

AGREEMENT TO REINSTATE, AMEND AND EXTEND CONTRACT C22262

Contract Start Date: 08/05/2014	Original Total Amount:	\$270,395.00
Original Completion Date: 12/31/2015	As Previously Amended:	\$ 0.00
Amendment Completion Date: 12/31/2018	Current Amendment:	\$140,313.25
Resolution No. 17-0580R	New Total Contract Amount:	\$410,708.25

This amendment, effective as of the date of attestation by the City Clerk (the "Effective Date"), by and between the City of Duluth, hereinafter referred to as "City", and MSA Professional Services located at 322 West Superior Street, Suite 600, Duluth, MN 55802, hereinafter referred to as "Consultant", for the purpose of rendering services to the City.

WHEREAS, on August 5, 2014, City and Consultant entered into an agreement bearing City of Duluth Contract No. 22262 for professional engineering services for design and construction of stream bank stabilization projects along Chester Creek, Miller Creek, and Amity Creek, which Contract has not been previously amended, and which Contract is hereinafter referred to as the "Contract"; and

WHEREAS, both parties desire to amend the Contract.

NOW THEREFORE, in consideration of the mutual covenants and conditions hereinafter set forth, the parties hereto hereby agree as follows:

In this Amendment changes in the language of the Contract which delete language will be shown as stricken and language added to the contract language will be underlined.

Revision 1. The completion time described in Section II, C) of the Contract is hereby amended as follows:

The Preliminary Design Phase shall be completed and report or plan submitted by ~~(12/31/2015)~~ 12/31/16.

Revision 2. The completion time described in Section II, D) of the Contract is hereby amended as follows:

The Final Design Phase shall be completed and contract documents submitted by ~~(12/31/2015)~~ 12/31/17.

Revision 3. The completion time described in Section II, E) of the Contract is hereby amended as follows:

The Final Design Phase shall be completed and contract documents submitted by ~~(12/31/2015)~~ 12/31/17.

Revision 4. The completion time described in Section II, F) of the Contract is hereby amended as follows:

The construction survey & layout phase shall be completed by ~~(12/31/2015)~~ 12/31/17.

Revision 5. The completion time described in Section II, G of the Contract is hereby amended as follows:

The construction inspection phase shall be completed by ~~12/31/2015~~ 12/31/18.

Revision 6. The hourly rates described in Section VI, A), 1. of the Contract is hereby amended as follows:

x 1. Hourly rates, not to exceed ~~\$270,395~~ \$410,708.25

Revision 7. The standard payment described in Section VI, D) of the Contract is hereby amended as follows:

The maximum compensation for all phases A through I shall not exceed ~~(270,395) Dollars and (00)/100th~~ four hundred ten thousand, seven hundred eight and 25/100 dollars (\$410,708.25).

Revision 8. The total not to exceed described in Section VI, F) of the Contract is hereby amended as follows:

All payments under this Contract not to exceed ~~\$270,395~~ \$410,708.25 Payable under (225-125-1807-5303) ~~Fund No. (insert)~~ Flood 579; B.W.S.R. Grant for Flood Recovery Projects.

Revision 9. The special provisions described in Section VII of the Contract is hereby amended as follows:

The following exhibits are attached to and made part of this agreement:

- 1) Exhibit A, Engineer's Hourly Rates
- 2) Exhibit B, Engineer's Proposal, and Exhibit B-2, additional services described in Request for Amendment dated July 31, 2017 (attached).

In the event of a conflict between the agreement and any Exhibit, the terms of the Agreement will be controlling.

In all other respects the contract, together with all of its terms, covenants and conditions, is hereby confirmed in its entirety.

IN WITNESS WHEREOF, the parties have hereunto set their hands as of the effective date thereof.

CITY OF DULUTH

MSA PROFESSIONAL SERVICES

By: _____
Mayor

By: _____

Attest:

Its: _____
Title of Representative

By: _____
City Clerk

Date: _____

Date: _____

Countersigned:

City Auditor

Approved as to form:

City Attorney



July 31, 2017

Tom Pfeffer, P.E.
City of Duluth
411 West First Street
Room 201
Duluth, MN 55802

**Re: Request for Amendment #1, Stream Engineering Design and Construction Engineering:
Chester, Amity, Miller**

Dear Mr. Pfeffer:

Pursuant to discussions, I wish to present MSA's request for a contract amendment for the on-going work on the Bank Stabilization project for Amity, Miller and Chester Creeks. As you are aware, the scope of work has deviated significantly from the original contract proposal, which was to provide stabilization above the water level of these streams in locations identified after the 2012 flood.

MSA's scope has increased to include additional coordination, design and construction efforts for the various sites. In coordination with City staff, some of these sites have been removed, added or had scope significantly altered in conjunction with permitting effort and coordination with the Minnesota DNR.

The following represents a site-by-site breakdown of the change of scope compared to the originally proposed work and original contract value of \$270,395.00. Most have significant changes in scope, required by state permitting authorities from the proposed work.

Site 579D – Amity Creek:

Site Description: Horseshoe bends in Amity Creek upstream and downstream of Seven Bridges Road. (To be constructed 2017).

Contract/Proposal Fee: \$41,900.00

Proposed Amendment Request: \$113,677.00

Justification: The original scope for repair work on these sites included restoring and stabilizing slope failures adjacent to the bike trail through Lester Park. Due to concern for overall project costs, MSA was directed to not proceed further in 2015. In 2016, MSA was directed that the City would like to include the sites for upcoming construction in 2017 and was directed to begin design work. Coordination with the Minnesota DNR necessitated that the stream alignment be adjusted, which required significant additional design to be completed. This design work was completed and the project bid in the Spring of 2017. The proposed amendment includes estimated fees for construction observation work, requested by City staff, which is increased due to the change in scope of the repairs.

Tom Pfeffer, P.E.
July 31, 2017

Site 582XX – Chester Creek:

Site Description: Slope failure threatening trail along western edge of Chester Creek above 9th Street.
Contract/Proposal Fee: \$ 0.00 (Not included in original scope)
Proposed Amendment Request: \$8,158.75
Justification: This site was added after survey work had been completed. Site was designed, incorporated into the plan set and permit work for the DNR and bid. It was included in the awarded contract in 2016 but was not constructed.

Site 590C – Miller Creek:

Site Description: Erosion issues along the banks of Miller Creek as it meanders between Hwy 53 adjacent to Enger Park Golf Course and the traffic signal at Piedmont Avenue.
Contract Fee/Proposal Fee: \$25,165.00
Proposed Amendment Request: \$29,992.50
Justification: This phase consisted of two repair sites on Miller Creek. One site included significant increases to the work being completed, including the need to work within the stream course and change elevations on the stream bottom to better provide a low flow channel per DNR permitting requests. The additional work also required additional oversight time to the additional scope of work.

Current Contract Value	\$270,395.00
Proposed Amendment #1	\$140,313.25
Site 579D Proposed Amendment	\$113,677.00
Site 582XX Proposed Amendment	\$8,158.75
Site 590C Proposed Amendment	\$29,992.50
Proposed Amended Contract Value	\$410,708.25

I have attached a spreadsheet detailing the proposed hour breakdowns per these three major sites. As you are aware, there were varying scopes on several of the other sites as well and those changes have been accounted for in the current proposed contract value.

Should you have questions or wish to discuss this amendment request, please call me at 499-3176.

Sincerely,

MSA Professional Services, Inc.



Joe Jurewicz, P.E.
Team Leader

Proposed Scope Amendment - Stream Bank Stabilization

	Project Manager	Senior Project Engineer	Project Engineer	Engineer	Senior Technician	Technician	Survey Crew	Engineer Intern	Administrative	Expenses	Total Fee
	Hours	Hours	Hours	Hours	Hours	Hours	Hours	Hours	Hours		
	\$140	\$160	\$125	\$95	\$100	\$90	\$140	\$55	\$70		
Site 579D Scope Amendment	7	45	237	96	310	366	5	12	3	\$1,242.00	\$113,677.00
Site 590C Scope Amendment	-4	1	0	80	68	42	-8	30	3		\$18,477.50
Site 582XX Addition	9	17		38				8	3		\$8,158.75
Proposed Amendment	11.25	63	237.25	213.75	378	407.75	-3	50.25	8.75	\$1,242.00	\$140,313.25

Proposed Scope Amendment - Stream Bank Stabilization Site 579D

	Project Manager		Senior Project Engineer		Project Engineer		Engineer		Senior Technician		Technician		Survey Crew		Engineer Intern		Administrative		Expenses (Summary Below)	Total Fee
	Hours	\$	Hours	\$	Hours	\$	Hours	\$	Hours	\$	Hours	\$	Hours	\$	Hours	\$	Hours	\$		
Design/Permitting	74	\$140	44	\$160	350	\$125	176	\$95	16	\$100	350	\$90	5	\$140	12	\$55	1	\$70		\$109,900.00
Construction Observation (Estimated)	12				12				440				40						\$1,457.50	\$54,237.50
Construction Closeout (Estimated)	4		8		16				16		16		8				2			\$6,140.00
Amended Scope Original Proposal (at Current Rates)	90		52		358		176		472		366		53		12		3		\$1,457.50	\$172,277.50
Difference (Amendment)	7		45		237		96		310		366		5		12		3		\$1,242.00	\$58,385.00

Expenses - Site 579D

	Mileage	Photocopies	Prints	Total
Original Proposal	\$0.55	\$0.25	\$1.00	\$215.50
Estimated	240	250	75	\$1,457.50

Proposed Scope Amendment - Stream Bank Stabilization Site 582XX

	Project Manager		Senior Project Engineer		Project Engineer		Engineer		Senior Technician		Technician		Survey Crew		Engineer Intern		Administrative		Total Fee	
	Hours	\$	Hours	\$	Hours	\$	Hours	\$	Hours	\$	Hours	\$	Hours	\$	Hours	\$	Hours	\$		
Design/Permitting	9	\$140	17	\$160	125	\$125	38	\$95	100	\$100	90	\$90	140	\$140	55	\$55	8	\$70		\$8,158.75

Proposed Scope Amendment - Stream Bank Stabilization Site 590C

	Project Manager		Senior Project Engineer		Project Engineer		Engineer		Senior Technician		Technician		Survey Crew		Engineer Intern		Administrative		Total Fee	
	Hours	\$	Hours	\$	Hours	\$	Hours	\$	Hours	\$	Hours	\$	Hours	\$	Hours	\$	Hours	\$		
Amended Scope	41	\$135	9	\$155	104	\$120	136	\$90	95	\$95	90	\$90	14	\$140	30	\$55	3	\$65		\$55,157.50
Original Proposal	45		8		104		56		77		42		22		30		3		\$25,165.00	
Difference (Amendment)	-4		1		0		80		68		42		-8		30		3		\$29,992.50	