

City Council Agenda Items  
and  
Contracts, Leases or Agreements

20-Aug-13

City Council Meeting Date  
Agenda Items Only

David Jurgens  
Submitted By

Wastewater Treatment  
Division

Utilities  
Department

Action Required:

Approval of contract amendment 1 with Mitchell, Williams, Selig, Gates & Woodyard, PLLC (Mitchell Williams), for \$15,000, for legal actions relating to the White River Water Quality Standards Petition to the Arkansas Pollution Control and Ecology Commission.

\$ 15,000

Cost of this request

5400.5700.5314.00

Account Number

11014.1102

Project Number

\$ 253,469

Category / Project Budget

\$ 203,469

Funds Used to Date

\$ 50,000

Remaining Balance

White Rvr NPDES UAA & APCEC

Program Category / Project Name

Wastewater Treatment

Program / Project Category Name

Water/Sewer

Fund Name

Budgeted Item

Budget Adjustment Attached

*[Signature]*  
Department Director

26 July 13  
Date

Previous Ordinance or Resolution # 53-11

*[Signature]*  
City Attorney

7-29-13  
Date

Original Contract Date: 4/5/2011

Original Contract Number: 2182

*Paul a. Boehm*  
Finance and Internal Services Director

7-29-2013  
Date

Received in City Clerk's Office 07-29-13 P12:28 RCVD  
*[Signature]*

*[Signature]*  
Chief of Staff

7-30-13  
Date

Received in Mayor's Office

*[Signature]*  
Mayor

7/30/13  
Date

ENTERED  
7/29/13  
*[Signature]*

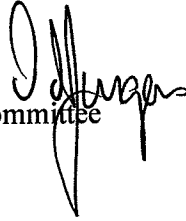
Comments:

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: July 26, 2013

Subject: Contract Amendment with Environmental Attorney Contract, Mitchell, Williams, Selig, Gates & Woodyard, PLLC, for an additional \$15,000, for White River Water Quality Standards Petition

## RECOMMENDATION

City Administration recommends approving Contract Amendment 1 with Mitchell, Williams, Selig, Gates & Woodyard, PLLC (Mitchell Williams), increasing the compensation by up to \$15,000, for legal actions relating to the White River Water Quality Standards Petition to the APCEC.

## BACKGROUND

The Noland WWTF National Pollutant Discharge Elimination System (NPDES) permit contains limits on total dissolved solids (TDS), and minerals, specifically chloride (Cl<sup>-</sup>), and sulfate (SO<sub>4</sub><sup>-</sup>). In that permit, we are required to complete a Petition to the APCEC to change the local stream standards. If we do not, or if the APCEC does not approve our request, we will be required to complete a very expensive modification to our wastewater treatment plant in order to comply with the very strict limits of Cl<sup>-</sup> -20 mg/l; SO<sub>4</sub><sup>-</sup> -20 mg/l; and TDS -160mg/l. The estimated capital cost for this modification is approximately \$45 million. The City's team consisted of CH2M Hill with FTN as a subcontractor, the USGS, and Mitchell, Williams law firm.

The City began the process to submit the Petition by performing a Use Attainability Analysis (UAA), a physical study of the river. The in-stream work and preliminary draft of the report were completed in 2012. ADEQ and the City's team have been working through the report in an effort to address all anticipated questions. In 2013, the Arkansas Assembly passed Act 954, which directly impacts minerals water quality standards. After discussions with our team and ADEQ staff, all parties agreed that our UAA needed to be reevaluated and expanded to ensure compliance with Act 954. This requires a great deal of evaluation and coordination with ADEQ staff to determine exactly how to meet both the letter and intent of the new law.

## DISCUSSION

This contract amendment adds those actions required to comply with Act 954, and any additional actions required to prepare and present the third party petition to the APCEC, provide advice and guidance on what actions the City and its consultants need to take to successfully receive APCEC approval, assist in obtaining relevant USEPA approvals, and represent the City's interests in any related appeals. The original contract and this amendment are for actual costs incurred, changed from a not-to-exceed amount of \$48,000 to a not-to-exceed amount of \$63,000.

## BUDGET IMPACT

Funds are available within the project budget.

**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION APPROVING AMENDMENT NO. 1 TO THE CONTRACT WITH MITCHELL, WILLIAMS, SELIG, GATES & WOODYARD, PLLC IN THE AMOUNT OF \$15,000.00 FOR ADDITIONAL LEGAL SERVICES RELATED TO THE WHITE RIVER WATER QUALITY STANDARDS PETITION TO THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

**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 Amendment No. 1 to the contract with Mitchell, Williams, Selig, Gates & Woodyard, PLLC in the amount of \$15,000.00 for additional legal services related to the White River water quality standards petition to the Arkansas Pollution Control and Ecology Commission.

**PASSED and APPROVED** this 20<sup>th</sup> day of August, 2013.

APPROVED:

ATTEST:

By: \_\_\_\_\_  
**LIONELD JORDAN**, Mayor

By: \_\_\_\_\_  
**SONDRA E. SMITH**, City Clerk/Treasurer

# AMENDMENT TO AGREEMENT FOR ENVIRONMENTAL LEGAL SERVICES

## CONTRACT AMENDMENT NO. 1

This Contract Amendment No. 1 dated \_\_\_\_\_, 2013 shall amend the original contract between the City of Fayetteville, Arkansas, and Mitchell, Williams, Selig, Gates & Woodyard, PLLC., dated April 5, 2011, referred to in the following paragraphs as the original contract.

This Contract Amendment No. 1:

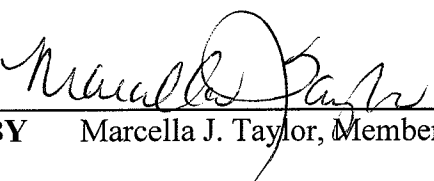
1. Services to be Performed: Adds: Continued actions as required in the preparation and presentation of a third party petition to be presented to the Arkansas Pollution Control and Ecology Commission (APCEC) to modify site specific water quality criteria, to provide advice and guidance on what actions the City and its consultants need to take to successfully accomplish the task of receiving APCEC approval to the petition, and to assist in obtaining relevant approvals from USEPA. This includes all work required to make the City's Use Attainability Analysis and APCEC petition compliant with Act 954 of 2013.

8. Compensation: Replaces not exceed compensation amount of \$48,000 with not to exceed compensation amount of \$63,000.

WITNESS OUR HANDS THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2013.

**MITCHELL, WILLIAMS, SELIG,  
GATES & WOODYARD, PLLC**

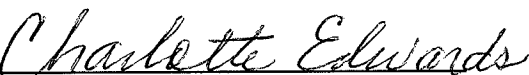
**CITY OF FAYETTEVILLE,  
FAYETTEVILLE, ARKANSAS**

  
BY Marcella J. Taylor, Member

\_\_\_\_\_  
**LIONELD JORDAN**, Mayor

Attest:

Attest:

  
Charlotte Edwards

\_\_\_\_\_  
Sondra Smith, City Clerk

Mitchell, Williams, Selig, Gates & Woodyard, PLLC  
425 West Capitol Avenue, Suite 1800  
Little Rock, AR 72201

City of Fayetteville  
113 West Mountain Street  
Fayetteville, AR 72701