

REQUESTED BY:
SFERRA

LAW DEPARTMENT
DRAFT NO. 3575

TITLE

AN ORDINANCE FOR THE PURPOSE OF AUTHORIZING THE MAYOR AND THE DIRECTOR OF PUBLIC SERVICE AND SAFETY, TO ENTER INTO A CONSULTING SERVICE AGREEMENT WITH MWH AMERICAS, INC. TO PROVIDE PROFESSIONAL SERVICES RELATED TO DESIGN AND CONSTRUCTION ADMINISTRATION SERVICES FOR A 1,200 FOOT, 16 INCH WATERLINE TO THE CLEAN ENERGY FUTURE-LORDSTOWN, LLC FACILITY, ACQUIRING A NEW VERSION OF COMPUTER SOFTWARE MODEL, UPDATE THE NEW WATER DISTRIBUTION HYDRAULIC MODEL, AND DECLARING AN EMERGENCY.

ORDINANCE NO. 12637/16

WHEREAS, the City of Warren and the Village of Lordstown have entered into a contract to provide water services to Clean Energy Future-Lordstown, LLC facility; and

WHEREAS, the implementation of this contract requires Professional Services relating to the design and construction services for a 1,200 foot, 16 inch waterline to the Clean Energy Future-Lordstown, LLC facility; and

WHEREAS, the implementation of this contract requires Professional Services relating to the upgrade of the City of Warren Computer Software; and

WHEREAS, the implementation of the Contract requires Professional Services relating to updating the new water distribution hydraulic model; and

WHEREAS, MWH America's, Inc., has the skills and ability to provide the required services to the City of Warren; NOW THEREFORE

BE IT ORDAINED by the Council of the City of Warren, State of Ohio:

Section 1: That the Mayor and Director of Public Service and Safety be, and are hereby, authorized, for and on behalf of the City of Warren, to enter into a written agreement with MWH America's Inc., for the purpose to provide Professional Services as agreed to in the agreement attached hereto as Exhibit (A).

Section 2: That any such agreement as provided for in Section 1 of this Ordinance shall be in substantial compliance and conformity with all laws of the State of Ohio.

Section 3: That this Ordinance is hereby declared to be an emergency measure necessary for the implementation of this Agreement at no cost to the City of Warren. WHEREFORE, this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed in Council this 24TH day of FEBRUARY, 2016.

SIGNED: [Signature]
PRESIDENT OF COUNCIL

ATTEST: [Signature]
CLERK

FILED WITH THE MAYOR: 2-24-16

DATE APPROVED: 2-24-16

[Signature]
MAYOR, CITY OF WARREN, OHIO



MWH

®

MWH CONTRACT No. _____

CONSULTING SERVICES AGREEMENT [Lump Sum]

This agreement ("Agreement"), with an effective date of _____, 20__, is by and between City of Warren, Ohio ("CLIENT") and MWH Americas, Inc. ("CONSULTANT").

In consideration of the mutual covenants and promises contained herein, the parties agree as follows:

1 SCOPE OF SERVICES

1.1 The services to be performed by CONSULTANT for CLIENT under this Agreement ("Services") are set out in Attachment A (Scope of Services), incorporated herein by reference. The Services are to be performed in support of the project identified in Attachment A ("Project").

2 COMPENSATION

2.1 CLIENT shall pay CONSULTANT, as compensation for the Services ("Compensation"), a lump sum amount of \$199,000.00. (One hundred and ninety nine thousand dollars).

2.2 The payment schedule shall be as follows:

Progress payments for services rendered shall be made on the basis of the percentage of completion of the CONSULTANT's work. Such payments shall be due and payable monthly upon submission of invoices. A final invoice shall be presented upon the completion of the work.

2.3 CLIENT will pay CONSULTANT additional compensation for labor and expenses incurred by CONSULTANT under a Change Order or in responding to or assisting with an audit required by CLIENT, or any federal, state and local government agencies. The basis of payment will be the CONSULTANT's rate schedule ("Rate Schedule") as set forth in Attachment B, incorporated herein by reference.

3 INVOICING AND PAYMENT

3.1 CONSULTANT shall submit its standard monthly invoice describing the Services performed and expenses incurred during the preceding month. CLIENT shall make payment of all undisputed portions of such invoice and provide written justification for the withholding of any disputed portions to CONSULTANT within thirty (30) calendar days from the date of CONSULTANT's monthly invoice.

3.2 Payment of all Compensation due CONSULTANT pursuant to this Agreement shall be a condition precedent to CLIENT's use or reliance upon any of CONSULTANT's professional services or work products furnished under this Agreement.

3.3 In the event payment for the Services has not been made within 60 calendar days from the date of the invoice, CONSULTANT may, after giving 7 calendar days written notice and without penalty or liability of any nature, and without waiving any claim against CLIENT, suspend all or any part of the Services. In order to defray carrying charges resulting from delayed payments, simple interest at the rate of 1.5% per month (18% per annum), not to exceed the maximum rate allowed by law, shall be added to the unpaid balance of

each invoice. The interest period shall commence 30 calendar days after the date of the invoice. Payments shall first be credited to interest and then to principal.

3.4 Electronic payment may be made to the following address:

BANK NAME: Wells Fargo Bank
BANK ADDRESS: 1000 Lakes Drive, Suite 250
West Covina, CA 91790
ACCOUNT #: 4945081503
ACCOUNT NAME: MWEHA A/R Collection
ABA#: 121000248
SWIFT #: WFBIUS6S
NON US# SWIFT CODE: WFBIUS6WFFX
ACH COORDINATOR:
Jeff Cuevas 626-564-6737
cuevas@wellsfargo.com

Please Send Remittance Details To:
Accounts.receivable.correspondence@mwhglobal.com

3.5 Mail / Lock Box

MWH Americas, Inc.
PO Box 842728
Los Angeles, CA 90084-2728
Attn: Accounts Receivable

Remittance via Overnight Delivery:

Wells Fargo Lockbox - E2001-049
MWH Americas - Box 842728
3440 Flair Drive
El Monte, CA 91731

4 PERIOD OF PERFORMANCE

4.1 This Agreement shall have an effective date as set forth above and shall remain in effect until _____ unless terminated earlier pursuant to this Agreement.

5 CLIENT'S RESPONSIBILITIES

5.1 CLIENT shall designate a person to act as CLIENT's representative with respect to this Agreement. Such person will have complete authority to transmit instructions, receive information and interpret and define CLIENT's policies and decisions.

5.2 CLIENT shall furnish to CONSULTANT all applicable information and technical data in CLIENT's possession or control that are reasonably required for the proper performance of the Services. CLIENT shall also disclose to CONSULTANT hazards at the Project site ("Site") which pose a significant threat to human health or the environment. CONSULTANT shall be entitled to reasonably rely upon the information and data provided by CLIENT or obtained from generally acceptable sources within the industry without independent verification except to the extent such verification is expressly included in the Services.

5.3 CLIENT shall examine all studies, reports, sketches, drawings, specifications, and other documents presented by CONSULTANT, seek legal advice, the advice of an insurance counselor, or other consultant(s), as CLIENT deems appropriate for such examination. If any document requires CLIENT to approve, comment, or to provide any decision or direction, such approval, comment, decision or direction shall be provided within a reasonable time within the context of the schedule for the Services ("Project Schedule").

5.4 CLIENT shall arrange for access to and make all provisions for CONSULTANT to enter upon public and private property as required for CONSULTANT to properly perform the Services.

5.5 CLIENT shall obtain, where applicable, the following:

5.5.1 All published advertisements for bids;

5.5.2 All permits and licenses that may be required of CLIENT by local, state, or federal authorities;

5.5.3 All necessary land, easements, and rights-of-way;

5.5.4 All items and services not specifically covered by the terms and conditions of this Agreement.

5.5.5 CLIENT shall pay for any costs associated with the above items.

5.6 If the Services involve a construction phase of the Project, CLIENT shall require all construction contractor covered by the CLIENT's contracts related to the Project, to defend, indemnify and hold CONSULTANT harmless to the same extent that the contractor is obligated to defend, indemnify and hold CLIENT harmless and also require the contractor to add CONSULTANT as an additional insured on the contractor's Commercial General Liability and Auto Liability insurance policies applicable to the Project. CLIENT shall also require the construction contractor to assume sole and complete responsibility for Project site health and safety during the course of construction, including but not limited to the safety of all persons and property related to the Project.

6 CONSULTANT'S RESPONSIBILITIES

6.1 CONSULTANT shall designate a project manager for the performance of the Services.

6.2 CONSULTANT shall perform the Services as an independent contractor and not as CLIENT's agent or employee. CONSULTANT shall be solely responsible for the compensation, benefits, contributions and taxes, if any, of its employees and agents.

6.3 The standard of care applicable to CONSULTANT's Services will be the degree of skill and diligence normally employed by professional consultants performing the same or similar services at the time and location said Services are performed. CONSULTANT will re-perform any Services not meeting this standard without additional compensation.

6.4 CONSULTANT may, during the course of its Services, prepare opinions of the probable cost of construction. CLIENT acknowledges, however, that CONSULTANT has no control over costs of labor, materials, competitive bidding environments and procedures, unknown field conditions, financial and/or market conditions or other factors affecting the cost of the construction and the operation of the facilities, all of which are beyond CONSULTANT's control and are unavoidably in a state of change. CLIENT therefore acknowledges that CONSULTANT cannot and does not make any warranty, promise, or representation, either express or implied, that proposals, bids, opinions of probable construction costs, or cost of operation or maintenance will not vary substantially from its probable cost estimates.

6.5 When CONSULTANT provides on-site monitoring personnel during construction as part of its Services, the on-site monitoring personnel will notify CLIENT of any observed defects in the Work, will otherwise make reasonable efforts to guard CLIENT against defects and deficiencies in the work of the contractor(s) and will help to determine if the provisions of the contract documents are being fulfilled. Providing on-site monitoring personnel will not, however, cause CONSULTANT to be responsible for those duties and responsibilities which belong to the construction contractor, and which include, but are not limited to, full responsibility for the means, methods, techniques, sequences and progress of construction, the health and safety precautions incidental thereto, and for performing the construction in accordance with the contract documents.

6.6 In addition to or in lieu of on-site personnel, CONSULTANT's off-site staff may periodically visit the Project site as part of its Services. Such periodic visits and any observations made by CONSULTANT during such periodic visits shall not make CONSULTANT responsible for, nor relieve the construction contractor of the sole responsibility for all construction means, methods, techniques, sequences, and progress of construction, and the health and safety precautions incidental thereto, and for performing the construction in accordance with the contract documents.

6.7 If the Services involve a construction phase of the Project, CLIENT shall require all construction contractor covered by the CLIENT's contracts related to the Project, to defend, indemnify and hold CONSULTANT harmless to the same extent that the contractor is obligated to defend, indemnify and hold CLIENT harmless and also require the contractor to add CONSULTANT as an additional insured on the contractor's Commercial General Liability and Auto Liability insurance policies applicable to the Project. CLIENT shall also require the construction contractor to assume sole and complete responsibility for Project site health and safety during the course of construction, including but not limited to the safety of all persons and property related to the Project.

7 CHANGE ORDERS

7.1 CLIENT or CONSULTANT may, from time to time, request modifications or changes in the Services. To the extent that the Services to be performed by CONSULTANT has been affected, CONSULTANT's Compensation and Project Schedule shall be equitably adjusted. All changes shall be set forth in a written Change Order in the form of Attachment C, incorporated herein by reference, and executed by both parties.

8 FORCE MAJEURE

8.1 Neither party shall be responsible for a delay in its performance under this Agreement, other than a delay in payment for Services already performed, if such delay is caused by extraordinary weather conditions or other natural catastrophes war, terrorism, riots, strikes, lockouts or other industrial disturbances, acts of any governmental agencies or other events beyond the reasonable control of the claiming party. CONSULTANT shall be entitled to an equitable adjustment to the Compensation and the Project Schedule as a result of any such delay.

9 CONFIDENTIALITY

9.1 CONSULTANT shall treat as confidential and proprietary all information and data delivered to it by CLIENT. Confidential information shall not be disclosed to any third party, other than CONSULTANT's subcontractors or subconsultants, during or subsequent to the term of this Agreement. Nothing contained herein shall preclude CONSULTANT from disclosing information or data: (i) in the public domain without breach of this Agreement; (ii) developed independently by CONSULTANT; or (iii) where disclosure or submission to any governmental authority is required by applicable statutes, ordinances, codes, regulations, consent decrees, orders, judgements, rules, and all other requirements of any and all governmental or judicial

entities that have jurisdiction over the Services ("Law"), but only after prior written notice has been given to CLIENT.

10 RIGHTS IN DATA

10.1 All right, title and interest in and to the work products provided by CONSULTANT to CLIENT shall be the property of CLIENT ("Work Product"). Methodologies, process know-how and other instruments of service used to prepare the Work Product shall remain the property of CONSULTANT. Any modification or reuse of the Work Product without written verification or adaptation by CONSULTANT for the specific purpose intended will be at CLIENT's sole risk and without liability or legal exposure to CONSULTANT or to CONSULTANT'S subcontractors and subconsultants.

11 INSURANCE

11.1 CONSULTANT will furnish to CLIENT copies of insurance certificates evidencing that it maintains the following coverages while performing Services, subject to the terms and conditions of the policies:

<u>TYPE</u>	<u>AMOUNT</u>
Workers Compensation	Statutory
Employers' Liability	\$1,000,000 policy limit
Commercial General Liability	\$1,000,000
Automobile Liability	\$1,000,000
Professional Liability	\$1,000,000

11.2 CONSULTANT will furnish CLIENT with certificates of insurance verifying the above referenced coverages and stating that the insurance carrier will provide CLIENT with thirty days prior written notice of insurance cancellation or reduction below the above listed requirements. CONSULTANT shall list CLIENT as an additional insured on the Commercial General Liability and the Automobile Liability insurance.

11.3 Waiver of Subrogation is required for Workers Compensation.

12 INDEMNITY

12.1 CONSULTANT agrees to indemnify CLIENT, its officers, directors and employees, from loss or damage for bodily injury or property damage, ("Claims"), to the extent caused by the negligence of CONSULTANT in the performance of the Services. This obligation to indemnify CLIENT shall not impose any obligation on CONSULTANT that exceeds the Limitation of Liability provisions set forth below.

12.2 IN NO EVENT SHALL CONSULTANT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING BUT NOT LIMITED TO LOST PROFITS OR INTERRUPTION OF BUSINESS) ARISING OUT OF OR RELATED TO THE SERVICES PROVIDED UNDER THIS AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

13 LIMITATION OF LIABILITY

13.1 IN RECOGNITION OF THE RELATIVE RISKS AND BENEFITS OF THE PROJECT TO BOTH THE CLIENT AND CONSULTANT, THE PARTIES AGREE, TO THE FULLEST EXTENT PERMITTED BY LAW, TO LIMIT THE AGGREGATE LIABILITY OF CONSULTANT, ITS PARENT, AFFILIATES AND SUBCONTRACTORS, AND THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS, TO \$50,000 OR THE COMPENSATION FOR THE SERVICES, WHICHEVER IS GREATER. THIS LIMITATION OF LIABILITY SHALL APPLY TO ALL SUITS,

CLAIMS, ACTIONS, LOSSES, COSTS (INCLUDING ATTORNEY FEES) AND DAMAGES OF ANY NATURE ARISING FROM OR RELATED TO THIS AGREEMENT AND WITHOUT REGARD TO THE LEGAL THEORY UNDER WHICH SUCH LIABILITY IS IMPOSED.

13.2 CONSULTANT MAY AGREE, AT CLIENT'S REQUEST, TO INCREASE THIS LIMITATION OF LIABILITY TO A GREATER SUM IN EXCHANGE FOR A NEGOTIATED INCREASE IN CONSULTANT'S FEE. ANY INCREASE IN THIS LIMITATION OF LIABILITY MUST BE IN WRITING AS A FORMAL AMENDMENT TO THIS AGREEMENT AND MUST BE SIGNED AND DATED BY AUTHORIZED REPRESENTATIVES OF EACH PARTY. ANY ADDITIONAL CHARGE FOR HIGHER LIABILITY IS CONSIDERATION FOR THE GREATER RISK ASSUMED BY CONSULTANT AND IS NOT A CHARGE FOR ADDITIONAL INSURANCE.

13.3 BY ENTERING INTO THIS AGREEMENT, THE PARTIES ACKNOWLEDGE THAT THIS LIMITATION OF LIABILITY CLAUSE HAS BEEN REVIEWED, UNDERSTOOD, IS A MATERIAL PART OF THIS AGREEMENT, AND EACH PARTY HAS HAD THE OPPORTUNITY TO SEEK LEGAL ADVICE REGARDING THIS PROVISION.

14 PREEXISTING CONDITIONS

14.1 CLIENT hereby understands and agrees that CONSULTANT has not created nor contributed to the creation or existence of any hazardous or toxic substances, wastes or materials ("Hazardous Substances") at or related to the Project site or in connection with or related to this Agreement. The compensation to be paid CONSULTANT for the Services is in no way commensurate with, and has not been calculated with reference to, the potential risk of injury or loss which may be caused by the exposure of persons or property to such Hazardous Substances. Therefore, to the fullest extent permitted by law, CLIENT agrees to defend, indemnify, and hold CONSULTANT, its officers, directors, employees, and consultants, harmless from and against any and all claims, damages, and expenses, whether direct, indirect, or consequential, including but not limited to attorney's fees and court costs, arising out of, or resulting from the threatened or actual release of Hazardous Substances ("Release"), except to the extent that such Release is caused by the negligence of CONSULTANT. Nothing contained within this Agreement shall be construed or interpreted as requiring CONSULTANT to assume the status of a generator, arranger, transporter or as a storage, treatment or disposal facility as those terms appear within applicable Law.

15 SUSPENSION

15.1 CLIENT may, at any time and without cause, suspend the Services of CONSULTANT, or any portion thereof for a period of not more than 90 days by notice in writing to CONSULTANT. CONSULTANT shall resume the Services on receipt from CLIENT of a written notice of resumption of the Services. If such suspension causes an increase in CONSULTANT's cost or a delay in the performance of the Services, then an equitable adjustment shall be made to the Compensation and Project Schedule, as appropriate. In the event that the period of suspension exceeds 90 days, the contract time and compensation are subject to renegotiation.

16 TERMINATION

16.1 CLIENT may terminate all or part of this Agreement for CLIENT's convenience by providing 10 days written notice to CONSULTANT. In such event, CONSULTANT will be entitled to Compensation for the Services performed up to the effective date of termination plus compensation for reasonable termination expenses. CONSULTANT will not be entitled to compensation for profit on Services not performed.

17 DISPUTES RESOLUTION - ARBITRATION

17.1 Any dispute arising between the parties concerning this Agreement or the rights and duties of either party in relation thereto shall first be submitted to a panel consisting of at least one representative of each party who shall have the authority to enter into an agreement to resolve the dispute. The disputes panel shall be conducted in good faith, either physically or electronically, within two weeks of a request by either party. No written, verbal or electronic representation made by either party during the course of any panel proceeding or other settlement negotiations shall be deemed to be a party admission.

17.2 If the panel fails to convene within two weeks, or if the panel is unable to reach resolution of the dispute, then either party may submit the dispute for binding arbitration to be held in accordance with the Construction Industry Rules of the American Arbitration Association ("Association") in effect at the time that the demand for arbitration is filed with the Association. Either party may file in the manner provided by the Rules of the Association, a Demand for Arbitration at any time. The arbitrator or arbitrators appointed by the Association shall have the power to award to either party to the dispute such sums, costs, expenses, and attorney's fees as the arbitrator or arbitrators may deem proper.

18 NOTICE

18.1 Any notice or communication required or permitted by this Agreement shall be deemed sufficiently given if in writing and when delivered personally or 48 hours after deposit with a receipted commercial courier service or the U.S. Postal Service as registered or certified mail, postage prepaid, and addressed as follows:

CLIENT

City of Warren, Ohio
580 Laird Avenue, S.E.
Warren, Ohio 44483-4634

Attn: Mr. Franco Lucarelli

CONSULTANT

MWH Americas, Inc.
1300 E. Ninth Street
Suite 1100
Cleveland, Ohio 44114

Attn: Mr. Robert Pintabona

or to such other address as the party to whom notice is to be given has furnished to the other party(ies) in the manner provided above.

19 SURVIVAL OF CONTRACT TERMINATION

19.1 The Articles relating to Indemnification, Limitation of Liability, Preexisting Conditions, Data Rights, Confidentiality, Governing Law and Venue shall survive completion of the Services, payment in full of the Compensation and termination of this Agreement.

20 MISCELLANEOUS

20.1 Governing Law. The validity, construction and performance of this Agreement and all disputes between the parties arising out of this Agreement or as to any matters related to but not covered by this Agreement shall be governed by the laws, without regard to the laws as to choice or conflict of laws, of the State where the Project is located.

20.2 Assignment. Neither this Agreement nor any rights under this Agreement may be assigned by any party, other than to a party's affiliate, parent or subsidiary, without the prior written consent of the other party(ies).

20.3 Binding Effect. The provisions of this Agreement shall bind and inure to the benefit of the parties and their respective successors and permitted assigns.

20.4 Parties in Interest. Nothing in this Agreement, expressed or implied, is intended to confer on any person or entity other than the parties any right or remedy under or by reason of this Agreement.

20.5 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute a single agreement.

20.6 Amendment and Waiver. This Agreement may be amended, modified or supplemented only by a writing executed by each of the parties. Any party may in writing waive any provisions of this Agreement to the extent such provision is for the benefit of the waiving party. No action taken pursuant to this Agreement shall be deemed to constitute a waiver of any other party's compliance with provisions of this Agreement. No waiver by any party of a breach of any provision of this Agreement shall be construed as a waiver of any subsequent or different breach, and no forbearance by a party to seek a remedy for noncompliance or breach by another party shall be construed as a waiver of any right or remedy with respect to such noncompliance or breach.

20.7 Venue, Jurisdiction and Process. The parties agree that any arbitration proceeding arising out of this Agreement or for the interpretation, performance or breach of this Agreement, shall be instituted in the County where the Project is located, and each party irrevocably submits to the jurisdiction of such proceeding and waives any and all objections to jurisdiction or venue that it may have under the laws of that state or otherwise in such proceeding.

20.8 Severability. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions, and this Agreement shall be construed in all respects as if any invalid or unenforceable provision were omitted.

20.9 Preparation of Agreement. All provisions of this Agreement have been subject to full and careful review by and negotiation between CONSULTANT and CLIENT. Each such party has availed itself of such legal advice and counsel as it, respectively, has deemed appropriate. The parties hereto agree that neither one of them shall be deemed to be the drafter or author of this Agreement, and in the event this Agreement is subject to interpretation or construction by a court of law or panel of arbitration, such court or panel shall not construe this Agreement or any portion hereof against either party as the drafter of this Agreement.

20.10 Entire Agreement. This Agreement embodies the entire agreement and understanding between the parties pertaining to the subject matter of this Agreement, and supersedes all prior agreements, understandings, negotiations, representations and discussions, whether verbal or written, of the parties pertaining to that subject matter.

CLIENT

CONSULTANT

Signature

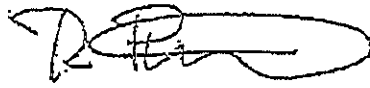
William D. Franklin

Name

Title: Mayor

Date

Signature



Robert Pintabona

Name

Title: Vice President

02/18/16

Date

By:

Enzo Cantalamessa

Title: Director of Public Service & Safety

Dated:

By:

Anthony Natali

Title: City Auditor

Dated:

I hereby certify that the money for the City of Warren's share is in the Treasury to the credit of the proper fund and not appropriated for any other purpose.

Approved as to Legal Form and Correctness:

By:

Gregory V. Hicks

Title: Law Director

Dated:

Attachment A

SCOPE OF SERVICES

1. PROJECT DESCRIPTION

The Services to be performed by CONSULTANT shall be as follows:

In 2004, the City of Warren performed a hydraulic study of the water distribution system. Since that time:

1. changes to population, and more importantly to industrial/commercial water demands, warrant an update of the water distribution model to more accurately reflect current conditions; and
2. a newer, more useful version of the software is available.

Addressing both of these developments positions the City to:

- plan for future growth of the distribution system (specifically related to the Lordstown Energy Center),
- develop an optimized flushing program, and
- prepare for future geographical information system (GIS) developments.

This proposal describes the professional engineering services to be provided by MWH to the City in six separate tasks:

1. Procure for the City the more recent version of the distribution system modeling software and provide training for City staff.
2. Update the City's newer version of the existing distribution system model to current conditions to account for modifications in the distribution system. Services includes demand reallocation and model verification to actual field conditions obtained from SCADA information.
3. Develop and run model scenarios to optimize operation of the Tod Ave. pump station in order to maximize available flow to the proposed Lordstown Energy Center.
4. Provide distribution system modeling analysis on an as-needed basis for up to one year from submission of the final report.
5. Provide engineering services for the design of approximately 1,200 feet of water main crossing State Route 45 and along Henn Parkway to provide service for the Lordstown Energy Center.
6. Provide construction administration services for the proposed 1,200 feet of water main.

Task 1 - Software Procurement and Training

Procurement: The City currently has two single-seat H2OMAP[®] licenses that will be upgraded to two single-seat InfoWater licenses. MWH will install the software on two of the City's computers.

Training: MWH will provide a customized, 1-day training workshop (8 hours) to City staff in the use of the hydraulic model for hydraulic analysis, operational analysis and database management. The workshop will include an agenda and will utilize manuals provided with the software.

Task 2 - Hydraulic Model Updates and Verification

MWH will work with City staff to update the existing distribution system model; including changes to system infrastructure, demand and operations. The model updates and results of the verification will be summarized in a technical memorandum.

Task 2.1 - Hydraulic Model Updates

Water production and consumption records, general or specific plans denoting updates to the distribution system and information available in other pertinent reports and/or studies will be collected. Operational data, such as criteria for pump control (turning on and off), maximum and minimum water levels in storage tanks, etc., will also be collected and updated in the model.

It is understood that the updates performed will include changes to pipelines (6-inches in diameter and larger), pumps, storage tanks, control valves, connections with other water purveyors and demand allocations. MWH will work with City staff and contact the ten largest water users to verify diurnal patterns due to shift changes, manufacturing processes, etc.

MWH will work with the City to identify and correct deficiencies of the existing model and incorporate new water facilities constructed since the current model was developed. MWH will evaluate the basis for demand allocation of the existing model. MWH will determine if the current allocation is reasonable for verification and, if not, recommend reallocation of demands.

MWH will verify diurnal demand curves used in the model and make appropriate revisions to the diurnal curve. MWH will also assess the accuracy of control valve, pump and tank operational settings in the current model.

MWH will use the Demand Allocator module provided as part to the InfoWater software to reallocate water demands to the appropriate nodes if deemed necessary.

Task 2.2 Model Verification

Following review and model updating, MWH will verify the updated hydraulic model to current conditions based on a predetermined test period. Initial model verification will be based on information obtained from the City's SCADA system. This information will provide tank water levels, pump/well on/off status, and total system water use data. City personnel will record and provide 15-minute data for pump station flows and heads, and for tank water levels from the City's existing SCADA system.

Note: Adjustment of the model to match SCADA data does not include static fire hydrant flow tests.

The water system verification will be performed, and SCADA data will be gathered for a 7-day period to ensure that at least an entire week of operations is reflected in the model. This 7-day period will be analysed to select an appropriate "calibration day" to be used as the baseline for model verification. Information to be gathered, on a 15-min basis, includes pump flows and discharge pressures, tank water levels, and changes to pump and control valve operations. The model will be adjusted to fit the calibration day with an accuracy of approximately ten percent or as appropriate in MWH's opinion.

Results of the model updates and verification will be summarized in a technical memorandum to the City. This memorandum will describe the methodology used in collecting data and summarize results from the system verification. The updated model will be delivered to the City of Warren in InfoWater v11.5 format.

Task 3 – Tod Ave Pump Station Scenario Development and Analysis

MWH will analyze the current Tod Ave pump station operation and develop up to four (4) scenarios to maximize flow that can be offered reliably to the proposed Lordstown Energy Center. Development of these scenarios will include but are not limited to pump replacement, operational updates, isolated piping modifications, etc. Each scenario will be run for average and maximum day water demands. Results will be summarized in a technical memorandum to the City.

Task 4 – Distribution Modeling Services

The following services can be provided by MWH, based on mutual agreement with the City on the scope of services required. An annual lump sum amount will be allocated for water distribution system modeling services including additional model updates, scenario development to simulate potential demand additions and/or subtractions. Providing these services would be valid up to one year from notice-to-proceed. Should fees associated with the scope of work requested exceed available funds, the contract amount for this task will need to be adjusted.

Task 5 – Henn Parkway Water Main Engineering and Design Services

MWH will produce engineering drawings and specifications for the design of approximately 1,200 lineal feet of water main connecting the existing 16" water main at the intersection of Tod Ave and Henn Parkway with the proposed site of the Lordstown Energy Center. The actual size of the water main will be determined based on the results of Task 2. This task will also include design of a section of trenchless water main in order facilitate crossing of State Route 45 and design of a precast metering/valve vault. In addition, the following items will be performed by MWH as part of this task:

- a) Prepare a Basis-of-Design technical memorandum for the water main.
- b) Produce up to 20 drawings and technical specifications. Specifications will be provided in the 2012 CSI format
- c) Perform QA/QC of the produced work
- d) Provide an AACE Class 3 Opinion of Probable Construction Cost (OPCC) of the project
- e) Submit five (5) sets of half-size drawings, five (5) copies of technical specifications, and one electronic copy of the drawings and specifications. All CAD during design will be performed in AutoCAD Civil 3D. The final electronic deliverable will be in AutoCAD and PDF formats.
- f) Preparing a Permit to Install application for submittal to the Northeast District of Ohio EPA.

MWH will hire and coordinate the services of a geotechnical subconsultant to perform field subsurface investigations for up to three (3) borings to a depth of 20 feet each. Water observation during drilling and water levels in the borings at the completion of drilling will be recorded. In the laboratory, the geotechnical subconsultant will visually classify all soil samples in accordance with the Unified Soil Classification System (USCS). Formal boring logs will be prepared based on the field logs and the laboratory classifications. A laboratory-testing program will consist of general index tests from selected representative samples. The results will be documented in a subsurface investigation report.

MWH will also hire and coordinate the services of a surveying subconsultant to perform field survey and mapping for approximately 4 acres of topographic data including capture of any surface feature and utilities (above and below grade) along the proposed alignment.

Task 6 – Bidding and Construction Administration (Assume Construction Period of 90 Days)

MWH will perform construction-administration services based on the following scope of services:

- a) Prepare bid documents, addenda, bid evaluation and attend pre-bid meeting.
- b) Provide technical guidance as needed to interpret the contract plans and documents, and to resolve changes brought about by actual field conditions encountered.

- c) Maintain Requests for Information (RFI) log, and respond to up to 20 RFIs.
- d) Prepare original quality AutoCAD record drawings electronic format, based on markups provided by the contractor.
- e) Provide shop drawing submittal logging, review and distribution services. Receive and log all submittals, maintain computer-based tracking system to assure timely reviews, review all drawings for compliance with contract requirements, distribute shop drawings to all parties with appropriate course of action identified, and maintain shop drawing file. Review by MWH does not extend to matters of means and methods, manufacturer's special expertise, and/or safety issues, these are the responsibility of the general contractor and/or equipment supplier/manufacturer.
- f) Review and process Contractor's Progress Payment Applications after receiving affirmation of quantities reported complete from the City's field representative.
- g) Provide on-site Resident Project Representative services during critical construction activity for up to six full working days.

Owner's Responsibilities

- a) Provide SCADA information for tank water levels, pump/well on/off status, and total system water use data in 15-minute intervals for a week duration.
- b) Provide City standard front end documents
- c) Provide daily field inspection services including photographs and daily reports to be shared with the Consultant.

3. PROJECT SCHEDULE

1. The estimated completion dates for this project:

Task 1 - Software Procurement and Training = 30 days after Notice to Proceed

Task 2 - Hydraulic Model Updates and Verification = 60 days after Notice to Proceed

Task 3 - Tod Ave Pump Station Scenario Development and Analysis = 75 days after Notice to Proceed

Task 4 - Distribution Modeling Services = as needed for up to 12 months from submittal of final report

Task 5 - Henn Parkway Water Main Engineering and Design Services = 120 days after Notice to Proceed

Task 6 - Construction Administration = 15 months from Notice to Proceed

Attachment B

RATE SCHEDULE (FOR CHANGES)

- 1. The rates provided below shall be in effect from _____ to _____.
- 2. Changes to the Services provided by CONSULTANT personnel in various labor categories will be billed at the following negotiated hourly rates (inclusive of salary, overhead, and fee):

Labor Category	Hourly Rate
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Materials will be billed at cost plus 15%.

Attachment C
CHANGE ORDER

Contract No. _____
Change Order No. _____
Effective Date _____

In accordance with Article 7 of the Consulting Services Agreement (Lump Sum) dated _____, 20__ ("Agreement") between _____ ("CLIENT") and MWH AMERICAS, INC. ("CONSULTANT"), this Change Order modifies the Agreement as follows:

1. Change in Services:

2. Change in time of Performance (attach schedule if appropriate):

3. Change in CONSULTANT's Compensation:

All other terms and conditions remain unchanged.

CLIENT

CONSULTANT

Signature

Signature

Name (Printed or Typed)

Name (Printed or Typed)

Date

Date