

AMENDMENT NUMBER 3 TO
AGREEMENT FOR PROFESSIONAL SERVICES
BETWEEN
VARNUM LLP
AND
THE CITY OF ANN ARBOR

The City of Ann Arbor, a Michigan municipal corporation, with offices at 301 E. Huron St. Ann Arbor, Michigan 48107-8647 ("CITY") and Varnum LLP, formerly Varnum, Riddering, Schmidt & Howlett, LLP, having its offices at 333 Bridge Street NW, Grand Rapids, MI 49504 ("FIRM") agree to amend the professional services agreement for professional legal services relative to the City of Ann Arbor's National Pollution Discharge Elimination System Permit conditions dated November 30, 2000, and amended in March of 2002, and September of 2005, as follows:

- 1) Article I, SERVICES, is amended to read as follows:

The FIRM agrees to provide the CITY with professional legal services relative to the City of Ann Arbor's National Pollutant Discharge Elimination System Permit(s) conditions by providing advice, contest case and litigation services, including appeals, as may be required to address phosphorous discharge limitations within the permit and other permit conditions if requested by the CITY, and more particularly described in Exhibit A, Addendum to Exhibit A, and Second Addendum to Exhibit A. As part of its professional legal services for the CITY, the FIRM will retain the services of expert consultants and/or witnesses needed for the Contested Case Hearing at the MDEQ and for any other proceedings.

- 2) Paragraph A of Article III, COMPENSATION OF FIRM, is amended to read as follows:

A. The FIRM shall be paid on the basis of time spent and expenses incurred, including expenses for expert consultant and/or witnesses, at the rates specified and as otherwise provided in Exhibit B, First Amended Exhibit B, Second Amended Exhibit B and Third Amended Exhibit B. The total amount to be paid to the FIRM for the SERVICES shall not exceed Three Hundred Eighty-Five Thousand Five Hundred Dollars (\$385,500.00). Payment shall be made monthly following receipt of invoices submitted by the FIRM, and approved by the City Attorney. The invoices shall include a detailed report of the FIRM's activities for the month.

- 3) Article VI, NONDISCRIMINATION, is amended to read as follows:

The FIRM agrees to comply, and to require its subcontractor(s) to comply,

with the nondiscrimination provisions of MCL 37.2209. The FIRM 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.

All terms, conditions, and provisions of the original Agreement between the parties executed November 30, 2000, as amended in March of 2002, and September of 2005, unless specifically amended above, are to apply to this third amendment and are made a part of this third amendment as though expressly rewritten, incorporated, and included herein.

This third amendment to the agreement between the parties shall be binding on the heirs, successors and assigns of the parties.

Dated this _____, 2015.

For Contractor

For City of Ann Arbor

By _____
Matthew D. Zimmerman, Partner

By _____
Christopher Taylor, Mayor

By _____
Jacqueline Beaudry, City Clerk

Approved as to substance

City Administrator

Craig A. Hupy, PE, Public Services Area
Administrator

Approved as to form and content

Stephen K. Postema, City Attorney

**THIRD AMENDMENT TO EXHIBIT B
SCHEDULE OF FEES AND COSTS**

Effective September 1, 2015, this Third Amended Exhibit B replaces the original Exhibit B, as amended by First Amended Exhibit B and Second Amended Exhibit B.

I. General

The FIRM shall be paid for those SERVICES performed pursuant to this Agreement inclusive of all reimbursable expenses, an amount not to exceed Three Hundred Eighty-Five Thousand Five Hundred Dollars (\$385,500.00) in accordance with the terms and conditions herein and with Exhibit A and Addendum to Exhibit A in particular. The Fee Schedule below states the maximum hourly billable rate the FIRM may charge the CITY for performance hereof.

II. Fee Schedule

Billable hourly rates for work for the Huron River Watershed Group, of which the City is a member and pays 75%, shall be as follows:

Matthew Zimmerman	\$340/hour
Aaron Phelps	\$333/hour
Kyle Konwinski	\$245/hour

Other attorneys and paralegals required for the SERVICES shall be billed at the FIRM's base rates

III. Reimbursable Expenses

Reasonable expenses necessary to perform the SERVICES will be reimbursed. However, overtime clerical services will not be reimbursed without prior approval of the City Attorney. The rate shall be mutually agreed upon. Further, the FIRM shall submit an itemized statement of all expenditures.

IV. Expert Consultant/Witness Services

The FIRM will retain the following experts. The CITY will reimburse the FIRM 75% of the fees and expenses of these experts upon receipt of copies of detailed invoices from the experts as part of the FIRM's monthly invoices to the CITY:

John Lehman \$200/hour (all services)
Estimated total for LIMNOS, LLC, \$10,200.00 (CITY share \$7,650.00)

James Klang \$150/hour (preparation and analysis);
James Klang \$225/hour (contested case hearing)
Mark Kieser \$165/hour (preparation and analysis)
Estimated total for Kieser & Associates, LLC, \$16,485 (CITY share \$12,363.75)