



Legislation Text

File #: 19-1854, **Version:** 2

Resolution to Approve a Contract with Jacobs Consultants Inc. for Professional Engineering Consulting Services to Assess Impacts of Proposed Changes to the National Pollutant Discharge Elimination System Permit for the Wastewater Treatment Plant (\$30,000.00)

Your approval is requested for a professional services agreement with Jacobs Consultants Inc. (JCI) in the amount of \$30,000.00 for professional engineering consulting services to assess the impacts of changes to the National Pollutant Discharge Elimination System (NPDES) permit issued by the Michigan Department of Environment, Great Lakes and Energy (EGLE) to the City's Wastewater Treatment Plant (WWTP).

The City has a lengthy history in relation to contesting the WWTP's NPDES permit due to unreasonable discharge limits for phosphorus. This history was set out in detail in the memorandum and resolution for approval of the fourth amendment with Varnum LLP for legal services that Council approved on March 6, 2017 (attached Legistar File 17-0282). Although the contested case had been pending for a long time, it finally went to a hearing before an EGLE Administrative Law Judge (ALJ) during October 2015. On August 30, 2017, the ALJ's decision and recommendation to deny the City's contest went to the Director of EGLE and was issued as a final decision. Subsequently, the City appealed the decision to Washtenaw County Circuit Court, which issued a decision on October 3, 2018. This decision required EGLE to re-evaluate and propose a new Total Maximum Daily Load (TMDL) for phosphorus, which was the basis for the City's contest. On August 2, 2019, EGLE released a draft TMDL for phosphorus that is much more stringent than the previous one and has the same flawed basis. The professional engineering services to be provided by JCI under this contract are to assess the new treatment technologies that would be needed and the estimated capital and operation and maintenance costs associated with them to consistently meet the proposed discharge limits in the proposed TMDL. This information will be used as appropriate in the ongoing contest of the WWTP's NPDES permit.

In the event additional services are required, a contingency of \$3,000.00 is requested.

JCI complies with the City's living wage and nondiscrimination ordinances.

Funds to finance this contract and the contingency amount are included in the approved FY20 WWTP Operation and Maintenance Budget for the Sewage Disposal System.

Prepared by: Abigail Elias, Assistant City Attorney
Earl J. Kenzie, P.E., WWTSU Manager

Reviewed by: Stephen K. Postema, City Attorney
Craig A. Hupy, P.E., Public Services Area Administrator

Approved by: Howard S. Lazarus, City Administrator

..Body

Whereas, The City's Wastewater Treatment Plant (WWTP) contested the National Pollutant Discharge Elimination System (NPDES) permit issued to it by the Michigan Department of Environment, Great Lakes and Energy (EGLE) due to the inclusion of revised discharge limits for

phosphorus in the permit;

Whereas, The EGLE's Administrative Law Judge's decision from the contested case hearing was to deny the City's contest, which the City appealed to Washtenaw County Circuit Court;

Whereas, Washtenaw County Circuit Court issued a decision that required EGLE to re-evaluate and propose a new Total Maximum Daily Load (TMDL) for phosphorus, which was the basis for the City's contest;

Whereas, On August 2, 2019, EGLE released a draft TMDL for phosphorus that is much more stringent than the previous one and has the same flawed basis;

Whereas, On the recommendation of WWTP staff, the City Attorney and the City's outside counsel requested the professional engineering consulting services of Jacobs Consultants Inc. (JCI) to assess the new treatment technologies that would be needed, and the estimated capital and operation and maintenance costs associated with them, to consistently meet the proposed discharge limits in the TMDL;

Whereas, JCI submitted a reasonable proposal to provide the requested information, which will be used as appropriate in the ongoing contest of the WWTP's NPDES permit;

Whereas, JCI complies with the City's living wage and nondiscrimination ordinances; and

Whereas, Sufficient funds have been budgeted in the approved FY20 WWTP Operation and Maintenance Budget for the Sewage Disposal System;

RESOLVED, That Council approve a professional services agreement with Jacobs Consultants Inc. in the amount of \$30,000.00, for professional engineering consulting services;

RESOLVED, That Council approve a contingency amount of \$3,000.00 for additional work if necessary, subject to approval by the City Attorney and City Administrator;

RESOLVED, That the Mayor and City Clerk be authorized to execute the professional services agreement with Jacobs Consultants Inc., after approval as to substance by the City Administrator and approval as to form by the City Attorney; and

RESOLVED, That the City Administrator and City Attorney are authorized to take the steps necessary to implement this resolution, including approval of any amendment within the contingency amount.