

City of Fayetteville Staff Review Form

2017-0133

Legistar File ID

3/21/2017

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Tim Nyander

2/27/2017

Wastewater Treatment Plant /
Utilities Department

Submitted By

Submitted Date

Division / Department

Action Recommendation:

A RESOLUTION TO APPROVE A CHANGE ORDER TO AN OUT-OF-SCOPE AGREEMENT WITH CH2M HILL ENGINEERS, INC. IN THE AMOUNT OF \$50,000.00 PLUS A 20% CONTINGENCY FOR A TOTAL OF \$60,000.00 TO CONTINUE WORK ON A USE ATTAINABILITY ANALYSIS (UAA) FOR THE WHITE RIVER, AND TO APPROVE A BUDGET ADJUSTMENT

Budget Impact:

5400.720.5700-5315.00

Water & Sewer

Account Number

Fund

11014.1101

White River NPDES UAA and APCEC Action

Project Number

Project Title

Budgeted Item? Yes

Current Budget \$ 75,584.35

Funds Obligated \$ 74,464.02

Current Balance **\$ 1,120.33**

Does item have a cost? Yes

Item Cost \$ 60,000.00

Budget Adjustment Attached? Yes

Budget Adjustment \$ 60,000.00

Remaining Budget **\$ 1,120.33**

V20140710

Previous Ordinance or Resolution # 196-16

Original Contract Number: 2160

Approval Date: _____

Comments:



CITY COUNCIL AGENDA MEMO

MEETING OF MARCH 21, 2017

TO: Mayor and City Council

THRU: Don Marr, Chief of Staff
Water & Sewer Committee

FROM: Tim Nyander, Utilities Director

DATE: February 28, 2017

SUBJECT: Approval of a Change Order to an Out-of-Scope Agreement with CH2M Hill Engineers, Inc. in the amount of \$50,000, with a 20% contingency to continue work on a Use Attainability Analysis (UAA) for the White River, and approval of a Budget Adjustment

RECOMMENDATION:

City staff recommends a Resolution approving a Change Order to an Out-of-Scope Agreement with CH2M Hill Engineers, Inc. in the amount of \$50,000, approving a 20% contingency for a total cost of \$60,000.00 to continue work on a Use Attainability Analysis (UAA) for the White River, and approving a Budget Adjustment.

BACKGROUND:

A former revision to the Out-of-Scope Agreement with CH2M Hill Engineers, Inc. was passed by Resolution 19-13 on February 5, 2013 in the amount of \$154,550.00.

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.

BUDGET/STAFF IMPACT:

Budgeted funds will be moved from the completed Regional Park Waterline project to the White River NPDES UAA and APCEC Action, Use Attainability Analysis project.

ATTACHMENTS:

Staff Review Form
Out of Scope Letter Agreement
Resolution 48-11
Resolution 19-13
Resolution 196-16
Budget Adjustment



CH2M
1400 N. Fox Hunter Road
Fayetteville, AR 72701
O 479.443.3292
F 479.443.5613

February 28, 2017

Mr. Tim Nyander
City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701

Subject: Out of Scope Letter Agreement Revisions

Dear Tim:

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 \$50,000 for the completion of the Use Attainability Analysis (UAA) on the White River segment that the City of Fayetteville's Paul R. Noland Water Resource Recovery Facility (WRRF) 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. The revised report, *White River Use Attainability Analysis - Fayetteville, Arkansas*, was submitted to ADEQ on May 21, 2013.

Since June 2013 to January 2017, CH2M HILL continued to work with Mitchell Williams law firm and ADEQ through the following significant measures:

- Conducted the analyses and performed an assessment of the UAA inconsideration of the proposed Act 954, as requested by ADEQ. The Technical Memorandum was submitted to ADEQ on July 24, 2013.

- On October 11, 2013, the Mitchell Williams law firm filed a petition on behalf of the City of Fayetteville to initiate Third-Party Rulemaking to amend Regulation No. 2, Water Quality Standards, pursuant to the revised UAA report dated May 21, 2013. The petition was reviewed and approved by the Arkansas Pollution Control and Ecology Commission's Regulations Committee on October 25, 2013 and the public hearing was held at the Fayetteville Public Library on February 13, 2014.
- Performed significant amount of technical analyses in response to the request made by ADEQ during the public comment period, including the modeling of effluent minerals concentrations that could result from potential future phosphorus reduction at the WRRF, should it be required for Beaver Lake. The proposed minerals criteria were re-evaluated to insure they reflect instream concentrations based on either the submitted data, or the minerals concentrations measured over the past 23 years in monitoring data.
- Conducted technical presentations to ADEQ on June 19, 2014; March 19, 2015; and July 1, 2016. These efforts have all been conducted in response to ADEQ's public comment with the objective of gaining their support for instream, site-specific minerals criteria that result in NPDES permit limits at the Noland WRRF that are anticipated to be achievable based on past performance and modeling of effluent minerals concentrations associated with phosphorus reduction. Ultimately, the proposed instream site-specific minerals criteria must be approved by the Arkansas Pollution Control and Ecology Commission (APC&EC) and the U.S. Environmental Protection Agency (EPA).
- Reached agreement with ADEQ on the proposed criteria for the split segments: one from the Noland WRRF outfall to a point 0.4 miles downstream (WR-02), and another from WR-02 to the confluence with Richland Creek. The new criteria proposed for the two segments are as follows:

	<u>Chloride</u>	<u>Sulfate</u>	<u>TDS</u>
Noland to WR-02	44 mg/L	79 mg/L	362 mg/L
WR-02 to Richland Creek	30 mg/L	40 mg/L	237 mg/L

- Completed the Addendum for the White River Use Attainability Analysis that provides justifications for the new proposed minerals site-specific water quality criteria.
- On January 13, 2017, the Mitchell Williams law firm filed an amended petition on behalf of the City of Fayetteville to initiate Third-Party Rulemaking and requested for a second public notice and hearing. The petition was reviewed by the Arkansas Pollution Control and Ecology Commission's Regulations Committee on January

26, 2017 and was the second public hearing was approved to be held at the Fayetteville Public Library on March 27, 2017.

- On January 13, 2017, EPA Region 6 provided 36 comments toward the proposed criteria from Fayetteville through ADEQ.

As of this request for additional funding, CH2M HILL is working with ADEQ on responses to the EPA comments and preparing for the second public hearing. We also anticipate additional working sessions and communication with ADEQ and EPA to resolve their concerns. Final approval from EPA is necessary for the adoption of new minerals criteria in Regulation No. 2, Water Quality Standards.

Because it is difficult to predict the responses and requests of ADEQ, EPA, APC&EC, and the public during the process that lies ahead; the estimated need has been based on best professional judgement.

When it is being provided: Services are expected to be continued until the new criteria are adopted.

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: \$50,000*

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,



Steven Carpenter
Manager of Projects

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

Authorized CH2M HILL:

Authorized City of Fayetteville, Arkansas



Name: Andy Appleton
Senior Designated Manager

Name: Lioneld Jordan
Title: Mayor

Date: 3/1/17

Date: _____

RESOLUTION NO. 48-11

A RESOLUTION APPROVING AN OUT OF SCOPE AGREEMENT WITH CH2M HILL ENGINEERS, INC. IN THE AMOUNT OF \$265,000.00 FOR DEVELOPMENT OF A USE ATTAINABILITY ANALYSIS (UAA) ON THE WHITE RIVER, APPROVING A \$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 \$265,000.00 for development of a use attainability analysis (UAA) on the White River. A copy of the agreement is attached as Exhibit "A".

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves a \$50,000.00 contingency.

Section 3: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached as Exhibit "B".

PASSED and APPROVED this 15th day of March, 2011.

APPROVED:

ATTEST:

By: 
LIONELD JORDAN, Mayor

By: 
SONDRA E. SMITH, City Clerk/Treasurer



RESOLUTION NO. 19-13

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

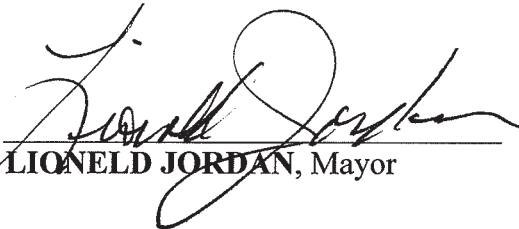
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

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:

By: 
LIONELD JORDAN, Mayor

ATTEST:

By: 
SONDRA E. SMITH, City Clerk/Treasurer





113 West Mountain Street
Fayetteville, AR 72701
(479) 575-8323

Resolution: 196-16

File Number: 2016-0450

CH2M HILL ENGINEERS, INC. CHANGE ORDER:

A RESOLUTION TO APPROVE A CHANGE ORDER TO THE OUT-OF-SCOPE AGREEMENT WITH CH2M HILL ENGINEERS, INC. IN THE AMOUNT OF \$30,000.00 TO CONTINUE WORK ON A USE ATTAINABILITY ANALYSIS FOR THE WHITE RIVER, AND TO APPROVE 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 a change order to the contract with CH2M Hill Engineers, Inc., a copy of which is attached to this Resolution, in the amount of \$30,000.00 to continue work on a Use Attainability Analysis for the White River.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached to this Resolution.

PASSED and APPROVED on 11/1/2016

Approved:



Leonel Jordan, Mayor

Attest:



Sondra E. Smith, City Clerk Treasurer

