

**NORTH DAKOTA PUBLIC SERVICE COMMISSION**

**CONTRACT AMENDMENT**

**Purchase of Service Contract  
Amendment #: 1**

**CONTRACT NUMBER AM-896-24**

**Case No. AM-24-354**

This is made to renew and amend # **AM-896-24** (Contract) between the State of North Dakota, acting through its North Dakota Public Service Commission, Abandoned Mine Lands Division (STATE) and Earth Energy & Water Systems, Inc. (CONTRACTOR).

This change is authorized under Section 3, Term of Contract, and amended as authorized in Section 19, Merger and Modifications, Conflict in Documents in contract number AM-896-24.

The parties agree to the following terms and conditions and expressly agree that if any of the following terms and conditions conflict with any of the terms and conditions of the Contract, then, notwithstanding any term in the Contract, the following terms and conditions govern and control the rights and obligations of the parties.

**1. SCOPE OF WORK**

Amend the project name from 2024 Exploratory Drilling AML Project to 2025 Exploratory Drilling AML Project.

**2. COMPENSATION**

**Contractual Amount**

The first paragraph of this section is amended to change the contract amount from not to exceed \$258,000 to not to exceed \$325,500.

**3. TERM OF CONTRACT**

The first paragraph of this section is amended to change the term of the contract to begin upon execution of Contract Amendment #1 by all Parties and ends on June 30, 2025.

**4. TIME OF PERFORMANCE**

The first paragraph of this section is amended to change the project performance period from December 9, 2024 to June 30, 2025.

Per Section 3.4 – **Contract Amendment – Unanticipated Amendment** in IFB 408.24.03.002, 2024 Exploratory Drilling AML Project, the parties agree to amend the Contract as follows:

The Mobilization – Basis of Payment in Section 300.A.4 of Section 6 (Specific Provisions and Attachments) in IFB 408.24.03.002, will be deleted in its entirety and replaced with:

**Basis of Payment** – Payment will be made at the per site price. Payment is full compensation for furnishing all equipment, labor, materials and incidentals to complete the work as specified. Payments will be split as follows:

- a. 50% - Mobilization for New Salem Site
- b. 50% - Demobilization for New Salem Site

These payments will be made after work has been completed.

**Contract Section 1, Scope of Work:** The scope of work in Section 300.D.2.a of Section 6 (Specific Provisions and Attachments) in IFB 408.24.03.002 will be amended to add the following statement:

A liquid vacuum truck will be required to capture and contain all drill cuttings and fluids created by the drilling process. The drill cuttings and fluids must be disposed of in the same terms and conditions as the original Contract.

The Clean Up – Basis of Payment in Section 300.D.5 of Section 6 (Specific Provisions and Attachments) in IFB 408.24.03.002 will be amended to delete the last sentence of this section and add the following statement:

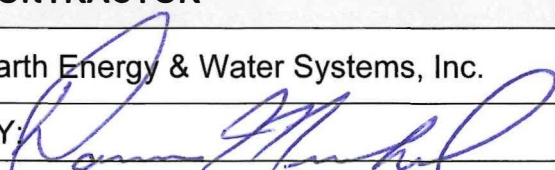
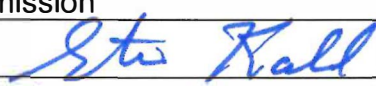
Compensation for the liquid vacuum truck is a lump sum not to exceed \$70,000.00.

**Price Adjustment:** Contract Section 2, Compensation. The first paragraph of this section is amended to change the contract amount from \$258,000 to not to exceed \$325,500. The amended Mobilization – Basis of Payment reduces the mobilization units from two units to one unit at a rate of \$2,500 per unit and the amended Clean Up – Basis of Payment increases the contract amount by \$70,000 for the liquid vacuum truck.

The parties agree that the terms and conditions of the Contract and this Amendment govern and control the rights and obligations of the parties.

All other terms of the Contract remain in effect. This Contract Amendment is not effective until fully executed by all parties.

### EXECUTION

| CONTRACTOR                                                                            | STATE OF NORTH DAKOTA                                                                  |
|---------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| Earth Energy & Water Systems, Inc.                                                    | Acting through its Public Service Commission                                           |
| BY:  | BY:  |
| Printed Name: Donavon Meuchel                                                         | Printed Name: Steve Kahl                                                               |
| Title: Owner/President                                                                | Title: Executive Director                                                              |
| Date: 12-9-24                                                                         | Date: 12/11/24                                                                         |

"General Decision Number: ND20240006 11/15/2024

Superseded General Decision Number: ND20230006

State: North Dakota

Construction Type: Highway

Counties: North Dakota Statewide.

#### HIGHWAY CONSTRUCTION PROJECTS

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(1).

|                                                                                                                                                                   |                                                                                                                                                                                                                                                                                           |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022: | <p>◆ Executive Order 14026 generally applies to the contract.</p> <p>◆ The contractor must pay all covered workers at least \$17.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2024.</p> |
| If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:         | <p>◆ Executive Order 13658 generally applies to the contract.</p> <p>◆ The contractor must pay all covered workers at least \$12.90 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours performing on that contract in 2024.</p>      |

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <http://www.doi.gov/whd/govcontracts>.

| Modification Number | Publication Date |
|---------------------|------------------|
| 0                   | 01/05/2024       |
| 1                   | 03/22/2024       |
| 2                   | 04/05/2024       |
| 3                   | 04/26/2024       |
| 4                   | 10/25/2024       |
| 5                   | 11/15/2024       |

ELEC0714-018 01/01/2024

ADAMS, BILLINGS, BOTTINEAU, BOWMAN, BURKE, DIVIDE, DUNN, EMMONS, GOLDEN VALLEY, GRANT, HETTINGER, MCHENRY, MCKENZIE, MCLEAN, MERCER, MOUNTAIN, OLIVER, PIERCE, RENVILLE, ROLLETTE, SHERIDAN, SOIUX, SLOPE, WARD, & WILLIAMS COUNTIES:

|                    | Rates    | Fringes    |
|--------------------|----------|------------|
| ELECTRICIAN        |          |            |
| CABLE SPLICER..... | \$ 51.67 | 8.55+29.5% |
| ELECTRICIAN.....   | \$ 49.68 | 8.3+29.5%  |

ELEC0714-019 01/01/2024

|                              | Rates    | Fringes    |
|------------------------------|----------|------------|
| LINE CONSTRUCTION            |          |            |
| CABLE SPLICER.....           | \$ 51.67 | 8.55+29.5% |
| GROUNDMAN.....               | \$ 29.24 | 8.55+19.5% |
| LINE EQUIPMENT OPERATOR..... | \$ 43.87 | 8.55+29.5% |
| LINEMAN.....                 | \$ 51.67 | 8.55+29.5% |

ELEC0714-020 01/01/2024

BURLIEGH, MORTON, STARK:

|                    | Rates    | Fringes    |
|--------------------|----------|------------|
| ELECTRICIAN        |          |            |
| CABLE SPLICER..... | \$ 51.67 | 29.5%+8.55 |
| ELECTRICIAN.....   | \$ 48.00 | 7.80+29.5% |

ELEC1426-002 06/01/2023

BARNES, BENSON, CAVALIER, DICKEY, EDOY, FOSTER, GRAND FORKS, GRIGGS, KIDDER, LA MOURE, LOGAN, MCINTOSH, NELSON, PEMBINA, RAMSEY, RANSOM, RICHLAND, SARGENT, STEELE, STUTSMAN, TOWNER, TRAIL, WALSH, AND WELLS COUNTIES

|                    | Rates    | Fringes     |
|--------------------|----------|-------------|
| ELECTRICIAN        |          |             |
| CABLE SPLICER..... | \$ 42.42 | 11.5%+12.79 |
| ELECTRICIAN.....   | \$ 40.65 | 11.5%+12.79 |

\* ENGI0049-021 10/01/2024

|                          | Rates    | Fringes |
|--------------------------|----------|---------|
| POWER EQUIPMENT OPERATOR |          |         |
| GROUP 1.....             | \$ 35.05 | 21.90   |
| GROUP 2.....             | \$ 33.65 | 21.90   |
| GROUP 3.....             | \$ 33.40 | 21.90   |
| GROUP 4.....             | \$ 33.25 | 21.90   |
| GROUP 5.....             | \$ 32.40 | 21.90   |
| GROUP 6.....             | \$ 31.60 | 21.90   |

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1: All Cranes 60 tons and over, Cranes doing piling, sheeting, dragline/clam work, Derrick(Guy & Stiff), Gentry Crane Operator, Helicopter Operator, Mole Operator or Tunnel Mucking Machine, Power Shovel 3-1/2 CY. and over and Traveling Tower Crane.

GROUP 2: All Cranes 59 tons and under, Backhoe Operator 3 CY. and over, Creter Crane, Dredge Operator 12' and Over, Equipment Dispatcher, Equipment Foreman, Finish Dozer, Finish Motor Grader, Front End Loader Operator 8 CY. and over, Master Mechanic (When supervising 5 or more Mechanics), Mon-o-rail Hoist Operator, Power Shovel up to and including 3-1/2 CY. and Tugboat.

GROUP 3: Lazer-Screed Operator, Asphalt Paving Machine Operator, Asphalt Plant Operator, Automated Grade Trimmer, Backhoe Operator 1 CY. up to and including 2-1/2 CY., Boom Truck Hydraulic (8 Tons & over), Cableway Operator, Concrete Batch Plant Operator(electronic or manual), Concrete Mixer Paving Machine Operator, Concrete Paver-Bridge Decks, Concrete Pump, Concrete Spreader Operator & Belt Placer, Crushing Plant Operator, Dozer Operator, Dredge Operator or Engineer 11' and under, Drill Rigs, Heavy Duty Rotary or Chum or Cable Drill, Front End Loader (3-1/2 CY. up to and including 7-1/2 CY.), Gravel Washing & Screening Plant Operator, Locomotive, all types, Mechanic or Welder(heavy duty), Motor Grade Operator, Pavement Breaker (Non-Hydro Hammer type, Pipeline Wrapping, Cleaning & Bending Machine Operator, Power Actuated Auger and Horizontal Boring Machine Operator 6' and over, Refrigeration Plant Engineer, Roto Milling Machine (Surface Planer) 43' & over, Scraper Operator, Slip Form Concrete Paving Operator, Tandem Pushed Quad 9 or similar, Tractor with Boom Attachment, Trenching Machine- 100 HP. and over.

GROUP 4: Articulated/Off Road Hauler, Asphalt Dump Person (Controls the Spread of Asphalt), Asphalt Paving Screed Operator, Backhoe - up to and including 1/2 CY., Boring Machine locator, Console Board Operator, Curb Machine Operator, Distributor Operator (Bituminous), Forklift Operator, Front End Loader- 1-1/2 CY. up to and including 3 Cubic Yards (Machine Standard Mfg. Rating), Fuel/Lube Truck Operator, Grade Person (Responsible for Establishing and Determining Grade through Instrumentation), Gravel Screening Plant Operator (not Crushing or Washing), Greaser, Hydro-VAC and Hydro Excavator Self-Propelled, Longitudinal Float and Spray Operator, Micro surfacer Machine, Motor Grade Operator-Hual Roads, Paving Breaker-Hydro Hammer Type, Pugmill Operator, Push Tractor, Roller, Steel & Rubber on Hot Mix Asphalt Paving, Rotomill Machine (Surface Planer), up to and including 42', Rumble Strip Machine, Sand and Chip Spreader, Self-propelled Sheepfoot Packer with or without Blade attachment, Self-propelled Travelling Soil Stabilizer, Sheepfoot Packer with Dozer attachment- 100 HP and over, Shouldering Machine, Slip Form, Curb & Gutter Operator, Slurry Seal Machine, Tamping Machine Operator, Tie Tamper and Ballast Machine, Trenching Machine Operator- 46 HP up to and including 99 HP, Truck Mechanic, Well Points, Tub Grinder.

GROUP 5: Boom Truck- A- Frame or Hydraulic 2 tons up to and including 7 tons, Broom-Self propelled, Concrete Saw (Power Operated), Cure Bridge Operator, Front End Loader Operator, less than 1-1/2 CY., Mobile Cement Mixer-Non-Truck, Power Actuated Auger & Horizontal Boring Machine Operator up to and including 5", Roller, on other than Hot Mix Asphalt Paving, Ollers, Vibrating Packer Operator (Pad Type) Self-propelled, Water Spraying Equipment-Self Propelled, Skidsteer Operator with Attachments.

GROUP 6: Brakeman or Switchman, Dredge or Tugboat Deckhand, Drill Truck Gravel/Testing Operator, Form Trench Digger (Power), Gunite Operator Gunall, Paint Machine Striping Operator, Pick-up Sweeper, 1CY. & over Hopper Capacity, Scissor Jack-Self Propelled Platform Lift, Straw Mulcher, Blower and Straw Press, Stump Chipper Operator, Tillage Equipment Operator, Tractor Pulling Compaction or Aerating Equipment and No Till Drills, Trenching Machine Operator- up to and including 45 HP., Assistant/Apprentice Operator.

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TEAM638-004 10/01/2024

|                             | Rates    | Fringes |
|-----------------------------|----------|---------|
| TRUCK DRIVER                |          |         |
| Euclid over 20 yds.....     | \$ 34.83 | 17.99   |
| Single Axle Trucks.....     | \$ 32.88 | 17.99   |
| Tandem Tri Axle Semi, Low   |          |         |
| Boy and Off Road Heavy      |          |         |
| Duty End Dumps 20 yds &     |          |         |
| under.....                  | \$ 33.31 | 17.99   |
| Tandem Tri/ Axle Truck..... | \$ 33.00 | 17.99   |

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SUND2023-001 10/16/2020

|                                   | Rates    | Fringes |
|-----------------------------------|----------|---------|
| CARPENTER.....                    | \$ 35.85 | 7.60    |
| CEMENT MASON/CONCRETE FINISHER... | \$ 35.85 | 7.60    |
| ELECTRICIAN                       |          |         |
| Cass County.....                  | \$ 35.35 | 16.32   |
| LABORER                           |          |         |
| GROUP 1.....                      | \$ 27.65 | 3.15    |
| GROUP 2.....                      | \$ 27.90 | 3.15    |
| GROUP 3.....                      | \$ 28.05 | 3.15    |
| GROUP 4.....                      | \$ 28.80 | 3.15    |

LABORERS CLASSIFICATIONS

GROUP 1: General Construction Laborers: Sack Shaker (cement and mineral filler): Pipe Handler: Drill Runner Tender: Salamander Heater and Blower Tender, Light truck, Pickup Driver, Flaggers and Pilot Car Drivers.

GROUP 2: Semi Skilled Laborer: Bulk Cement Handler: Conduit Layer, Telephone or Electrical: Form Setter (pavement): Gas Electric or pneumatic tool operator: Chipping Hammer, Grinders and Paving Brakers (tamper-drit) Concrete Vibrator Operator: Chain Saw Operator: Concrete Saw Operator: Concrete Curing Man (not water): Bituminous worker (Shoveler, Dumper, Raker and Floated): Kettleman (bituminous or lead): Concrete Bucket Signlman: Power Buggy Operator: Brick and Mason Tender: Multiplate Pipelayer: Culvert Pipe Layers: Carpenters Tenders.

GROUP 3: Caisson Worker: Bottom Man (sanitary sewer, storm sewer water and gas liners): Concrete Mixer Operator (one bag capacity): Mortar Mixer.

GROUP 4: Pipe Layers (sanitary sewer, storm sewer, water and gas lines): Drill runner (includes Wagon Churn or Air Track) Powderman, Gunite and Sandblast, Nozzleman, Reinforcing Steel Setters/Tiers, Concrete Finishers Tender.

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (iii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

#### Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

#### Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

#### Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

#### State Adopted Rate Identifiers

Classifications listed under the "SA" identifier indicate that the prevailing wage rate set by a state (or local) government was adopted under 29 C.F.R. §1.3(g)-(h). Example: SAME2023-007 01/03/2024. SA reflects that the rates are state adopted. ME refers to the State of Maine. 2023 is the year during which the state completed the survey on which the listed classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 01/03/2024 reflects the date on which the classifications and rates under the "SA" identifier took effect under state law in the state from which the rates were adopted.

#### WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can

- be:
- \* an existing published wage determination
  - \* a survey underlying a wage determination
  - \* a Wage and Hour Division letter setting forth a position on a wage determination matter
  - \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION"