

**City Council Agenda Items
and
Contracts, Leases or Agreements**

05-Feb-13

City Council Meeting Date
Agenda Items Only

David Jurgens
Submitted By

Wastewater Treatment
Division

Utilities
Department

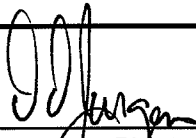
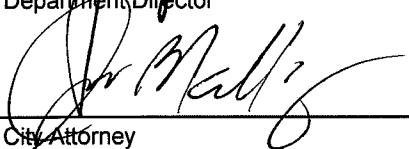
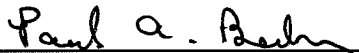
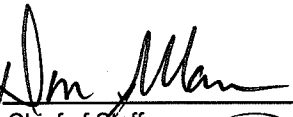


Action Required:

Approval of a revision to the Out of Scope Agreement with CH2M Hill Engineers, Inc. for \$154,550 to continue work on the Use Attainability Analysis (UAA) for the White River, maintaining the existing approved \$50,000 contingency, and approve a budget adjustment.

\$204,550.00	\$ 67,400.00	Wastewater Treatment
Cost of this request	Category / Project Budget	Program Category / Project Name
5400.5700.5315.00	\$ -	Wastewater Treatment
Account Number	Funds Used to Date	Program / Project Category Name
11014-1101	\$ 67,400.00	Water/Sewer
Project Number	Remaining Balance	Fund Name

Budgeted Item

Budget Adjustment Attached

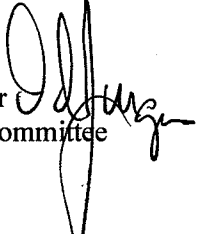
 Department Director	10 JAN 13 Date	Previous Ordinance or Resolution #	48-11
 City Attorney	1-14-13 Date	Original Contract Date:	3/15/2011
 Finance and Internal Services Director	1-15-2013 Date	Original Contract Number:	2113
 Chief of Staff	1-15-13 Date	<div data-bbox="893 1438 1477 1575" style="border: 1px solid black; padding: 5px;"> Received in City Clerk's Office 1-14-13 P01:43 RCVD  </div>	
 Mayor	1/15/13 Date		

Comments:

www.accessfayetteville.org

To: Fayetteville City Council

Thru: Mayor Lioneld Jordan
Don Marr, Chief of Staff

From: David Jurgens, Utilities Director
Fayetteville Water and Sewer Committee 

Date: January 7, 2013

Subject: Out of Scope Agreement Revision, CH2M Hill Engineers, White River Use Attainability Analysis

RECOMMENDATION

Staff recommends approving a revision to the Out of Scope Agreement with CH2M Hill Engineers, Inc. for \$154,550 to continue work on the Use Attainability Analysis (UAA) for the White River, maintaining the existing approved \$50,000 contingency, and approve a budget adjustment.

BACKGROUND

ADEQ informed the City that the Noland WWTF National Pollutant Discharge Elimination System (NPDES) permit, currently nearing final publication by ADEQ and was scheduled for issuance in May 2011, will contain limits on total dissolved solids (TDS), and minerals, specifically chloride (Cl⁻), and sulfate (SO₄⁻). The segment of the White River where the Noland plant discharges is on the 303(d) impaired streams list for turbidity (sediment), TDS, Cl⁻, and SO₄⁻. Concentrations measured in the White River exceeded the current site specific water quality standards (WQS) of: Cl⁻ -20 mg/l; SO₄⁻ -20 mg/l; and TDS -160mg/l.

The City began the least cost and most common solution, as recommended by ADEQ and successfully completed by several other Arkansas entities, to make a third party petition to the Arkansas Pollution Control and Ecology Commission (APCEC) requesting an amendment to Regulation 2 modifying the site specific water quality standards. In March 2011 we executed a \$265,000 out of scope agreement with CH2M Hill Engineers for the project, supported by FTN Associates. We also executed related contracts with Mitchell-Williams law firm for \$48,000 and \$19,600 with the United States Geological Survey as team members in this work. The combined consultant-staff team has developed the Use Attainability Analysis (UAA), which evaluates aspects of the river with respect to the designated uses of the stream. The White River has designated uses of aquatic life and drinking water. The latter has the water quality standards of Cl⁻ - 250 mg/l; SO₄⁻ - 250 mg/l; and TDS - 500mg/l. The draft report was submitted to ADEQ in August 2012. We are now working with ADEQ to answer questions, develop the final report, and submit our petition to the APCEC. Once the APCEC makes a determination, it is submitted to the USEPA Region 6 for final approval. The remaining process could take 18 months.

DISCUSSION

This amendment covers work estimated to be required to carry this process through EPA Region 6 approval, completing the third party rulemaking process. Due to circumstances beyond the control of the City and the consultant team, the project has taken longer and required more work than expected. While the science is relatively definable, the regulatory questions and actions required to meet evolving requirements are less easy to define. ADEQ requested additional field activities beyond the work that had been performed in similar studies. Also, the project was delayed eight months due to extreme flooding in April and May 2011, which was when we were to conduct spring season White River water quality sampling. This amendment includes:

- researching and responding to numerous technical questions from ADEQ and/or EPA
- researching and responding to technical and non-technical questions from the APCEC and public comments
- attending numerous public and technical calls or meetings with stakeholders, ADEQ, EPA, and APCEC

BUDGET IMPACT

\$67,400 is available in this project; the remaining \$137,150 is proposed to be moved from Wastewater Treatment/Water Quality Improvements project 13018, established to provide additional funding for this and other related projects.

RESOLUTION NO. _____

A RESOLUTION APPROVING A REVISION TO AN OUT-OF-SCOPE AGREEMENT WITH CH2M HILL ENGINEERS, INC. IN THE AMOUNT OF \$154,550.00 TO CONTINUE WORK ON A USE ATTAINABILITY ANALYSIS (UAA) FOR THE WHITE RIVER, MAINTAINING THE EXISTING \$50,000.00 CONTINGENCY, AND APPROVING A BUDGET ADJUSTMENT

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves an out-of-scope agreement with CH2M Hill Engineers, Inc. in the amount of \$154,550.00 to continue work on a use attainability analysis (UAA) for the White River and maintains the existing \$50,000.00 contingency.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached as Exhibit "A".

PASSED and APPROVED this 5th day of February, 2013.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer



January 4, 2013

Mr. David Jurgens
City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701

Subject: Out of Scope Letter Agreement Revisions

Dear David:

Previously, we agreed to have CH2M HILL Engineers, Inc. (CH2M HILL) provide certain Out of Scope services in a letter dated March 4, 2011 and as per the Operations, Maintenance and Management Agreement dated December 15, 2009, executed between the Parties. Under that Out of Scope Letter dated March 4, 2011, the parties needed to agree in writing when CH2M HILL had revisions to the approved ADEQ work plan or to the price.

CH2M HILL respectfully requests a change order in the amount of \$154,550 for the completion of the Use Attainability Analysis (UAA) on the White River segment that the City of Fayetteville's Paul R. Noland Wastewater Treatment Plant (WWTP) discharges into. The UAA addresses the current Arkansas site-specific criteria for minerals (chloride, sulfate, and total dissolved solids).

The field studies and data collection outlined in the agency approved UAA Study Plan, dated May 2011, have been completed. The UAA draft report was submitted to the Arkansas Department of Environmental Quality (ADEQ) on August 27, 2012. The City received written comments from ADEQ on October 22, 2012. The City provided ADEQ an initial response to comments on November 21, 2012; however, additional work is required to complete the UAA process as outlined below.

Final report review and preparation of the response to the October 22, 2012 comments submitted by ADEQ is anticipated to require additional work estimated to cost \$62,550 (see Task 1 below). Work associated with the third-party rulemaking process was not included in the original UAA scope of work or cost estimate, but it has been included below under Tasks 2 and 3. The level of effort anticipated to provide technical support during the third-party rulemaking process is estimated to be \$92,000 (see Tasks 2 and 3 below).

Task 1: Address ADEQ comments on the UAA and revise the report for ADEQ approval.

Estimate to complete task: \$62,550

Key assumptions and caveats:

- Assumes currently anticipated review of report will be adequate to support future activities
- Assumes up to three (3) one-hour internal team conference calls pertaining to technical issues.
- Assumes up to three (3) one-hour internal team conference calls pertaining to regulatory/policy strategy issues.
- Assumes up to two (2) one-hour conference calls with ADEQ pertaining to technical issues.
- Assumes up to two (2) meetings with ADEQ pertaining to regulatory/policy strategy issues.
- Assumes the extent of ADEQ comments to be addressed under this task will be limited to those dated October 22, 2012.
- Assumes no additional field sampling or data collection will be required.
- Assumes technical analyses pertaining to nutrient enrichment will not be required.
- Clearance to proceed with the third-party rulemaking petition requires approval of the UAA by ADEQ, which is anticipated but cannot be guaranteed.

Task 2: Address potential EPA and stakeholder comments prior to initiation of the third-party rulemaking process.

Estimate to complete task: \$32,000

Key assumptions and caveats:

- Significant comments from EPA are not anticipated until their formal, 90-day review period begins after final approval of the proposed rulemaking by APCEC (see Task 3).
- The cost estimate for Task 2 does not include addressing EPA comments that may originate during their formal, 90-day review period; those comments will be addressed under Task 3.
- Assumes no additional analyses or significant report amendments will be required to address the findings of the USGS report pertaining to the Beaver Lake water quality model when it is published by the USGS.
- Assumes up to two (2) one-hour internal team conference calls for planning and coordination.
- Assumes up to two (2) conference calls with EPA, of which one (1) will be a teleconference from the ADEQ headquarters building.
- Assumes up to two (2) conference calls and one (1) meeting with stakeholders.
- Assumes up to two (2) conference calls with ADEQ to maintain coordination with the lead agency.

- Assumes limited revisions to the report may be required under this task, but no reproduction of report hardcopies.

Task 3: Initiate and complete the third-party rulemaking process.

Estimate to complete task: \$60,000

Key assumptions and caveats:

- Assumes up to two (2) one-hour internal team conference calls for planning and coordination.
- Assumes participation of two (2) technical staff in five (5) meetings: the initial APCEC meeting (initiation of rulemaking); one public hearing; two legislative committee hearings; and the final APCEC meeting.
- Assumes up to two (2) conference calls with stakeholders.
- Assumes up to two (2) conference calls with EPA, of which one (1) will be teleconference from the ADEQ headquarters building.
- Assumes up to two (2) conference calls with ADEQ to maintain coordination with the lead agency.
- Assumes all written technical clarification will be transmitted via technical memorandums and no revisions or reproduction of the UAA report (as developed under Tasks 1 and 2) will be required.

When it is being provided:

Services are expected to be initiated in January 2013 by first meeting with ADEQ to discuss the comments they provided on October 22, 2012. It is possible that such a meeting could occur in December 2012, but it is not anticipated given the approaching holidays. The initial goal is to obtain ADEQ approval of the minerals UAA with clearance to proceed with the Third-Party Rulemaking. If approval were granted in March 2013, it is estimated that the rulemaking process would be complete during the first quarter of 2014. Refer to Attachment 1 for an outline of the estimated schedule for Third-Party Rulemaking.

Price of services:

To be billed at CH2M HILL's actual cost plus 18% as per Section 3.2 and Appendix C.1.25 of our Agreement upon completion of the services. Documentation of actual costs shall be provided with invoices.

Increased Estimate of costs:

Estimated at approximately \$154,550*

Payment terms: Due upon receipt of CH2M HILL's invoice and payable within thirty (30) calendar days as per Section 5.2 of our Agreement.

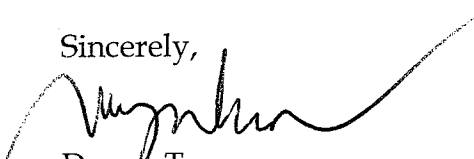
*Note that the City will be alerted immediately if ADEQ requires work beyond the scope outlined above or other circumstances cause the estimated costs of the project to exceed this number. No work will be performed above this price until such work is approved in writing by the City.

All other terms and conditions of the Agreement dated December 15, 2009, as amended November 16, 2010, and November 15, 2011, between CH2M HILL and The City of Fayetteville remain in full force and effect.

If these terms are agreeable to you, please sign both copies of this letter. We will return one fully executed original for your files.

CH2M HILL appreciates the opportunity to provide these additional services to the City of Fayetteville.

Sincerely,




Duyen Tran
Project Manager

Both parties indicate their approval of the above-described services by their signature below.

Authorized CH2M HILL:

Authorized City of Fayetteville, Arkansas


Name: Natalie E. Eldredge
Title: Senior Designated Manager
Date: 1/7/13

Name: Lioneld Jordan
Title: Mayor
Date: _____

1-7-2013
Omb