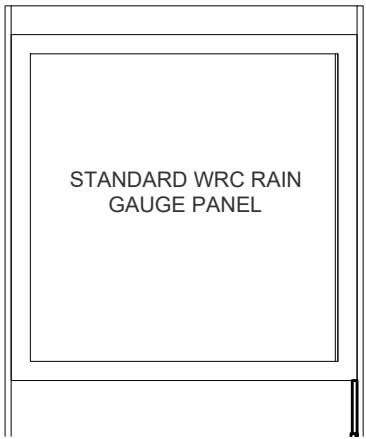
K:\DWGFiles\2016\1618\Rain Gauge Maps\PUMP STATION #6 Rain Gauge Map.dwg Jan 19, 2022 - 9:59am



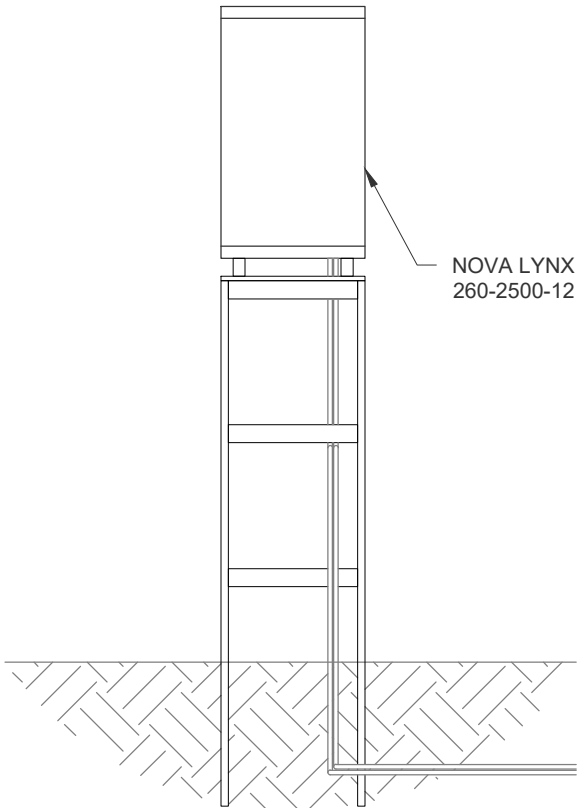
SITE PLAN
SCALE: 1" = 50'



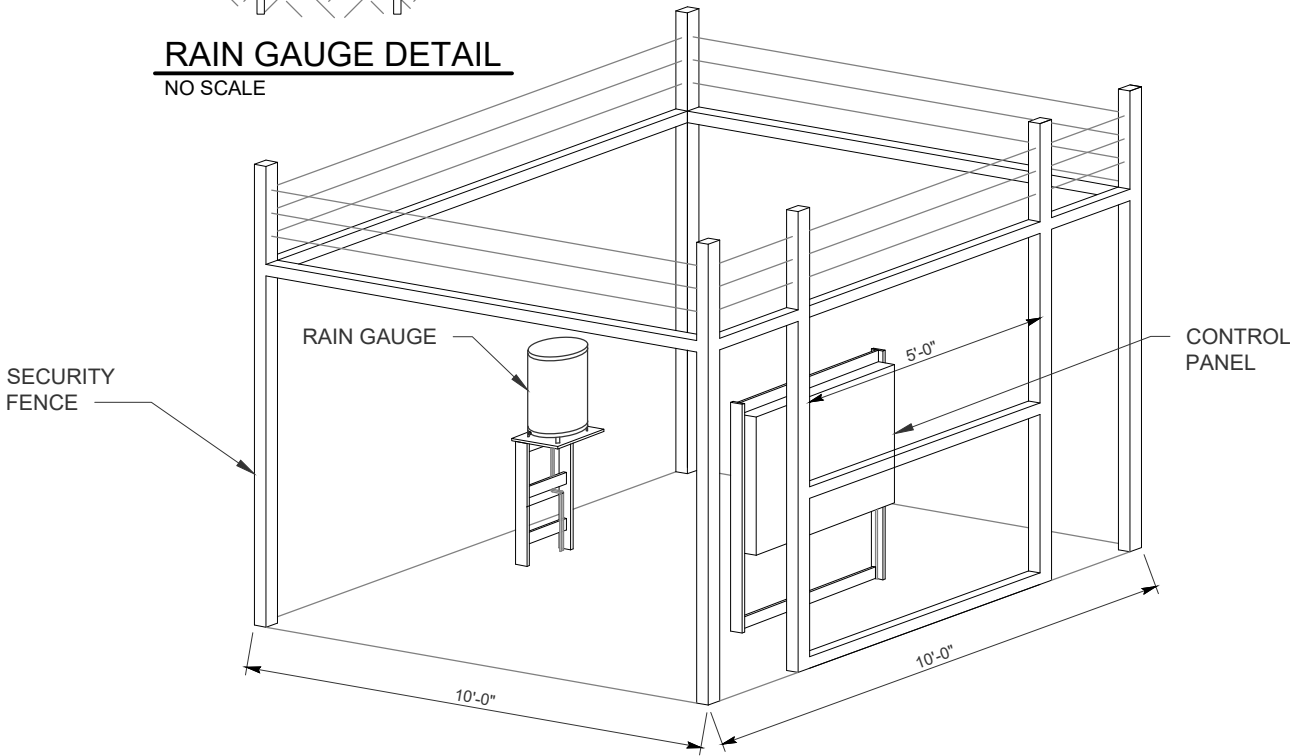
PANEL INSTLLATION DETAIL
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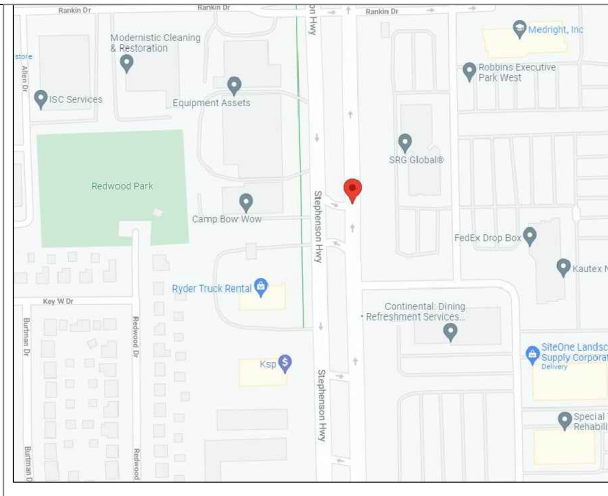
PANEL INTERIOR DETAIL
NO SCALE



RAIN GAUGE DETAIL
NO SCALE



RAIN GAUGE PROFILE
NO SCALE



LOCATION MAP
NO SCALE

DATE: SEPTEMBER 2021

PROJECT NO: #1618
SCALE: AS SHOWN

PUMP STATION #6 RAIN GAUGE MAP

PREPARED BY:
 Applied Science, Inc.

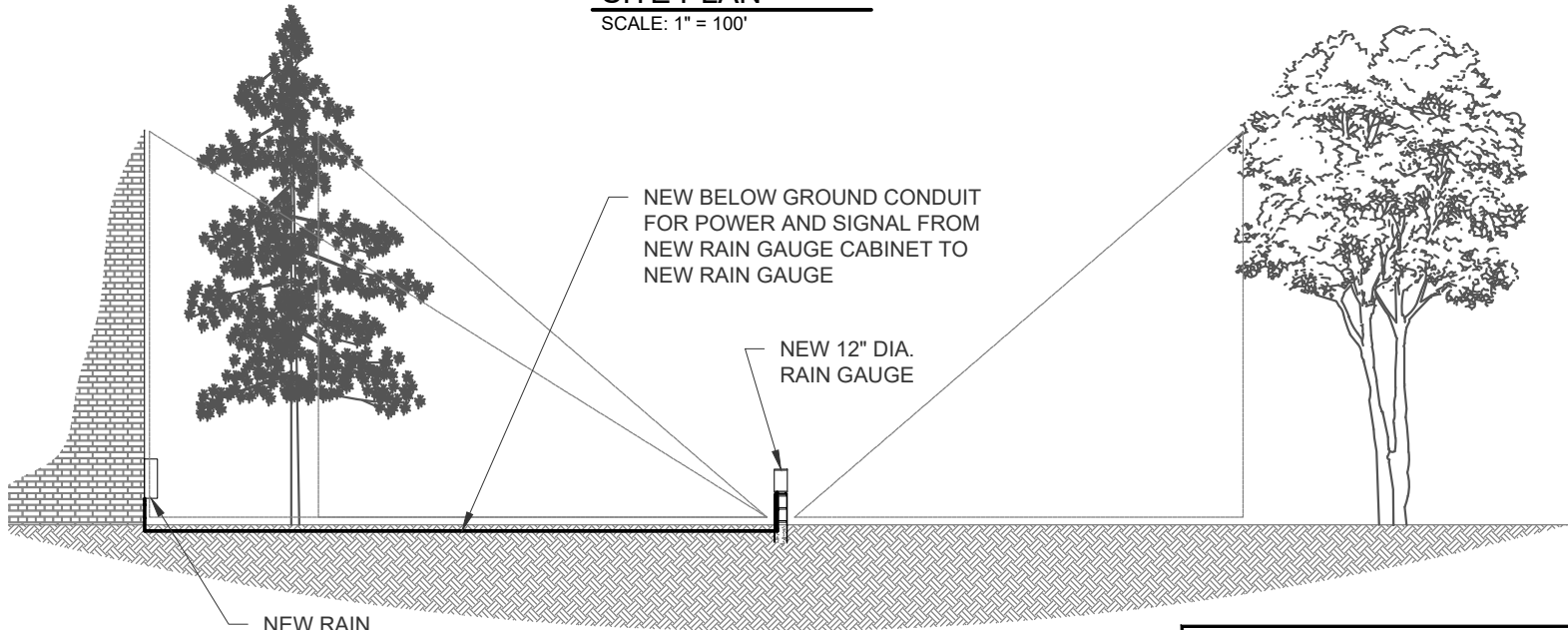
Exhibit A

DRAWING NO:

K:\DWGFiles\2016\1618\Rain Gauge Maps\Troy DPW Rain Gauge Map.dwg Jan 12, 2022 - 10:28am



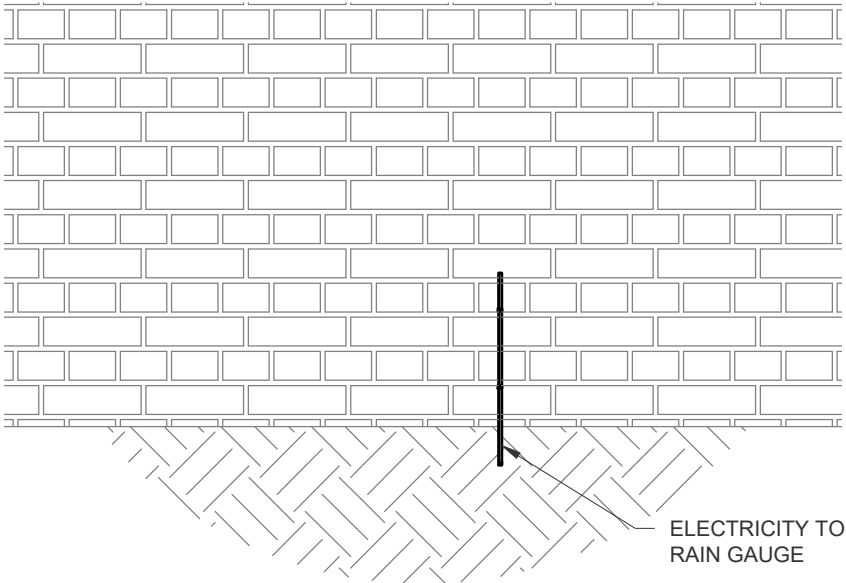
SITE PLAN
SCALE: 1" = 100'



RAIN GAUGE PLACEMENT DETAIL
NO SCALE



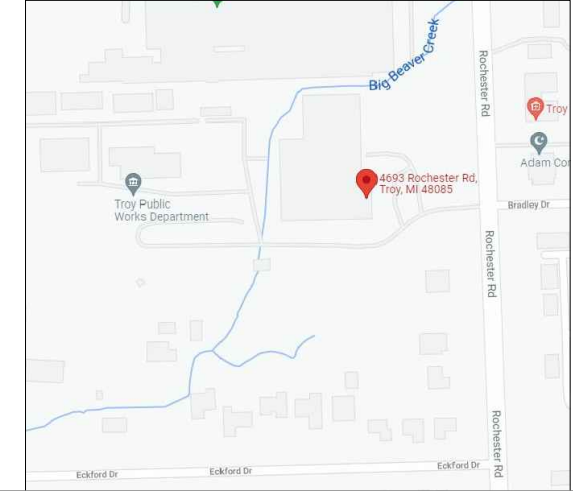
PANEL INTERIOR DETAIL
NO SCALE



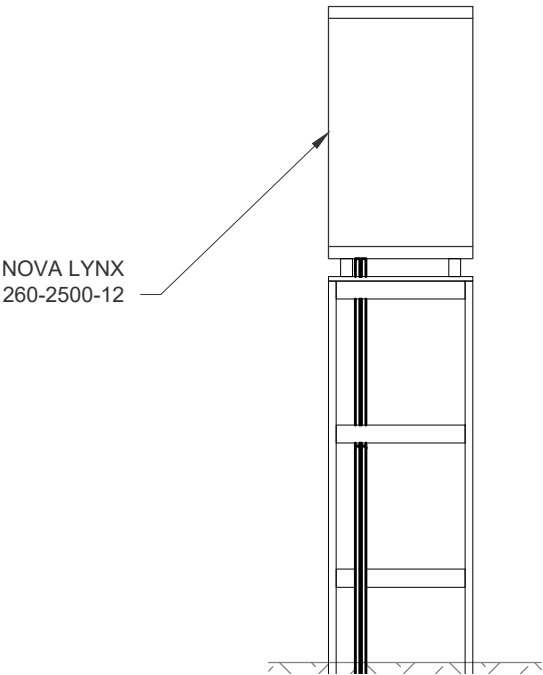
ELECTRICAL FEED FROM BUILDING
NO SCALE

NOTES

1. IDEALLY, THE RAIN GAUGE SHOULD BE PLACED AWAY FROM OBSTACLES SUCH AS TREES AND BUILDINGS BY A DISTANCE THAT IS AT LEAST AS GREAT AS THE HEIGHT OF THE OBSTACLES.
2. TREE GROWTH SHOULD BE CONSIDERED.
3. IF A SUITABLE LOCATION AWAY FROM ALL OBSTACLES CANNOT BE IDENTIFIED, THOSE TO THE WEST AND SOUTH ARE MORE CRITICAL DUE TO TYPICAL WEATHER PATTERNS.



LOCATION MAP
NO SCALE



RAIN GAUGE DETAIL
NO SCALE

DATE: SEPTEMBER 2021

PREPARED BY:
 **Applied Science, Inc.**

TROY DPW RAIN GAUGE MAP

PROJECT NO: #1618
SCALE: AS SHOWN

Exhibit B

DRAWING NO: