

AMENDMENT NUMBER 1 TO
CONTRACT FOR ON-CALL CONSTRUCTION SERVICES
BETWEEN
E. T. MACKENZIE COMPANY
AND
THE CITY OF ANN ARBOR

The City of Ann Arbor, a Michigan municipal corporation, with offices at 100 N. Fifth Avenue, Ann Arbor, Michigan 48107-8647 ("City") and E. T. MacKenzie Company, ("Contractor") a Michigan Corporation located at 4248 West Saginaw Highway, Grand Ledge, MI 48837 agree to amend the professional services agreement for the project Storm Water and Sanitary Sewer Collection – Construction Services executed by the parties dated November 1, 2009 as follows:

- 1) Article III, TIME OF COMPLETION, is amended to read as follows:
 - (A) The work to be completed under this Contract shall begin immediately after the Contractor's receipt of a fully executed Contract.
 - (B) The entire work for this Contract shall be completed before June 30, 2013. Shorter completion times for certain portions of the work are specified in the Detailed Specifications.
 - (C) Failure to complete all the work within the time specified above, including any extension granted in writing by the Supervising Professional, shall obligate the Contractor to pay the City, as liquidated damages and not as a penalty, an amount equal to \$0 for each calendar day of delay in the completion of all the work. If any liquidated damages are unpaid by the Contractor, the City shall be entitled to deduct these unpaid liquidated damages from the monies due the Contractor.

The liquidated damages are for the non-quantifiable aspects of any of the previously identified events and do not cover actual damages that can be shown or quantified nor are they intended to preclude recovery of actual damages in addition to the recovery of liquidated damages.

Liquidated damages under this section are in addition to any liquidated damages due under Section 5 of the General Conditions.

- 2) Article IV, THE CONTRACT SUM, is amended to read as follows:
 - (A) The City shall pay to the Contractor for the performance of tasks included in the Contract, using the unit prices as given in the Bid Forms for a not-to-exceed total of \$500,000.00. The original Contract

amount of \$250,000.00 was for the period ending June 30, 2011. The Amendment No. 1 amount of \$250,000.00 is for the period July 1, 2011 through June 30, 2013.

- (B) The amount paid shall be equitably adjusted to cover changes in the work ordered by the Supervising Professional, but not required by the contract documents.

All terms, conditions, and provisions of the original agreement between the parties executed November 1, 2009, unless specifically amended above, are to apply to this amendment and are made a part of this amendment as though expressly rewritten, incorporated, and included herein.

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

Dated this July 1, 2011.

For Contractor

By _____

For City of Ann Arbor

By _____
John Heiftje, Mayor

By _____
Jacqueline Beaudry, City Clerk

Approved as to form and content

Stephen K. Postema, City Attorney

Approved as to substance

Tom Crawford, Interim City Administrator

Sue McCormick, Public Services Area
Administrator