



500 West Big Beaver  
Troy, MI 48084  
troymi.gov

## CITY COUNCIL AGENDA ITEM

Date: September 14, 2023

To: Mark F. Miller, City Manager

From: Robert J. Bruner, Deputy City Manager  
Megan E. Schubert, Assistant City Manager  
Rob Maleszyk, Chief Financial Officer  
Dee Ann Irby, Controller  
Scott Finlay, City Engineer  
Kurt Bovensiep, Public Works Director

Subject: Petition to Perform Drainage Work and Agreement-Sprague Drain within Firefighters Park  
Budget Amendment- Capital Fund  
Authorization to Convey a Permanent Easement

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### History

In September 2022, the US Environmental Protection Agency (EPA) awarded \$100,000 in no-match funding to the City of Troy for professional engineering services to design and permit the Sprague Drain Habitat Improvement project as part of the efforts to delist the Rouge River Area of Concern (AOC) for habitat-related use impairments. The habitat improvements are limited to the Sprague Drain within Firefighters Park. The proposed improvements include the following.

- Invasive Species Control: Invasive species will be controlled along the entire 2,450 ft of Sprague Drain, the perimeter of the connecting basin on the north, and throughout the wetlands in Firefighters Park. Areas with invasive removal will be reseeded or replanted with native species.
- Construct Bankfull Bench: Bankfull benches are flat or shallowly sloped areas that slow high velocity flows. The project will establish bankfull benches on either side of the drain to create floodplain connectivity. Excavating bankfull benches requires significant tree removals; however, to preserve the trees along the stream and minimize tree removal, the drain will be relocated in the north and south sections.
- Naturalize the Grass Detention Basin: The existing grass detention basin in the southeast of the park that provides detention for the subdivision stormwater will be naturalized and converted into a floodplain habitat by planting native vegetation. The newly created floodplain habitat can act as the bankfull bench for the Drain and provide significant floodplain storage.
- Create Bed Form Diversity: The bed form diversity will be improved by increasing pool depth and constructing riffles, improving bed form diversity can help dissipate energy and improve aquatic habitat.
- Woody Material: A combination of coarse and fine woody materials will be placed in the bankfull bench in the form of brush piles and toe wood to preserve the bank and provide habitat improvements. The source of woody material is the onsite trees that will be removed as part of the bankfull bench excavation.



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## **CITY COUNCIL AGENDA ITEM**

- **Storm Outfalls:** There are a few storm outfalls from the parking lot and other areas. A native buffer will be created at the storm outlets to provide water quality before out letting to the Drain.
- **Native Vegetative Buffer:** A native vegetative buffer will be established along 400 feet of the existing swale to provide water quality and habitat before out letting to the Sprague Drain.

The design tasks are almost complete, and the plans are ready for permitting. However, obtaining the necessary EGLE permit will be a very slow process that can delay projects for several months. Recently, the City was approved for \$901,700 in implementation funding (also no match) starting in December 2023. EPA indicated that they want the implementation funding used starting this calendar year, which could be impacted by the EGLE permit timing. Sprague Drain is an established County Drain, and having the Oakland County Water Resource Commissioner (OCWRC) as the main permit applicant will ease EGLE permitting requirements by applying for some County Drain exemptions where possible and hopefully result in faster issuance. More specifically, if OCWRC is the applicant, the City will not have to apply for a Floodplain permit from EGLE that requires a costly study even when this project proposes to improve flood conditions. This partnership with OCWRC requires the 425 Agreement between the parties. Additionally, relocating a portion of the drain will require new easement to ensure OCWRC has the appropriate authority over the area.

### **Purchasing**

There are no purchasing impacts currently. City Council will be presented a recommendation of award once the project is bid.

### **Financial**

The implementation grant of \$901,700 was not anticipated during the budget process. Since this is a no-match grant we will amend both the Capital Revenue and Capital Expenditure and will not have an impact on the Capital Fund.

### **Recommendation**

City Staff recommends the approval of the 425 Agreement with the Sprague Drain Drainage District and administered through the Oakland County Water Resource Commissioner, grants the necessary easements to move a portion of the drain, and a budget amendment in the amount of \$901,700 to the Capital Fund.

### **Legal Review**

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

## **PETITION TO PERFORM DRAINAGE WORK**

### **SPRAGUE DRAIN**

To the Oakland County Water Resources Commissioner:

City of Troy, a Michigan municipal corporation, does hereby submit this Petition for permission to perform work on and relocate a portion of the Sprague Drain.

The City of Troy is within the Sprague Drain Drainage District who seeks to perform certain work on the Drain and within the Drain's easements ("Project").

The City of Troy understands and acknowledges that it shall be liable for the entire expense of the Project and the Project shall be done at a time and in a manner as the Oakland Water Resources Commissioner shall prescribe.

Your petitioner understands that this Project shall be administered pursuant to the Drain Code.

### **CITY OF TROY**

Dated: \_\_\_\_\_

\_\_\_\_\_  
By: Ethan Baker

Its: Mayor

\_\_\_\_\_  
By: M. Aileen Dickson

Its: Clerk

## AGREEMENT

### SPRAGUE DRAIN

**THIS AGREEMENT** is made and entered into on this \_\_\_ day of \_\_\_\_\_ 2023, by and between the Sprague Drain Drainage District, a public body corporate, whose address is One Public Works Drive, Building 95 West, Waterford, Michigan 48328 (“Drainage District”) and City of Troy, a Michigan municipal corporation, whose address is 500 W. Big Beaver Road, Troy, Michigan 48084 (“City”) (Collectively, the “Parties”).

**WHEREAS**, the Sprague Drain (“Drain”) is a county drain located within the City of Troy, Oakland County, and established pursuant to the Michigan Drain Code, Public Act 40 of 1956, as amended (“Drain Code”); and

**WHEREAS**, the Drain is under the jurisdiction of the Oakland County Water Resources Commissioner (“Commissioner”); and

**WHEREAS**, the City owns a parcel that the Drain traverses and is described in the attached **Exhibit A** (“Property”); and

**WHEREAS**, the Drainage District holds certain easements and permits on the Property for the establishment, construction, location, maintenance, and improvement of the Drain (“Drain Easements”); and

**WHEREAS**, the City has received a grant to perform work on and relocate portions of the Drain and within its Drain Easements, consistent with the conceptual plans attached as **Exhibit B** (“Project”); and

**WHEREAS**, part of the Project includes relocation of portions of the Drain with the relocated portion of Drain’s route and course described in the attached **Exhibit C** (“Relocation”); and

**WHEREAS**, Sections 425 and 431 of the Drain Code authorize the Drainage District to enter a contract with the City for implementation of the Project; and

**WHEREAS**, the City has agreed to assume the total cost necessary to implement the Project, including any construction, engineering, permitting, monitoring, inspection, easement acquisition, legal and administrative expenses, and costs attendant to this Agreement, resulting in no costs being incurred by the Drainage District; and

**WHEREAS**, the Drainage District has reviewed the proposed plans of the Project and has agreed to authorize the City to construct the Project, subject to the terms and conditions of this Agreement set forth below; and

**NOW, THEREFORE**, in consideration of the promises and covenants of each, the Parties hereto agree as follows:

1. The Drainage District shall administer the Project in accordance with the Drain Code.
2. The Drainage District hereby contracts with the City to implement the Project on the Drain on behalf of the Drainage District as described/depicted generally in the plans attached hereto as **Exhibit B**. The City may subcontract all or portions of the Project in its sole

discretion. The City shall submit detailed construction plans and specifications as they become available for review and approval by the Drainage District. No additional activities shall be undertaken by the City within the Drain or Drain Easements without the prior written approval of the Drainage District.

3. The City shall relocate portions of the Drain consistent with the plans attached as **Exhibit B** and the relocated route and course description attached as **Exhibit C**.
4. The Parties recognize that the Relocation portion of the Project necessitates that the City grant new easements to the Drainage District on the Property ("New Easements"). The City shall grant all necessary New Easements to establish and maintain the Relocation. The New Easements shall be in a form approved by the Drainage District. The City shall be responsible for all costs related to said easement preparation and acquisition.
5. The Parties recognize that the Project plans attached as **Exhibit B** are permit ready but are not final construction plans. Once construction plans are prepared, they shall be submitted to the Drainage District for review and approval before construction may begin. Drainage District approval shall not be unreasonably withheld.
6. Prior to construction and during construction, if any material changes to the Project plans are made or proposed, the City must submit said changes to the Drainage District for review and approval prior to said changes being implemented. Drainage District approval shall not be unreasonably withheld.
7. The Drainage District shall be responsible for obtaining any and all federal, state, or local permits required for the Project. Conditions of said permits shall be incorporated into the plans. The City shall be responsible for the costs of permits, including but not limited to engineering, monitoring, financial assurances, and inspections. The City shall be responsible for any and all costs relating to mitigation as required by a permit and pertaining to the Project. The City must receive prior written authorization from the Drainage District to utilize any portion of the Drain for purposes of mitigation for the permit.
8. The City shall oversee the performance of the Project. The City shall notify the Drainage District at least five (5) days prior to: (a) the commencement of the first day of the construction of the Project and (b) the commencement of any portion of the Project work that may obstruct the flow of water in the Drain as defined by Sections 421 and 422 of the Drain Code, MCL 280.421 and 280.422.
9. The Drainage District's role is to perform periodic inspection of the Project work, participate in regularly scheduled construction progress meetings, preliminary and final walk throughs, and if required due to changed field conditions, participate in construction resolution meetings. The City shall be responsible for the daily inspection of the Project work to determine contractor compliance with the approved plans and specifications. Access to the daily inspection reporting will be available to the Drainage District through a secure website used for construction of the Project.
10. The City shall not obstruct the flow of water in the Drain as defined by Sections 421 and 422 of the Drain Code, MCL 280.421 and 280.422, except as authorized by the Drainage District.

11. The City agrees that the Project work on the Drain shall follow the best management practices for soil erosion and sedimentation control for drain construction and those adopted by the Commissioner.
12. Except for hazardous substances found within the Drain's existing Drain Easements that were caused by the Drainage District's gross negligence in operating or maintaining the Drain, the City shall be responsible for managing (including disposal of) any soils that are disturbed as part of the Project work and that are found to have a concentration of any hazardous substance that exceeds relevant criteria as established by the Michigan Department of Environment, Great Lakes and Energy, the United States Environmental Protection Agency or other state or federal agencies with jurisdiction. All costs related to hazardous substances found as a result of the Project work are solely the responsibility of the City.
13. The City, its agents, employees, and contractors will not at any time cause or permit any hazardous substances to be brought upon, kept, used or released in, on or about the Drain or Drain Easement in violation of any federal, state, or local environmental law, rule, regulation, or ordinance in conjunction with the Project work. "Hazardous Substances" are defined as any hazardous substances, hazardous wastes, or toxic substances, petroleum, petroleum byproducts, or derivatives, as those terms are defined and regulated under CERCLA, 42 U.S.C. 9601, *et seq.*, RCRA, 42 U.S.C. 6901, *et seq.*, TSCA, 15 U.S.C. 2601 *et seq.*, CWA, 33 U.S.C. 1251, *et seq.*, or any similar state or local statute, regulation, ordinance or order and shall include any per and polyfluoroalkyl substances ("PFAS"). The City will comply with all environmental laws and regulations and will take such other actions as may be reasonably required to protect the Drain and Drain Easements against environmental liabilities, including, without limitation, promptly cleaning up and/or remediating any spills or discharges of Hazardous Substances associated with its use of the Drainage Easements. Without limiting the foregoing, if the presence of any Hazardous Substances on or about the Drain or Drain Easements results in any contamination of any portion thereof, the City will promptly take all actions at its sole cost as are necessary to return the Drain and Drain Easements to the condition existing prior to the introduction of any such Hazardous Substances, subject to obtaining Drainage District's prior written consent to the actions to be taken by the City, which consent may not be unreasonably withheld. Notwithstanding the foregoing, in the event the City fails to fulfill any of its obligations or covenants herein related to Hazardous Substances, the Drainage District shall have the right to take any and all actions with respect to any such Hazardous Substances, including, without limitation, taking remedial or cleanup actions to address any spills or discharges not properly handled by the City, at the City's sole cost. In addition, the Drainage District shall have all of its rights and remedies at law or in equity, but in no event shall such occurrence result in the termination of this Agreement.
14. The City acknowledges and agrees that wetlands or protected habitat may be present in, or in close proximity to, the Drain or Drain Easements. The City covenants that the City shall be responsible, at its sole cost and expense and in accordance with all applicable laws, for any wetlands mitigation or protected habitat considerations that may be necessary as a result of the Project or its use of the Drain or Drain Easements. Any proposed wetlands mitigation or protected habitat considerations by the City within the Drain or Drain Easements shall be subject to Drainage District's prior written approval, which approval shall be granted or denied in its sole discretion.

15. The City shall be responsible for all costs of the Project, including but not limited to, any engineering, construction, permitting, monitoring, inspection, and legal and administrative expenses incurred by the Drainage District (“District Expenses”). The Drainage District shall send invoices to the City for all District Expenses, and the City shall pay invoices within sixty (60) days from receipt.
16. The City shall have its subcontractor(s) add Drainage District, the Commissioner, and Oakland County, as additional named insureds on insurance policies related to the Project. The City shall provide the Drainage District with copies of said insurance certificates or endorsement depicting the additional named insureds prior to the commencement of the Project.
17. Upon completion of the Project, the City shall provide the Drainage District with as-builts of the Project and any appurtenances and request final approval from the Drainage District, not to be unreasonably withheld, conditioned, or delayed. The City shall perform with reasonable diligence any remediation or restoration reasonably necessary to conform to requests by the Drainage District.
18. To the extent allowed by law, the City will defend, indemnify, protect, and save harmless the Drainage District and Commissioner, from and against any and all claims, actions, suits, damages, liabilities, costs, and expenses, including, without limitation, reasonable attorneys’ fees and disbursements (collectively, “Losses”), that: result from any default of this Agreement or any provision hereof by the City. Said indemnification shall not apply to any Losses resulting from the Drainage District’s negligence.
19. This instrument contains the entire agreement between the Parties relating to the rights herein granted and the obligations herein assumed. Any modification of this Agreement must be in writing and must be signed by the Parties.
20. This Agreement is made and entered into in the State of Michigan and shall in all respects be interpreted, enforced and governed under the laws of the State of Michigan. The language of all parts of this Agreement is intended to and, in all cases, shall be construed as a whole according to its fair meaning, and not construed strictly for or against any Party.
21. This Agreement shall become effective upon its execution by the Drainage District and the City and shall become binding upon the successors and assigns of each party.
22. The Parties signing this Agreement on behalf of each party are, by said signatures, affirming that they are authorized to enter into this Agreement for and on behalf of the respective Parties to this Agreement. Executed copies of this Agreement may be delivered electronically (via email for .pdf) and, upon receipt, shall be deemed originals and binding upon the Parties.

**SPRAGUE DRAIN DRAINAGE DISTRICT**

\_\_\_\_\_  
Jim Nash  
Oakland County Water Resources Commissioner

STATE OF MICHIGAN       )  
                                      )ss.  
COUNTY OF OAKLAND     )

The foregoing was acknowledged by me on this \_\_\_\_ day of \_\_\_\_\_, 2023, by Jim Nash,  
Oakland Water Resources Commissioner, on behalf of the Sprague Drain Drainage District.

\_\_\_\_\_, Notary Public  
State of Michigan, County of \_\_\_\_\_  
My commission expires: \_\_\_\_\_  
Acting in the County of: \_\_\_\_\_



**CITY OF TROY**

By: \_\_\_\_\_

Name: Ethan D. Baker

Its: Mayor

**CITY OF TROY**

By: \_\_\_\_\_

Name: M. Aileen Dickson

Its: Clerk

STATE OF MICHIGAN       )  
  )ss.  
COUNTY OF OAKLAND     )

The foregoing was acknowledged by me on this \_\_\_\_ day of \_\_\_\_\_, 2023, by  
\_\_\_\_\_, \_\_\_\_\_, on behalf of the City of Troy.

\_\_\_\_\_  
\_\_\_\_\_, Notary Public  
State of Michigan, County of \_\_\_\_\_  
My commission expires: \_\_\_\_\_  
Acting in the County of : \_\_\_\_\_

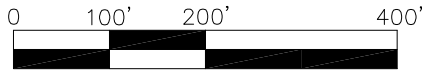
## **EXHIBIT “A”**

### **Parent Parcel Legal Description**

Sidwell No. 20-05-300-006

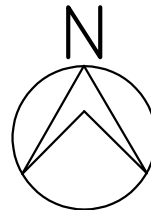
Part of the South ½ of Section 5, T2N., R11E., City of Troy, Oakland County, Michigan, described as: Beginning at the South 1/2 of said Section 5; thence N 89°40'08" W 1816.58 feet; thence N 00°36'54" E 1154.60 feet; thence S 89°48'30" E 925.00 feet; thence N 00°11'30" E 730.00 feet; thence N 28°59'24" W 239.31 feet; thence N 53°41'24" W 239.31 feet; thence N 89°48'30" W 520.00 feet; thence N 37°14'16" W 110.07 feet; thence N 05°00'00" W 100.00 feet; thence N 89°02'36" W 150.00 feet; thence N 00°57'24" E 50.00 feet; thence S 89°02'36" E 2201.64 feet; thence S 00°11'06" W 806.47 feet; thence S 18°47'54" E 130.00 feet; thence S 39°01'48" E 282.00 feet; thence S 00°11'06" W 276.00 feet; thence S 40° 40'25" W 405.24 feet; thence S 14°41'21" W 130.00 feet; thence S 00°59'23" W 590.00 feet; thence N 89°48'54" W 180.02 feet to the Point of Beginning. Also beginning at a point distant S 89°02'36" E 670.00 feet and S 00°57'24" W 50.00 feet and S 89°02'36" E 150.00 feet and S 05°00'00" E 100 feet and S 37°14'16" E 110.07 feet and S 89°48'30" E 362.98 feet from the West 1/4 corner of said Section 5: thence S 89°48'30" E 157.02 feet; thence S 53°41'24" E 166.34 feet; thence N 59°29'22" W 47.73 feet; thence N 68°08'55" W 134.59 feet; thence N 78°49'29" W 127.43 feet to the Point of Beginning. Except the South 60 feet there of taken for Square Lake Road.

# EXHIBIT "B"



SCALE: 1" = 400'

SPRAGUE DRAIN BRAIN EXTENSION  
BOOK 5, PAGE 35



CITY OF TROY –  
FIREFIGHTERS PARK  
1810 W SQUARE LAKE ROAD  
20-05-300-006

PORTION OF SPRAGUE DRAIN BRANCH  
EXTENSION TO BE RELEASED

N02°42'58"W 521.64'  
(NOT TO SCALE)

N18°03'57"E 52.07'

N38°50'53"E 67.10'

N02°14'40"W 25.41'

60' R.O.W. LINE

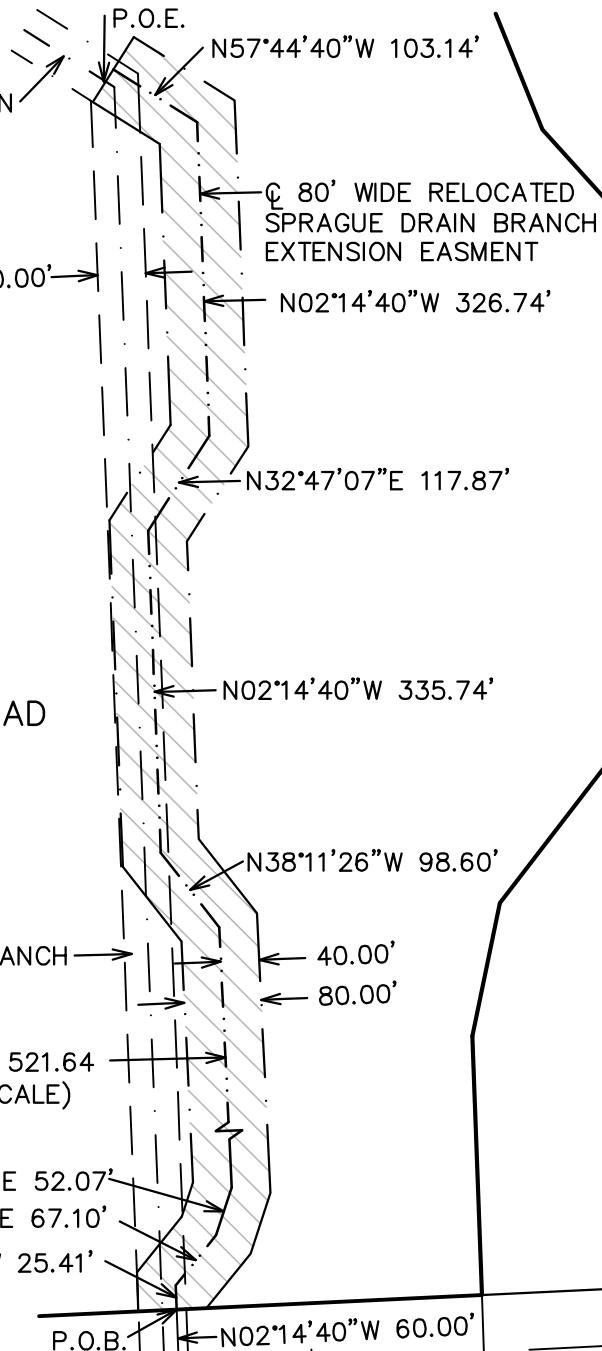
SOUTH LINE OF SECTION 5

P.O.B.

S87°15'20"W  
138.12'

SOUTH 1/4 SEC. 5  
T.2N., R.11E., CITY OF TROY  
OAKLAND COUNTY, MICHIGAN.

W SQUARE LAKE ROAD



**HRC**  
**HUBBELL, ROTH & CLARK, INC**  
CONSULTING ENGINEERS SINCE 1915

555 HULET DRIVE  
BLOOMFIELD HILLS, MICH.  
P.O. BOX 824  
48303-0824

JOB NO.  
20220482

DATE  
8/4/23

SPRAGUE DRAIN BRAIN EXTENSION  
EASEMENT

FIGURE NO.

1

OF 1

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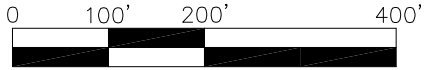
APPROVED

CHECKED

DRAWN

DESIGNED

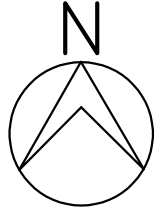
# EXHIBIT "C"



SCALE: 1" = 400'

SPRAGUE DRAIN BRANCH EXTENSION  
BOOK 5, PAGE 35

CITY OF TROY –  
FIREFIGHTERS PARK  
1810 W SQUARE LAKE ROAD  
20-05-300-006



N02°14'40"W 1584.00'  
(NOT TO SCALE)

50.00'

PORTION OF SPRAGUE DRAIN BRANCH  
EXTENSION TO BE RELEASED

60' R.O.W. LINE

SOUTH LINE OF SECTION 5

P.O.B.

S87°15'20"W  
153.12'

SOUTH 1/4 SEC. 5  
T.2N., R.11E., CITY OF TROY  
OAKLAND COUNTY, MICHIGAN.

W SQUARE LAKE ROAD



555 HULET DRIVE  
BLOOMFIELD HILLS, MICH. 48303-0824

JOB NO.  
20220482

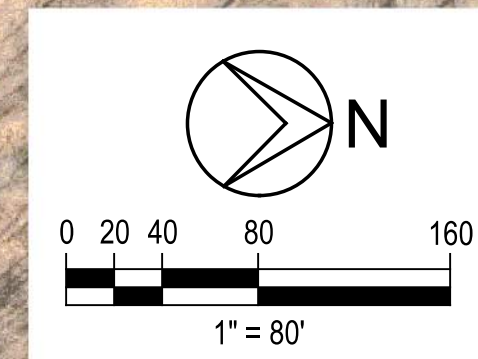
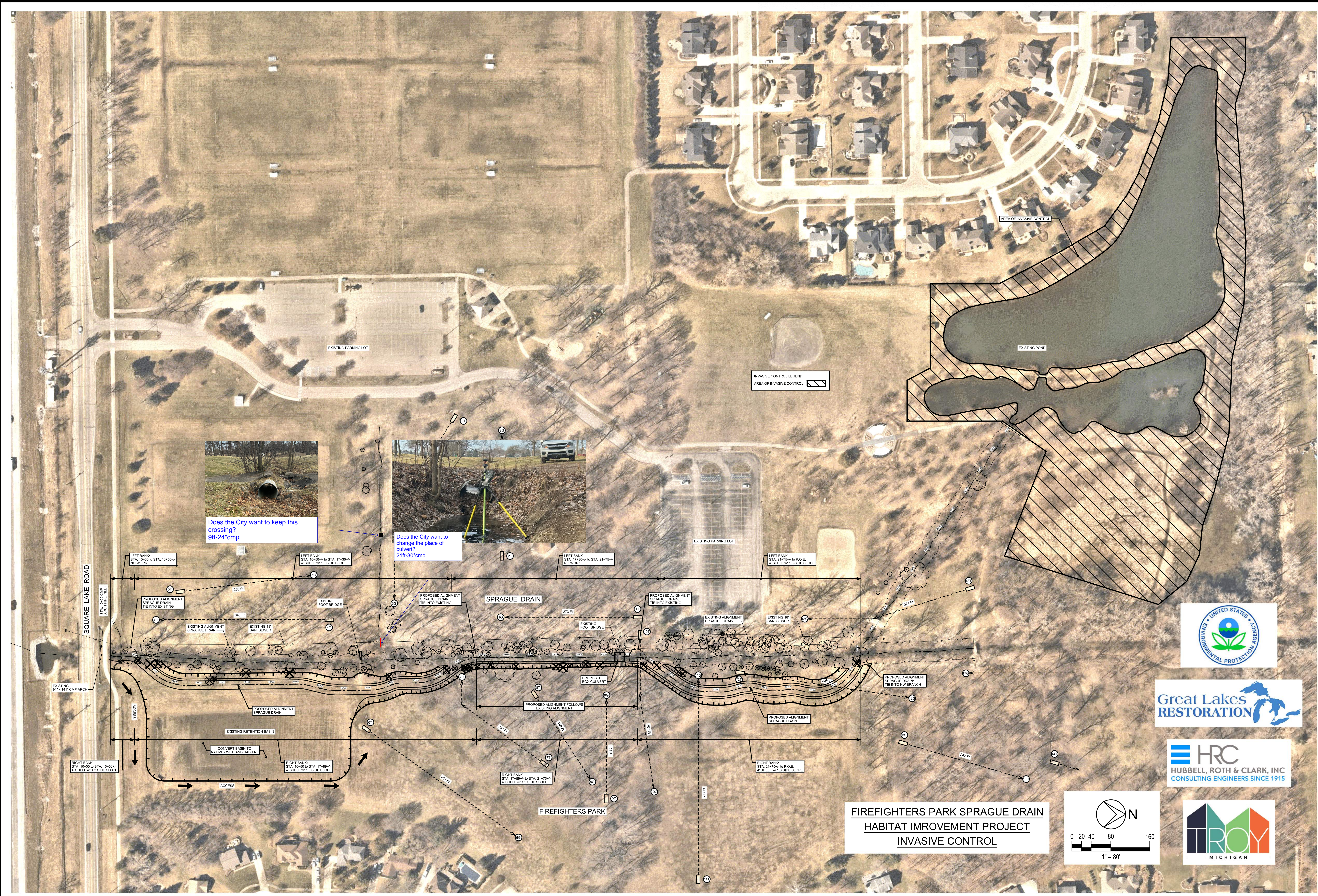
DATE  
8/4/23

SPRAGUE DRAIN BRAIN EXTENSION  
TO BE RELEASED

SHEET NO.

1  
OF 1





**FIREFIGHTERS PARK SPRAGUE DRAIN  
HABITAT IMPROVEMENT PROJECT  
INVASIVE CONTROL**



## **EASEMENT**

**Parcel No. 1-2023**

**KNOW ALL MEN BY THESE PRESENTS**, that the **CITY OF TROY**, a Michigan municipal corporation, GRANTOR, whose address is 500 W. Big Beaver Rd. Troy, MI 48084 for and in consideration of the sum of **ONE DOLLAR (\$1.00)** receipt of which is hereby acknowledged, paid to them by **Jim Nash**, the **OAKLAND COUNTY WATER RESOURCES COMMISSIONER**, as statutory agent for the **SPRAGUE DRAIN DRAINAGE DISTRICT**, pursuant to Act No. 40 of the Public Acts of 1956 ("Michigan Drain Code"), as amended, GRANTEE, whose address is the Office of the Oakland County Water Resources Commissioner ("WRC"), One Public Works Drive, Waterford, Michigan 48328-1907, GRANTOR does hereby grant to the said GRANTEE the right to construct, operate, maintain, repair or replace the **SPRAGUE DRAIN**, in accordance with the terms and conditions set forth herein:

### **RECITALS:**

- A. The GRANTOR is the owner of certain real property described as follows (the "Premises"):

A parcel of land being Part of the South ½ of Section 5, T2N., R11E., City of Troy, Oakland County, Michigan, described as:

Beginning at the South 1/2 of said Section 5; thence N 89°40'08" W 1816.58 feet; thence N 00°36'54" E 1154.60 feet; thence S 89°48'30" E 925.00 feet; thence N 00°11'30" E 730.00 feet; thence N 28°59'24" W 239.31 feet; thence N 53°41'24" W 239.31 feet; thence N 89°48'30" W 520.00 feet; thence N 37°14'16" W 110.07 feet; thence N 05°00'00" W 100.00 feet; thence N 89°02'36" W 150.00 feet; thence N 00°57'24" E 50.00 feet; thence S 89°02'36" E 2201.64 feet; thence S 00°11'06" W 806.47 feet; thence S 18°47'54" E 130.00 feet; thence S 39°01'48" E 282.00 feet; thence S 00°11'06" W 276.00 feet; thence S 40° 40'25" W 405.24 feet; thence S 14°41'21" W 130.00 feet; thence S 00°59'23" W 590.00 feet; thence N 89°48'54" W 180.02 feet to the Point of Beginning, Also beginning at a point distant S 89°02'36" E 670.00 feet and S 00°57'24" W 50.00 feet and S 89°02'36" E 150.00 feet and S 05°00'00" E 100 feet and S 37°14'16" E 110.07 feet and S 89°48'30" E 362.98 feet from the West 1/4 corner of said Section 5: thence S 89°48'30" E 157.02 feet; thence S 53°41'24" E 166.34 feet; thence N 59°29'22" W 47.73 feet; thence N 68°08'55" W 134.59 feet; thence N 78°49'29" W 127.43 feet to the Point of Beginning. Except the South 60 feet there of taken for Square Lake Road.

***Sidwell No. 20-05-300-006***

***Commonly Known As: 1810 West Square Lake Rd. Troy, MI 48098***

and,

B. The GRANTEE desires to acquire from the GRANTOR certain rights to the Premises in order to construct, operate, maintain, repair or replace the SPRAGUE DRAIN.

**IT IS THEREFORE AGREED:**

1. **Grant of a Permanent Easement.** Grantor hereby grants to Grantee a perpetual easement described as follows:

An 80.00 foot wide easement being a part of the South ½ of Section 5, T2N., R11E., City of Troy, Oakland County, Michigan, whose centerline is described as: Commencing at the South ¼ of said Section 5; thence S 87°15'20" W 138.12 feet along the South line of said Section 5; thence N 02°14'40" W 60.00 feet to a point on the North right of way line of Square Lake Road and the Point of Beginning; thence continuing N 02°14'40" W 25.41 feet; thence N 38°50'53" E 67.10 feet; thence N 18°03'57" E 52.07 feet; thence N 02°42'58" W 521.64 feet; thence N 38°11'26" W 98.60 feet; thence N 02°14'40" W 335.74 feet; thence N 32°47'07" E 117.87 feet; thence N 02°14'40" W 326.74 feet; N 57°44'40" W 103.14 feet to the Point of Ending.

2. **Purpose of the Easement.** The permanent easement granted herein shall be used for the purpose of the operation, maintenance, repair or replacement of the DRAIN constructed in accordance with the plans and specifications approved by the GRANTEE.

3. **General Conditions.**

- a. GRANTOR agrees not to build or convey to others permission to build any permanent structures on the above-described permanent easement unless GRANTEE otherwise agrees in writing in advance. Permanent structures include but are not limited to fixtures, structures with footings, culverts, dams, bridges, and structures of a similar nature. GRANTOR agrees that GRANTEE will not be responsible for the costs for destruction, removal or replacement of any permanent fixture caused by GRANTEE's exercise of its powers under this Easement.

- b. Except as otherwise agreed in writing between the GRANTOR and GRANTEE, and to the extent that removal is required for the exercise of its powers under this Easement, GRANTEE may remove all trees and shrubbery within the permanent easement and shall not be required to replace trees and shrubbery that are removed.

- c. Except as otherwise provided herein, if the Premises shall be disturbed by reason of the exercise of any of the foregoing powers, then the Premises shall be restored to substantially the condition that existed prior to entering upon said Premises by the Grantee, its contractors, agents or assigns.

- d. GRANTOR retains, reserves, and shall continue to enjoy the use of the permanent easement for any and all purposes which do not interfere with, obstruct the use of or prevent the use by GRANTEE. Any unauthorized use or obstruction may be removed by GRANTEE in accordance with the procedures set forth in the Drain Code.

- e. It is understood that the easement, rights, and privileges granted herein are nonexclusive, and GRANTOR reserves and retains the right to convey similar easements and rights to such other persons as GRANTOR may deem proper provided such similar easements do not affect GRANTEE'S Easement.

- f. This Easement shall be binding upon and inure to the benefit of the Parties hereto, their heirs, representatives, successors and assigns.

g. A map of the above-described Easement is attached hereto and made a part thereof.

h. This instrument contains the entire agreement between the Parties relating to the rights herein granted and the obligations herein assumed. Any oral representations or modifications concerning this instrument shall be of no force and effect. Any modification of this Easement must be in writing and must be signed by the party to be charged.

i. This Easement is made and entered into in the State of Michigan and shall in all respects be interpreted, enforced and governed under the laws of the State of Michigan. The language of all parts of this Easement is intended to and, in all cases, shall be construed as a whole according to its fair meaning, and not construed strictly for or against any party.

j. It is further understood and agreed between the Parties that the terms and conditions herein are contractual and are not a mere recital and that there are no other agreements, understandings, contracts, or representations between GRANTOR and GRANTEE in any way related to the subject matter hereof, except as expressly stated herein.

k. If any provision of this Easement or its application to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Easement shall not be affected and shall remain valid and enforceable to the fullest extent permitted by law.

l. It is understood and agreed between the Parties that a failure by either Party to fulfill a condition or term set forth in this Easement shall not result in the extinguishment of the easement rights granted herein or constitute a waiver of such term or condition.

*(Remainder of this page intentionally left blank)*



IN WITNESS WHEREOF, the GRANTOR has hereunto affixed their signatures  
this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

CITY OF TROY, a Michigan municipal  
corporation

\_\_\_\_\_(L.S.)

By: **Ethan Baker**

Its: **Mayor**

\_\_\_\_\_(L.S.)

By: **M. Aileen Dickson**

Its: **Clerk**

**ACKNOWLEDGEMENT**

STATE OF MICHIGAN    )  
  )SS.  
COUNTY OF OAKLAND )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2023, before me, a Notary Public in and for  
said County, personally appeared **Ethan Baker** and **M. Aileen Dickson** to me  
personally known, who being by me duly sworn did say that they are the **Mayor** and  
**Clerk** of the **City of Troy**, a Michigan Municipal Corporation, a corporation created and  
existing under the laws of the **State of Michigan**, and that the said Easement Grant was  
signed and sealed in behalf of said corporation by authority of its City Council, and the  
said **Mayor** and **Clerk** acknowledged the said instrument to be the free act and deed of  
the said Corporation.

\_\_\_\_\_  
Notary Public  
\_\_\_\_\_ County, \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

Acting in the County of \_\_\_\_\_

**This instrument drafted by:**

Jeffrey S. Parrott, Supervisor Right of Way  
Office of the Oakland County Water Resources Commissioner  
Building 95 West  
One Public Works Drive  
Waterford, Michigan 48328-1907