Staff recommends a resolution to approve Amendment No. 5 to the contract with Environmental Consulting Operations, Inc. in the amount of $66,255.00 for wetlands mitigation site monitoring and management for 2019.

**Budget Impact:**

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MEETING OF JANUARY 15, 2019

TO: Mayor and City Council

THRU: Don Marr, Chief of Staff

FROM: Tim Nyander, Utilities Director

DATE: December 11, 2018

SUBJECT: Environmental Consulting Operations, Inc. Amendment No. 5

---

RECOMMENDATION:
Staff recommends a resolution to approve Amendment No. 5 to the contract with Environmental Consulting Operations, Inc. in the amount of $66,255.00 for wetlands mitigation site monitoring and management through 2019.

BACKGROUND:
Ordinance 5687, which was adopted on May 6, 2014, waived the requirement of formal competitive bidding and authorized a contract with Environmental Consulting Operations, Inc. for wetlands mitigation site monitoring and management for 2014. Section 3.2 of the contract provides that the contract may be renewed for additional one year terms upon mutual agreement of the City and Environmental Consulting Operations, Inc.

ECO, Inc. developed the wetlands and storm water protection best management plans and conducted excellent construction inspection for the WSIP, and was tasked to ensure full compliance with the related regulations and permits. ECO, Inc. also designed the wetlands mitigation site that was required by the Corps of Engineers, which has a mandated seven-year monitoring and reporting period. Funding comes from the Wastewater Treatment Operations Program.

DISCUSSION:
The contract covers the following work tasks for 2018:
1. Project Administration and Management
2. Annual Ecological Restoration Monitoring
3. Annual Adaptive Management Strategy
4. Update Credit Tracking Ledger for Surplus Wetland Credits
5. Academic Research Project Guidance
6. Solar Array Project Coordination
The details of each of these work tasks are outlined within the proposed Amendment No. 5 between the City of Fayetteville and ECO, Inc.

Amendment No. 5 has an increase of $4,383.00 from 2018, due to the regulatory and technical guidance provided as part of the City’s solar array project adjacent to Woolsey Wet Prairie.

**BUDGET/STAFF IMPACT:**
Funds are available in the Wastewater Treatment Operations Program.

**Attachments:**
Amendment No. 5
2019 Executive Summary
AMENDMENT NO. 5
TO
AGREEMENT FOR ENVIRONMENTAL CONSULTING SERVICES
BETWEEN CITY OF FAYETTEVILLE, ARKANSAS AND
ENVIRONMENTAL CONSULTING OPERATIONS, INCORPORATED
FOR
WOOLSEY WET PRAIRIE ECOLOGICAL MONITORING AND MANAGEMENT
ENVIRONMENTAL CONSULTING SERVICES

THIS AMENDMENT NO. 5 to the Agreement For Professional Environmental Consulting Services, dated May 8, 2014 (the “Agreement”), by and between CITY OF FAYETTEVILLE, ARKANSAS (CITY) and ENVIRONMENTAL CONSULTING OPERATIONS, INC. (ECO) for environmental consulting services in connection with monitoring and ecological adaptive management of CITY’s wetland mitigation site (SITE) known as Woolsey Wet Prairie is made and entered into for purposes of continuity of Site wetland habitat status in order to maintain surplus wetland credits generated at Site and due to Corps of Engineers (Corps) regulatory requirements to manage and maintain wetland compensatory mitigation in perpetuity to assure Site continues to meet ecological performance standards.

WHEREAS, this AMENDMENT NO. 5 is a renewal of the May 8, 2014 Agreement that included a provision for automatic renewal of ECO’s annual Scope of Services beyond 2014 for additional 1-year terms upon mutual agreement by both CITY and ECO. Unless specifically stated, all other terms and conditions of the Agreement shall remain in full force and effect. Neither this Amendment nor the Agreement may be modified except in writing signed by an authorized representative of the CITY and ECO.

NOW THEREFORE, the CITY and ECO agree to amend the Agreement for ECO’s Scope of Services as follows:

1. Part A - Project Administration And Management

   a) General administration and project management activities;

   b) Perform project initiation activities;

   c) Provide environmental regulatory and technical information to CITY, CITY Contractors, Citizens of CITY, and Academia;

   d) Meet with CITY, CITY Contractors, and Academia for information exchange, goal and timeline setting, reviewing management strategies, and action items;

   e) Perform internal project control including budgeting, scheduling, and quality control;

   f) Part A applies to January through December 2019. Renewal of ECO's annual Scope of Services will be reviewed by the City Council and amended upon approval for renewal of Part A services beyond 2019.
2. Part B - Annual Ecological Restoration Monitoring

   a) Conduct qualitative monitoring activities throughout the growing season to maintain cumulative plant species lists, evaluations of seasonal hydrology and associated plant communities, and identification of stands of invasive plant species to be controlled;

   b) Observe and document total plant species richness for each wetland cell and the total mitigation SITE in historical comprehensive plant species lists;

   c) Record locations of concentrated stands of non-native and native invasive plant species and locations of rare Arkansas Natural Heritage Commission tracking plant species on wetland cell maps;

   d) Develop 2019 Woolsey Wet Prairie Adaptive Management Strategy & Monitoring Report No. 13 that is consistent with historical monitoring and management activities at Site in a format to be used for SITE adaptive management purposes;

   e) Part B applies to January through December 2019. Renewal of ECO's annual Scope of Services will be reviewed by the City Council, and amended upon approval for renewal of Part B services beyond 2019.

3. Part C - Annual Adaptive Management Strategy

   a) Continued development and implementation of annual strategy for specific controls of invasive species via selection, coordination, and scheduling of time sensitive hydrology controls, herbicide applications, mowing, hand pulling, and prescribed burning;

   b) Make SITE visits throughout the growing season to make observations of hydrology, vegetation, and effectiveness of invasive vegetation control;

   c) Oversee selection, scheduling, and coordination of SITE adaptive management activities and provide guidance pertaining to Site Deed-Restrictive Covenant restrictions to CITY and CITY’s Contractors associated with management of Site;

   d) Provide restoration ecology advisory technical guidance to CITY and CITY’s Contractors associated with management of Site for the purpose of implementation of Site management activities that are compliant with Site permanent protection measures and restrictions specified in the CITY’s Section 404 permit;

   e) Document and maintain records of adaptive management activities implemented and the date of use;

   f) Make adjustments, as necessary, to timing and type of vegetation management to be implemented including, but not restricted to, hydrology management, mowing, herbicide applications, prescribed burning, and hand pulling of invasive plant species;
g) Utilize drone-generated wetland cell aerial photographs showing locations of concentrated stands of invasive and non-native plant species and locations of rare Arkansas Natural Heritage Commission tracking plant species in order to target and prioritize areas for specific management activities;

h) Develop herbicide application specifications that include specific types of herbicides to apply to specific invasive plant species by CITY contractors;

i) Schedule and select type of herbicide, adjuvant, and application rate to be used for specific target non-native and invasive plant species at specific locations and document herbicide effectiveness;

j) Coordinate, schedule, and observe areas where herbicide applications have been made to evaluate effectiveness for controlling invasive species by CITY contractors;

k) Develop burn specifications that clearly identify prescribed Burn Contractor responsibilities as a part of CITY’s informal bid process that identify: SITE preparation, notifications, and Burn Contractor responsibilities;

l) Coordinate, schedule, and observe prescribed burn to evaluate Burn Contractor’s conformance with state laws, notifications, and specifications;

m) Coordinate co-existence of planned construction and operation activities at adjacent solar array with adaptive management activities at the SITE;

n) Part C applies to January through December 2019. Renewal of ECO's annual Scope of Services will be reviewed by the City Council, and amended upon approval for renewal of Part C services beyond 2019.

4. Part D - Update Credit Tracking Ledger for Surplus Wetland Credits

a) SITE has generated surplus of wetland credits above those required by CITY’s Section 404 permit for wetland compensatory mitigation. CITY has received Corps approval to use wetland credits to mitigate for wetland impacts caused by the CITY’s infrastructure improvement projects within Illinois River watershed, HUC 11110103;

b) Under the 2014 Scope of Services, ECO developed a wetland credit ledger to include surplus credits and credit debits from CITY’s Van Asche Extension Project for submittal to Corps;

c) Under the 2015 Scope of Services, ECO developed a wetland credit ledger to include surplus credits and credit debits from CITY’s Clabber Creek Recreational Trail Project for submittal to Corps;

d) Under the 2016 Scope of Services, CITY did not utilize any surplus wetland credits for City infrastructure improvement projects requiring wetland compensatory mitigation;
c) Under the 2017 Scope of Services, CITY did not utilize any surplus wetland credits for City infrastructure improvement projects requiring wetland compensatory mitigation;

d) Under the 2018 Scope of Services, CITY did not utilize any surplus wetland credits for City infrastructure improvement projects requiring wetland compensatory mitigation;

g) It is unknown at the current time, whether or not Part D services will be necessary for January through December 2019, and will be a function of whether or not surplus credit transactions occur. Should 2019 wetland credit transactions occur, ECO shall update wetland credit ledger accordingly for submittal to Corps at the end of 2019;

h) Renewal of ECO's annual Scope of Services will be reviewed by the City Council, and amended upon approval for renewal of Part D services beyond 2019.

5. Part E - Academic Research Project Review and Guidance

a) During 2017, there was an increased interest in the SITE for academic research projects from various departments of the University of Arkansas ranging from herpetology to soil microbiology. While research projects at the site are exciting and encouraged, the need exists for guidance and oversight to ensure that all parties involved are made aware of the various requirements of the CITY’s Section 404 permit and Deed Restricted Covenant for the SITE. Failure to manage research project activities at the SITE has the potential to result in the CITY not being in compliance with the terms and conditions of the CITY’s Section 404 permit and the Deed Restricted Covenant for the SITE.

b) ECO, Inc. has developed a research request form and guidance document intended for use by proposed research projects that will provide project-specific relative information to ECO, Inc., Jacobs, and the CITY for review and approval, while also educating the applicant about the SITE Section 404 permit requirements. ECO, Inc. will review academic research project proposals and provide project-specific guidance to parties conducting research at SITE.

c) Part E applies to January through December 2019. Renewal of ECO's annual Scope of Services will be reviewed by the City Council, and amended upon approval for renewal of Part E services beyond 2019.

6. Part F - Solar Array

a) ECO, Inc. will provide environmental regulatory and technical guidance and communications to CITY, Jacobs, and Solar Provider regarding scheduling and implementation of adaptive management activities at SITE to support the optimum co-existence of SITE and solar array.

b) Part F applies to January through December 2019. Renewal of ECO's annual Scope of Services will be reviewed by the City Council, and amended upon approval for renewal of Part F services beyond 2019.
7. Compensation

For the amended Scope of Services described herein, CITY agrees to pay ECO the sum specified below on Cost Detail Table. The total payment shall be a lump sum “not to exceed” amount of SIXTY SIX THOUSAND TWO HUNDRED FIFTY FIVE U.S. DOLLARS ($66,255.00).

Amendment No. 5 - 2019 Cost Detail

<table>
<thead>
<tr>
<th>Amended ECO Scope of Services</th>
<th>Fee Estimate</th>
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<tr>
<td>Part A - 2019 Project Administration And Management</td>
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<tr>
<td>Part B - 2019 Annual Ecological Restoration Monitoring</td>
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<td>Part C - 2019 Annual Adaptive Management Strategy</td>
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<td>Part D - 2019 Update Surplus Wetland Credit Tracking Ledger</td>
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<tr>
<td>Part E – 2019 Academia Research Project Guidance</td>
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<tr>
<td>Part F – 2019 Solar Array Coordination</td>
<td>$6,900</td>
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<tr>
<td>TOTAL</td>
<td>$66,255</td>
</tr>
</tbody>
</table>

The CITY and ECO intending to be legally bound, indicate their approval of this AMENDMENT NO. 5 by their signatures below.

ENVIRONMENTAL CONSULTING OPERATIONS, INC.  CITY OF FAYETTEVILLE

By: ___________________________  By: ___________________________
Bruce Shackleford, President  Lioneld Jordan, Mayor

Date: December 9, 2018  Date: ___________________________

ATTEST:

By: ___________________________
Sondra E. Smith, City Clerk/Treasurer

Date: ___________________________

End of December 9, 2018 Amendment No. 5 for Environmental Consulting Services
**CERTIFICATE OF LIABILITY INSURANCE**

**DATE (MM/DD/YYYY)**
5/1/2018

**THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFER NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.**

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

**PRODUCER**
NFP Property & Casualty Services
114 East Conway Street
P. O. Box 49
Benton AR 72018-0049

**INSURER**
Environmental Consulting Operations, Inc.
17224 Interstate 30
Suite SA
Benton AR 72019

**CERTIFICATE NUMBER:** C185106799

**DESCRIPTION:**
TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

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<td>D</td>
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**DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES (ACORD 109):** Additional Remarks Schedule, may be attached if more space is required.

**CERTIFICATE HOLDER**
christinabrinkley@att.net

**CANCELLATION**
Proof of Insurance

**SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.**

**AUTHORIZED REPRESENTATIVE**
John Tullos/KYLIE

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**ACORD 25 (2014/01)**

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120918-EKO WWP Amnd No. 5.pdf
2019 Executive Summary:
Woolsey Wet Prairie Annual Ecological Monitoring and Adaptive Management:
ECO, Inc. Contract Amendment No. 5

Overview & Background
The Woolsey Wet Prairie Sanctuary was established by the City of Fayetteville as part of wetland compensatory mitigation requirements under Section 404 Permit 14207 issued by the U.S. Army Corps of Engineers Little Rock District (Corps). The 43.8-acre mitigation site was constructed to offset the permanent alteration of 7.92 acres of wetlands from construction of the City’s Wastewater Systems Improvement Project (WSIP). The Section 404 Permit required 73.57 wetland credits to be generated at the mitigation site to offset wetland losses from the WSIP.

Environmental Consulting Operations, Inc. (ECO, Inc.) developed the WSIP stormwater permitting Best Management Practices Plans, conducted WSIP construction compliance evaluations, and oversaw full compliance with related regulations and environmental permits. Under ECO, Inc.'s oversight, contractors working for the city completed over $160 million in work without a single permit violation.

ECO, Inc. designed the Corps-required ecological features of the wetland mitigation site and has met all mandated monitoring and reporting requirements, including the required wetland credit ledger to track the use of surplus wetland credits by the City of Fayetteville. Under ECO, Inc.'s management, a total of 94.47 mitigation credits have been generated, producing a surplus of 20.90 credits. After ECO, Inc.'s conferrals with the Corps, the City of Fayetteville received a special one-of-a-kind approval to use the 20.90 surplus wetland credits for city infrastructure projects that require wetland compensatory mitigation within the Illinois River Watershed. To date, surplus wetland credits have been used for the City's Van Asche Drive Extension Project and the Clabber Creek Recreational Trail Project, saving the City thousands of dollars.

Under ECO, Inc.'s adaptive management strategy, the mitigation site has a current plant species list totaling 482 species, a more than ten-fold increase beyond the 47 plant species observed in 2004. Eleven species at the site are tracked by the Arkansas Natural Heritage Commission as species of state conservation concern. Nonetheless, persistent invasive species are present at the site, requiring continued monitoring and adaptive management activities.
ECO, Inc. Scope of Work
ECO, Inc.'s May 8, 2014 Agreement For Professional Environmental Consulting Services covered the following work tasks for 2014, and as amended in 2015, 2016, 2017, and 2018:

<table>
<thead>
<tr>
<th>ECO, Inc. Scope of Services</th>
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<tbody>
<tr>
<td>Part A - Project Administration And Management</td>
</tr>
<tr>
<td>Part B - Annual Ecological Restoration Monitoring</td>
</tr>
<tr>
<td>Part C - Annual Adaptive Management Strategy</td>
</tr>
<tr>
<td>Part D - Update Surplus Wetland Credit Tracking Ledger</td>
</tr>
<tr>
<td>Part E – Academia Research Project Guidance</td>
</tr>
</tbody>
</table>

The details for each of these work tasks are outlined within the proposed 2019 Contract Amendment No. 5 between the City of Fayetteville and ECO, Inc. in Parts A, B, C, D, and E. For 2019, Part F has been added for providing vegetation management and coordination of adaptive management activities to enhance the co-existence of the planned construction and operation activities at the adjacent Solar Array while maintaining compliance with the Corps Section 404 permit requirements for protecting Woolsey Wet Prairie as a wetland mitigation site.

Justification for 2019 Woolsey Wet Prairie Contract Price Increase
On November 20, 2018, the City Council passed resolutions to support the construction and operation of a 22.34-acre Solar Array to be located immediately to the north of Woolsey Wet Prairie and a 15.46-acre Solar Array to be located immediately to the west of Woolsey Wet Prairie.

Historically, ECO, Inc. has conferred with Jacobs (formerly CH2M Hill) to evaluate and develop invasive plant species management strategies for the properties adjacent to Woolsey Wet Prairie for the purpose of minimizing the introduction of invasive plants into Woolsey Wet Prairie.

Furthermore, ECO, Inc. proposed the expansion of Woolsey Wet Prairie into a wetland mitigation bank to the City in 2006 and ECO, Inc.’s 2007 and 2008 scopes of service involved characterizations of hydrology and plant community composition on the adjacent property where the Solar Array will be constructed. Therefore, ECO, Inc. has very site-specific ecological knowledge of the Solar Array location. The planned construction and operation of the adjacent Solar Arrays will provide tremendous environmental and economical benefits for the City of Fayetteville. However, the need exists for communications with the Solar Developer for the harmonious co-existence of the Solar Arrays and Woolsey Wet Prairie to ensure that all parties involved are made aware of the requirements set forth by the City of
Fayetteville’s Corps-issued Section 404 permit, the Deed Restricted Covenants for the wetland compensatory mitigation site, and planned adaptive management activities, such as prescribed burning.

Failure to have such communication and coordination at the mitigation site has the potential to:

a) Result in the City not being in compliance with the terms and conditions of the City’s Section 404 permit and/or the Deed Restricted Covenant for the property,

b) Result in the possible reduction in surplus wetland credits for City infrastructure improvement projects,

c) Result in damage to isolated stands of rare and ecologically sensitive plant species, and

d) Result in sub-optimal construction and operation, and increased cost of the Solar Arrays.

As shown in the 2018/2019 cost comparison table below, the 2019 "Not To Exceed" cost of $66,255.00 represents a $4,383.00 (7%) increase over the $61,872.00 amount that was approved by the City of Fayetteville for ECO, Inc.’s 2018 scope of work.

The addition of Part F for 2019 accounts for a slight cost increase; however, the sum of Parts A through E totals $2,517.00 less for 2019 than 2018, resulting in the net increase of $4,383.00 for 2019.

<table>
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<td>TOTAL</td>
<td>$61,872</td>
<td>$66,255</td>
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</table>

The scope of work and associated costs for Parts A through E will not change significantly from 2018 to 2019.

ECO, Inc. will continue to conduct annual monitoring activities to identify problem areas where specific management controls are warranted.
ECO, Inc. will continue to coordinate adaptive management practices to:

• Develop plant group-specific herbicide application guidance and recommendations for Jacobs,

• Review records of herbicide applications made by Jacobs,

• Coordinate with Jacobs to maintain an aggressive herbicide program for controlling woody vegetation in an effort to prevent excessive growth of trees that necessitates timber mulching,

• Develop prescribed burn specifications for informal bid process of selecting burn contractor,

• Coordinate/scheduling/oversight of prescribed burn, and

• Process/coordinate/update surplus wetland credit ledger should City infrastructure improvement projects arise that require wetland mitigation credits.

ECO, Inc. possesses the very specialized technical and regulatory expertise and site-specific knowledge to complete these tasks for the purpose of meeting Corps-mandated mitigation performance standards and to maintain the existing surplus wetland credits for use in future city infrastructure improvements that require compensatory wetland mitigation. Having won numerous awards and recognitions, Woolsey Wet Prairie Sanctuary has been a success story under the design and management of ECO, Inc. and is a unique ecological feature for the City of Fayetteville like no other in Arkansas.