

Administrative Use Only

Amendment Date: _____

**AMENDMENT NUMBER 2 TO
PROFESSIONAL SERVICES AGREEMENT BETWEEN
NTH Consultants, Ltd
AND THE CITY OF ANN ARBOR**

This Amendment Number 2 ("Amendment") is to the agreement between the City of Ann Arbor, ("City") and NTH Consultants, Ltd., ("Contractor") for Professional Engineering Services, which is dated January 26, 2022 ("Agreement"). City and Contractor agree to amend the Agreement as follows:

- 1) Article III, SERVICES, is amended to read as follows:
 - A. The Contractor agrees to provide Professional Engineering Services ("Services") in connection with the Project as described in Exhibit A, and as amended for additional tasks by Amendment Number 2 (Exhibit A-2). 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 compensation 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. The Contractor shall also comply with and be subject to the City of Ann Arbor policies applicable to independent contractors.
 - 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.
- 2) Article V, COMPENSATION, is amended to read as follows:
 - A. The Contractor shall be paid in the manner set forth in Exhibit B, and as amended by Amendment Number 2 (Exhibit B-2). The total fee to be paid the Contractor for the Services shall not exceed \$943,587.77. The original contract amount was \$589,405.30. The Amendment No. 1 amount is \$214,102.47. The Amendment No. 2 amount is \$140,080.00. Payment shall be made monthly, unless another payment term is specified in Exhibit B or Exhibit B-1, 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 Article 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, etc.) 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.

All terms, conditions, and provisions of the Agreement, unless specifically amended above, shall apply to this Amendment and are made a part of this Amendment as though expressly rewritten, incorporated, and included herein.

City and Contractor agree that for this Amendment and any documents related to the Agreement: 1) signatures may be delivered electronically in lieu of an original signature; 2) to treat electronic signatures as original signatures that bind them; and 3) signatures may be executed and delivered by facsimile and upon such delivery, the facsimile signature will be deemed to have the same effect as if the original signature had been delivered to the other party.

This Amendment to the Agreement shall be binding on the Parties' heirs, successors, and assigns.

[SIGNATURE PAGE FOLLOWS]

For _____
Contractor Name

By _____

Name: _____

Title: _____

Date: _____

For City of Ann Arbor

By _____
Christopher Taylor, Mayor

By _____
Jacqueline Beaudry, City Clerk

Date: _____

Approved as to substance

Milton Dohoney Jr., City Administrator

Brian Steglitz, Public Services Area
Administrator

Approved as to form and content

Atleen Kaur, City Attorney

EXHIBIT A-2
SCOPE OF SERVICES

SCOPE OF SERVICES CHANGES

The additional Professional Engineering Services included in this Amendment No. 2 is provided below.

Additional Scope Related to Soil Parameter Changes Required by the Federal Energy Regulatory Commission (FERC) and additional out-of-scope analysis prescribed by FERC.

1. Additional Project Management

The FERC-mandated changes to design soil parameters and slow response time by FERC to requested project submittals will extend the project schedule and incur additional NTH project management effort. Services provided under this task include:

- Extension of weekly progress calls with Stantec through March 2024.
- Extension of internal project coordination and management meetings until March 2024 and increased duration of each meeting.
- Extending monthly project management and invoice efforts until March 2024

Commented [A1]: Project was already scheduled to run through Dec 2023. Not sure how much this change affects schedule. New schedule carries into 2024. What was original schedule per previous Change Order?

2. Additional Efforts to Secure EGLE Permit

Based on meetings with EGLE, it is apparent that additional effort beyond that anticipated at the proposal stage or in the preparation of Contract Amendment No. 1 will be necessary. This effort includes:

- Ongoing discussions and negotiations with EGLE regarding the designation of the existing toe ditch as a natural stream.
- Additional services necessary to abate the loss of wetlands associated with the proposed design.
- Assistance in procuring wetland credits.

3. Additional “Out-of-Scope” Analysis and Submittals Required by FERC

Based on communications with FERC, additional effort beyond that anticipated at the proposal stage or in the preparation of Contract Amendment No. 1 has been and will be necessary. This effort includes:

- Performance of a preliminary static liquefaction susceptibility analysis. This analysis was completed per FERC’s comments (August 4, 2022 letter) and is included in the existing BODR that was submitted to FERC in June 2023.
- Preparation of a Drilling Program Plan for submission to FERC. This plan will secure FERC approval to install grouting holes, stairway foundations, and additional monitoring instrumentation as part of the proposed remedial construction.

4. Additional Evaluation and Analysis to Accommodate FERC-Mandated Soil Parameters

To accommodate the FERC-mandated soil parameters, previously completed stability and seepage analyses must be revised. This effort will include:

- Revisions to the Barton Pond Drawdown Evaluation submitted to FERC January 2023.
- Performance of additional computer-based seepage and stability modeling presented in the BODR submitted June 2023.

Amendment – Over \$75K Rev. 2022

5. Revisions to the BODR to Accommodate FERC-Mandated Soil Parameters

Upon revising the seepage and stability analysis to accommodate the FERC-mandated soil parameters, NTH will update the previously submitted BODR for resubmission to FERC. This effort also includes revisions to address a modest number of comments from FERC pursuant to its review of the previously submitted BODR.

6. Revisions the Remedial Design to Accommodate FERC-Mandated Soil Parameters

Based on our preliminary analysis, accommodating the FERC-mandated soil parameters will require significant revisions to the proposed stabilization berm cross section. Once the final cross section is established through NTH's analysis and discussion with FERC, NTH's subconsultant DLZ will update the remedial design to incorporate the required modifications. This revision will occur as part of the 60 percent design submittal to maintain the project schedule and reduce fees incurred.

**EXHIBIT B-1
FEE SCHEDULE**

Contractor shall be paid for those Services performed pursuant to this Amendment inclusive of all reimbursable expenses (if applicable), in accordance with the terms and conditions as set in the original Contract.

The total amount of fees to be paid under the amended Agreement shall not exceed \$943,587.77. The original contract amount was \$589,405.30. The Amendment No. 1 amount is \$214,102.47. The Amendment No. 2 amount is \$140,080 and is broken down in the table below:

Task #	Task	Est. Fees
1	Additional Project Management	\$10,100
2	Additional Efforts to Secure EGLE Permit	\$31,630
3	Additional "Out-of-Scope" Analysis and Submittals Required by FERC	\$21,950
4	Additional Evaluation and Analysis to Accommodate FERC-Mandated Soil Parameters	\$20,500
5	Revisions to BODR to Accommodate FERC-Mandated Soil Parameters	\$40,900
6	Revisions to Remedial Design to Accommodate FERC-Mandated Soil Parameters	\$15,000
	Total Cost	\$140,080