

AMENDMENT NO. 2
TO
CONTRACT FOR PROFESSIONAL ENGINEERING SERVICES
W.O. 12-31
EAST END INDUSTRIAL AREA

THIS AGREEMENT, made and entered into on _____, 2014, by and between the following:

CITY OF BILLINGS, a Municipal Corporation,
Billings, Montana 59103,
Hereinafter designated the City

and

Morrison-Maierle, Inc.
315 North 25th, Suite 102
Billings, Montana 59101
Hereinafter designated the Contractor

WITNESSETH:

WHEREAS, the City and Contractor have entered into a contract dated June 25, 2013, for Contractor to provide engineering services to the City for Work Order 12-31 East End Industrial Area, and;

WHEREAS, the City has need for additional engineering services, and;

WHEREAS, the City has authority to contract for consulting engineering services, and;

WHEREAS, the Contractor represents that he is qualified to perform such services, is in compliance with Montana Statutes relating to the registration of professional engineers and is willing to furnish such services to the City;

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performance contained herein, or attached and incorporated herein, the Parties hereto agree as follows:

North 15th Avenue Waterline Improvements

Appendix A – Basic Services of Engineer, Section 3. Scope of Work is amended as follows:

Add the following bulleted item under item 2. as follows:

In addition to the above storm drain work, the following water and sewer work is also anticipated:

- Installation of 8-inch water main on North 15th Street from the north side of 1st Avenue North to the south side of 4th Avenue North.

The scope of work included in Tasks 31, 40, 88, 055, 32, 050, and 60 is applicable to these waterline improvements. In Task 050 – Construction Administration, it is assumed that the second RPR will perform an additional 200 hours of construction observation (28 days / 7 days per week * 50 hours per week) for the waterline improvements.

Appendix B – Methods and Times of Payment, Section 1.A is amended as follows:

| | |
|---------------------|-------------------------------------|
| 2. Design | \$509,051 <u>533,272</u> |
| 3. Bidding | \$14,986 |
| 4. Construction | \$610,730 <u>640,812</u> |
| 5. Project Closeout | \$17,608 |

Appendix E – Project Schedule is amended as follows:

B. East End Submittals and Meetings

2. 70% Design Submittal – ~~January 24~~ February 21, 2014

a. Review Meeting – ~~February 7~~ March 7, 2014

Yegen Drain Improvements

Appendix A – Basic Services of Engineer, Section 3. Scope of Work is amended as follows:

The following scope of work consists of the ~~two~~ three major work elements as follows:

Add the following paragraphs after item 2:

3. Provide planning, design, and construction administration for improvements to the North Branch and Main Stem of the Yegen Drain. Modifications to this portion of the Yegen Drain will start at the downstream end of the Stockyard Spur Bridge on the south side of

Minnesota Avenue and end at the outfall to the Yellowstone River. Improvements will generally consist of the following:

- Removal of approximately 1,560 feet of 72-inch corrugated metal pipe installed in the Yegen Drain on ASI property,
- Cleaning and excavation of the open channel to improve hydraulics and capacity,
- Possible removal and/or treatment of contaminated materials in the portion of the channel that lies within the Yale Oil Facility Area,
- Rehabilitation of the Power Plant Spur crossing,
- Installation of a third culvert at the Power Plant Spur crossing to increase capacity,
- Installation of culvert accesses in two locations on ASI properties,
- Removal and replacement of a footbridge, and
- Modifications or improvements to at least three above channel pipeline crossings.

In addition to the above improvements, the following planning and support work is also anticipated:

- Preparation of easement exhibits.
- Coordination with MDEQ to identify contamination from the Yale Oil Facility that may impact this work and establishing a method to remove and/or treat the contamination as required.
- Coordination with Montana Rail Link (MRL) for permits, reviews, and approval of culvert improvements at the Power Plant Spur crossing and open channel and access improvements in the lower half of the Main Stem of the Yegen Drain.
- Coordination with pipeline and utility companies to address buried and overhead crossings of the Yegen Drain.

Add the following additional work to Paragraph E. TASK 31 – DESIGN SURVEY:

3. A design survey will be conducted along the North Branch and Main Stem of the Yegen Drain beginning at the downstream side of the Stockyard Spur Bridge and ending at the Yellowstone River outfall. This survey will provide topographic information, utility locations as located by Montana One Call and applicable public/private utilities, property lines, structures, tank farm dikes, railroads, and all other

information needed for design of the new storm drainage facilities. In general, the topographic survey will extend 75 feet on each side of the existing Yegen Drain channel.

The survey work will also include the tying of property corners in order to prepare easement exhibits for the Yegen Drain. Re-establishment of any property corners is not included in this scope of work.

Add the following additional work to Paragraph D. TASK 38 – GEOTECHNICAL EVALUATION:

6. A geotechnical evaluation of the Yegen Drain open channel and the Power Plant Spur crossing will be completed. A sufficient number of borings will be completed along the Yegen Drain and locations and will be used to compile the geotechnical information needed to ascertain the soil and groundwater conditions that will be reasonably expected during construction. Test results will include information needed to design the open channel and closed conduit improvements.
7. The Yegen Drain geotechnical information will be used in the design as well as provided in the contract documents. Design geotechnical work will include fourteen (14) soil borings: two (2) 30-foot deep on either side of the Power Plant Spur crossing and twelve (12) 20-foot deep along the length of the Yegen Drain – North Branch and Main Stem. The geotechnical report will also include a site specific dewatering assessment and recommendations.

Add the following additional work to Paragraph E. TASK 40 – FINAL DESIGN:

14. For the Yegen Drain improvements, prepare preliminary plans, specifications and estimate of probable cost at 30% and 70% complete for review by the City. Two (2) 24"x36" copies and two (2) 11"x17" copies of 30% plans, and two (2) 24"x36" copies and two (2) 11"x17" copies of 70% plans and specifications will be provided to the City. One copy of the 11"x17" 70% plans will be provided to each utility in the area. The 70% plans provided to pipeline and utility companies will be annotated with potential conflicts noted as part of the design. Engineer will follow up with the pipeline and utility companies to ensure they received the plans sent to them.
15. Coordinate with MDEQ with regard to the Yale Oil Facility to identify contamination from the Yale Oil Facility that may impact this work as identified by reports provided by MDEQ and reviewed by the Engineer. Establish methods to remove and/or treat the contamination as required in conjunction with MDEQ. Design of any treatment system is not included herein.
16. Coordinate with permitting agencies, MRL, pipeline companies, and

public/private utilities. Coordination with pipeline companies does not include any design as it is unknown at this time what might be required at pipeline crossings.

17. Hold separate review meetings to review 30% and 70% submittals with City staff before development of next stage plan documents.
18. Perform field review(s) with City and other agencies.
19. Complete a Subsurface Utility Exploration (SUE) for critical utilities to determine depth and location. Please note that this is not additional work. The original contract included an estimate of 40 exploration holes and two days of survey work to tie utility locations and document elevations at an estimated subconsultant cost of \$50,000. It is not anticipated that this entire amount will be used for the original East End contracted work. Thus, this amount is set aside also to be used for the Yegen Drain improvements. As in the original contract, the Owner will only be invoiced for Subsurface Utility Explorations completed up to this amount. Subconsultant invoices will be included with Engineer's monthly invoices to document SUE costs.
20. Develop 95% plans, specifications, quantity summaries, and estimate of probable cost for final review by City staff. Engineer will meet with City staff to review 95% comments. Two (2) 24"x36" copies and two (2) 11"x17" copies will be provided to the City. One copy of the 95% plans will be provided to each pipeline and utility in the area if any changes from the 70% utility review plans will affect pipelines or utilities.
21. Prepare easement exhibits and legal descriptions as required. It is assumed that the City will perform all negotiations with property owners and prepare easement agreements.
22. Attend one (1) meeting per property owner with the City during the design phase to provide engineering support.
23. Seal and sign all final plans, specifications, submitted calculations, and reports with the seal of the Montana licensed Professional Engineer in responsible charge of the work.
24. Permit applications and coordination will be provided by the Engineer. The following permits, approvals, and fee costs are anticipated:
 - a. Montana Rail Link permitting for Power Plant Spur crossing and open channel improvements in the lower end of the Main Stem which are located within the MRL right-of-way. Both locations are currently covered under MRL Permit No. 67051. This work includes extension of the existing Temporary Occupancy Permit for design survey and possible modification or updating of the current permit by MRL. The fee for extension of the temporary occupancy permit to complete design survey work is \$750, design and permit review fee is \$600, any other

applicable fees are assumed to be paid for by the City including any processing fees and first year's permit fee.

- b. Yellowstone County floodplain permit for work in the Yegen Drain (estimated permit fee is \$50).
- c. Corps of Engineers 404 Authorization or Permit for work in the Yegen Drain (no permit fee unless notified otherwise by the Corps).

The City will review and sign all permits prior to submission where required. Additional permits beyond those mentioned above or a more intensive 404 Permit Application, if required by the Corps of Engineers, are not included in this scope. The cost for the permit application fees listed in this section will be paid by the Engineer. If the cost is unknown, it is assumed that payment of the fee will be the responsibility of the Owner.

25. The following assumptions were used in the development of the scope of services and fee estimate and were made in coordination with City Staff:

- Design and construction of the East End Industrial Area Storm Drain Phase 1 Improvements will consist of the portion of the new storm drain system from the south side of Montana Avenue in the MRL right-of-way to the Yegen Drain outfall at the Yellowstone River. Such improvements will consist of the construction of the splitter structure in MRL right-of-way on the south side of Montana Avenue, all borings under the main MRL railroad between Montana and Minnesota, outfall pipe and structures to the North Branch of the Yegen Drain on the south of Minnesota Avenue, cleaning and excavation of the North Branch from the railroad to the Stockyard Spur Bridge, removal of soils from the east bay of the Stockyard Spur Bridge, rehabilitation of the SSPPA in the MRL right-of-way, and Yegen Drain improvements outlined in Section 3, paragraph 3 above. Scope and fee for the improvements from Montana Avenue through the Stockyard Spur Bridge are addressed in the original contract.
- East End Industrial Area Storm Drain Phase 2 Improvements will consist of the piped portion of the project beginning at the connection to existing at the intersection of 4th Avenue North and North 23rd Street and ending at the tie-in to the Phase 1 Improvements. These improvements are addressed in the original contract and will be advanced to 70% completion until further notification by the City to finalize design and commence with the bidding and construction phase services. At such time a modified project schedule will be developed and submitted for approval to the City.
- MDEQ will provide a report and associated data regarding the Yale Oil Facility in December 2013 upon which coordination for contaminated materials will be based. This report will be adequate for the coordination outlined in this scope of work.

With addition of the Yegen Drain improvements, the scope of work included in the following paragraphs also applies to these improvements with any exceptions or additions noted accordingly:

- F. TASK 88 – QUALITY ASSURANCE
- G. TASK 055 – BIDDING PHASE SERVICES
- H. TASK 32 – CONSTRUCTION SURVEY
- I. TASK 050 – CONSTRUCTION ADMINISTRATION
 - 4. Construction administration for the Yegen Drain improvements assumes one (1) full-time resident project representative for 10 hours per day over a 2-month construction duration. Thus, this scope is based on 429 hours of RPR observation for the duration of construction.
 - 5. The estimated subconsultant cost for construction materials testing for Yegen Drain improvements is \$10,000. Construction materials testing will include quality assurance density tests for subgrade and Proctors.
 - 7. Traffic control is not anticipated for the Yegen Drain improvements.
 - 8. Asphaltic concrete mix design reviews are not anticipated for the Yegen Drain improvements.
- J. TASK 60 - CLOSEOUT

Appendix B – Methods and Times of Payment, Section 1.A is amended as follows:

| | |
|----------------------------------|-----------|
| 8. Yegen Drain Design | \$190,380 |
| 9. Yegen Drain Bidding | \$9,838 |
| 10. Yegen Drain Construction | \$122,807 |
| 11. Yegen Drain Project Closeout | \$11,779 |

Appendix E – Project Schedule is amended as follows:

- B. East End Submittals and Meetings

Delete Items 3. through 7. Final design for Phase 2 Improvements will commence upon written notification from the City. At this time, a schedule will be developed and submitted to the City for approval.

Add the following paragraph C. Phase 1 Improvements Submittals and Meetings

1. Survey – Initially, the schedule will be driven by when survey can be completed for the Yegen Drain improvements. Weather permitting, the survey can be initiated upon receipt of a signed contract. This schedule assumes that the survey work will be completed by February 28, 2014 to allow for weather delays.
2. 30% Design Submittal – April 16, 2014
 - a. Review Meeting – April 30, 2014
3. 70% Design Submittal – July 31, 2014
 - b. Review Meeting – August 15, 2014
4. Easement Exhibits Submittal – August 29, 2014
5. 95% Design Submittal – September 15, 2014
 - a. Review Meeting – September 30, 2014
6. Final Submittal – October 3, 2014
7. Bidding – October 2014
8. Construction – November 2014-Spring 2015
9. Project Closeout – Spring 2015

The construction schedule assumes that the City obtains easements and that all permitting and coordination with MRL, pipeline companies, utility companies, and MDEQ is completed by October 2014 in time for construction bidding.

All other terms and conditions of the contract to which this amendment applies shall remain in full effect.

CONSULTANT

NAME: Morrison-Maierle, Inc.

BY: _____

TITLE: Vice President

DATE: _____

CITY OF BILLINGS, MONTANA

BY: _____
City Administrator

DATE: _____