

24.



City of West Allis Matter Summary

7525 W. Greenfield Ave.
West Allis, WI 53214

File Number	Title	Status
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R-2009-0065 Resolution In Committee

Resolution authorizing the Director of Public Works to accept the proposal of AECOM Technical Services (AECOM), formerly Earth Tech, to provide consulting services relative to the NR216 Permit compliance requirements for 2009 for a sum not to exceed \$35,937.

Introduced: 3/3/2009

Controlling Body: Public Works Committee

Sponsor(s): Public Works Committee

COMMITTEE RECOMMENDATION Adopt

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
<u>3-3-09</u>		<input checked="" type="checkbox"/>	Barczak				X
			Czaplewski	<input checked="" type="checkbox"/>			
			Kopplin				
			Lajsic				
			Narlock				
			Reinke				
		<input checked="" type="checkbox"/>	Roadt	<input checked="" type="checkbox"/>			
			Sengstock	<input checked="" type="checkbox"/>			
			Vitale				
		Weigel	<input checked="" type="checkbox"/>				
		TOTAL		<u>4</u>	<u>-</u>		<u>1</u>

SIGNATURE OF COMMITTEE MEMBER

Chair _____ Vice-Chair [Signature] Member _____

COMMON COUNCIL ACTION adopt

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
<u>3-3-09</u>			Barczak <u>or</u>				<input checked="" type="checkbox"/>
			Czaplewski	<input checked="" type="checkbox"/>			
			Kopplin	<input checked="" type="checkbox"/>			
			Lajsic	<input checked="" type="checkbox"/>			
		<input checked="" type="checkbox"/>	Narlock	<input checked="" type="checkbox"/>			
			Reinke	<input checked="" type="checkbox"/>			
			Roadt	<input checked="" type="checkbox"/>			
			Sengstock	<input checked="" type="checkbox"/>			
			Vitale	<input checked="" type="checkbox"/>			
	<input checked="" type="checkbox"/>	Weigel	<input checked="" type="checkbox"/>				
		TOTAL		<u>9</u>	<u>-</u>		<u>1</u>



City of West Allis

7525 W. Greenfield Ave.
West Allis, WI 53214

Resolution

File Number: R-2009-0065

Final Action:

MAR 03 2009

Sponsor(s): Public Works Committee

Resolution authorizing the Director of Public Works to accept the proposal of AECOM Technical Services (AECOM), formerly Earth Tech, to provide consulting services relative to the NR216 Permit compliance requirements for 2009 for a sum not to exceed \$35,937.

WHEREAS, in 1996 the City of West Allis, in anticipation of the future need to comply with and fund various Federal Clean Water initiatives initiated an RFP for consulting services to assist the City in determining the best approach; and,

WHEREAS, from the RFP's received, West Allis selected AECOM (formerly Earth Tech and Rust Environmental) to perform the required services; and,

WHEREAS, the outgrowth of AECOM's work was the development of the West Allis Stormwater Utility; and,

WHEREAS, during the development of the Utility AECOM also provided consulting services in the preparation of the "Preapplication Stormwater Discharge Permit", required by NR216.05; and,

WHEREAS, following the Department of Natural Resources approval of the preapplication, AECOM assisted the City in the development of the NR216 Stormwater Discharge Permit application; and,

WHEREAS, in 2004, the Wisconsin Department of Natural Resources issued a WPDES Stormwater Permit to the City of West Allis; and,

WHEREAS, in 2008, the Wisconsin Department of Natural Resources renewed the City of West Allis WPDES Stormwater Permit; and,

WHEREAS, in part, the permit sets forth a compliance schedule for implementing various programs and activities; and,

WHEREAS, AECOM has continued to provide professional services relative to the City's Stormwater Utility and WPDES permit requirements for 2005, 2006, 2007 and 2008; and,

WHEREAS, AECOM, in the agreement attached hereto, has proposed to develop technical reports and implement monitoring programs required of the WPDES Permit for 2009; and,

WHEREAS, given AECOM's comprehensive knowledge of and continued involvement with the City of West Allis storm sewer system, the Director of Public Works has previously provided documentation to the Purchasing/Central Services Division that the work similar to that involved in this contract is inappropriate for competitive bidding.

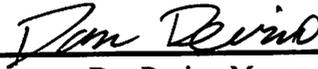
NOW, THEREFORE, BE IT RESOLVED by the Mayor and Common Council of the City of West Allis that it accepts the proposal attached hereto, submitted by AECOM for providing consulting services relative to compliance with the WDNR WPDES Stormwater permit for West Allis, for a sum not to exceed \$35,937, the funding of such services shall be paid by the City's Stormwater Utility.

BE IT FURTHER RESOLVED that the Director of Public Works is hereby authorized to execute the attached Agreement and the Purchasing/Central Services Division be and is hereby authorized to issue a purchase order for the aforementioned services.

aecom-nr216.res

ADOPTED MAR 03 2009


Paul M. Ziehler, City Admin. Officer, Clerk/Treas.

APPROVED 3/6/09


Dan Devine, Mayor

CONSULTING AGREEMENT AND AUTHORIZATION TO PROCEED

This Agreement between AECOM Technical Services, Inc., a California corporation, ("ATS") with offices at 1020 N. Broadway, Suite 400, Milwaukee, Wisconsin 53202, and the City of West Allis ("CLIENT"), with City Hall at 7525 West Greenfield Avenue, West Allis, Wisconsin 53214 and the Department of Public Works office at 6300 W. McGeoch Avenue, West Allis, Wisconsin 53219.

- 1. ATS agrees to perform the services described in its PROPOSAL dated: February 19, 2009, including attachments and amendments ("SERVICES").
- 2. CLIENT authorizes ATS to perform these SERVICES for the following project and location:

**City of West Allis
2009 NR 216 Storm Water Permit Compliance**

- 3. ATS is willing to perform the SERVICES in exchange for the following fee (check and complete):

CLIENT will pay on a **time and material** basis. ATS will invoice according to the Fee Schedule* attached to the PROPOSAL.

CLIENT will pay a **lump sum** of \$ _____ ATS will invoice monthly on a percentage completed basis.

CLIENT will pay on a **time and material basis not to exceed** the sum of \$ 35,937.00. ATS will invoice according to the per diem rates in effect at the time the services are executed.

CLIENT will pay a retainer in the amount of \$ _____, to be applied against the fee.

* ATS reserves the right to adjust its Fee Schedule annually.

4. **Billing:** ATS will submit invoices to CLIENT monthly. CLIENT recognizes that timely payment is a material part of this Agreement. Each invoice is due and payable within thirty (30) calendar days of the date of the invoice. CLIENT will pay an additional charge of one and one-half percent (1.5%) per month not to exceed the maximum rate allowed by law for any payment received by ATS more than thirty (30) calendar days from the date of the invoice. CLIENT will pay when due that portion of invoice, if any, not in dispute. If CLIENT fails to pay any undisputed invoiced amounts within thirty (30) calendar days of the date of the invoice, ATS may suspend its performance or terminate this Agreement without incurring any liability to CLIENT and without waiving any other claim against CLIENT.

5. Special Provisions: NONE ATTACHMENT

6. **CLIENT RECOGNIZES THAT THE PRESENCE OF HAZARDOUS MATERIALS OR POLLUTION ON OR BENEATH THE SURFACE OF A SITE MAY CREATE RISKS AND LIABILITIES. CONSULTANT HAS NEITHER CREATED NOR CONTRIBUTED TO THIS POLLUTION. CONSEQUENTLY, CLIENT RECOGNIZES THIS AGREEMENT WILL ACCORDINGLY LIMIT CONSULTANT'S LIABILITY.**

CLIENT confirms reading this document in full (including the terms 7 through 18 on the following page). This Agreement when executed by ATS is an offer to perform the services, open for acceptance within 30 days. This Agreement becomes effective on the date CLIENT signs below.

CLIENT – City of West Allis

ATS – AECOM Technical Services, Inc.

By: Michael F. Peterson

By: Scott Solverson

Name: MICHAEL F. PETERSON

Name: SCOTT SOLVERSON

Title: DIRECTOR OF PUBLIC WORKS

Title: VICE PRESIDENT

Date: 3-6-09

Date: 2/20/2009



7. **Standard of Care:** ATS will perform the Services in accordance with the standards of care and diligence normally practiced by consulting firms performing services of a similar nature in the same locale.

8. **Indemnity/Limitation of Liability:** Subject to any limitations stated in this Agreement, ATS will indemnify and hold harmless CLIENT, its officers, directors, employees, and subcontractors, from and against all claims and actions, including reasonable attorneys fees, arising out of damages or injuries to persons or tangible property to the extent they are caused by a professionally negligent act, error, or omission of ATS or any of its agents, subcontractors, or employees in the performance of Services under this Agreement. ATS will not be responsible for any loss, damage, or liability arising from any contributing negligent acts by CLIENT, its subcontractors, agents, staff, or consultants. Neither party will be responsible to the other for consequential damages including, but not limited to, loss of profit, loss of investment or business interruption. The CLIENT also agrees to seek recourse only against ATS and not against its officers, employees, directors, or shareholders. Each party agrees to limit the other party's liability due to breach of contract, warranty or negligent acts, errors or omissions of ATS to \$50,000 or the fee paid to ATS under this Agreement, whichever is greater.

9. **Insurance:** During the period that Services are performed under this Agreement, ATS will maintain the following insurance: (1) Workers' Compensation coverage in accordance with the laws of the states having jurisdiction over its employees engaged in the Services and Employer's Liability Insurance (limit of \$500,000 each occurrence.); (2) Commercial General Liability Policy with a limit of \$1,000,000 per occurrence and a \$2,000,000 aggregate; (3) Commercial Automobile Liability with a limit of \$500,000 per occurrence and a \$1,000,000 aggregate; and (4) Professional Liability coverage with a \$500,000 limit on each claim and a \$1,000,000 aggregate. *Client agrees ATS will not be liable for any loss, damage, or liability arising out of this Agreement beyond the coverage and conditions of such insurance with limits as stated above.*

10. **Hazardous Substances/Hazardous Waste:** CLIENT represents that if CLIENT knows or has reason to suspect that hazardous substances or pollution may exist at the project site, CLIENT has fully informed ATS. In the event ATS encounters hazardous substances or contamination significantly beyond that originally represented by CLIENT, ATS may suspend its Services and enter into good faith renegotiation of this Agreement. CLIENT acknowledges that ATS has no responsibility as a generator, treater, storer, or disposer of hazardous or toxic substances found or identified at a site and CLIENT agrees to defend, indemnify, and hold harmless ATS, from any claim or liability, arising out of ATS's performance of work under this Agreement and made or brought against ATS for any actual or threatened environmental pollution or contamination except to the extent that ATS has negligently caused or contributed to any such pollution or contamination. This indemnification includes reasonable attorney fees and expenses incurred by ATS in defense of such claim.

11. **Sample Ownership:** All samples and cuttings of materials containing hazardous contaminants are the property and responsibility of CLIENT. Removal of cuttings from the project site will remain the obligation of CLIENT. Absent direction from CLIENT, ATS may return all contaminated samples and laboratory byproducts to the CLIENT for proper disposal or treatment.

12. **Buried Utilities:** In those situations where ATS performs subsurface exploration, CLIENT, to the extent of its knowledge, will furnish to ATS information identifying the type and location of utilities and other man-made objects beneath the surface of the project site. ATS will take reasonable precautions to avoid damaging these utilities or objects. Prior to penetrating the site's surface, ATS will furnish CLIENT a plan indicating the locations intended for penetration. CLIENT will approve the location of these penetrations and authorize ATS to proceed.

13. **Documents and Records:** CLIENT acknowledges that ATS's reports, boring logs, field data, field notes, laboratory test data, calculations, estimates and other similar documents ("Records") are instruments of professional service, not products. All data ATS prepares for CLIENT under this Agreement will remain the property of ATS. CLIENT will not use any ATS data or report for any purpose other than its original purpose as defined in the PROPOSAL. CLIENT has no rights to incomplete or partial data. ATS will retain these Records for a period of three (3) years following completion of this project. During this time, ATS will reasonably make available the records to the CLIENT. ATS may charge a reasonable fee in addition to its professional fees for retrieving or copying such records.

14. **Change Orders:** ATS will treat as a change order any written or oral order (including directions, instructions, interpretations or determinations) from CLIENT which request changes in the Services. ATS will give CLIENT notice within ten (10) days of the change order of any resulting increase in fee. Unless Client objects in writing within five (5) days, the change order becomes a part of this Agreement.

15. **Third-Party Rights:** Except as specifically stated in this Agreement, this Agreement does not create any rights or benefits to parties other than CLIENT and ATS.

16. **Assignment/Status:** The CLIENT will not delegate, assign, sublet, or transfer any interest in this Agreement without the written consent of ATS. ATS is an independent consultant and not the agent or employee of CLIENT.

17. **Termination:** Either party may terminate the Services with or without cause upon ten (10) days advance written notice. If Client terminates without cause, CLIENT will pay ATS costs incurred, noncancelable commitments, and fees earned to the date of termination and through demobilization, including any cancellation charges of vendors and subcontractors.

18 **Complete Agreement:** The Parties acknowledge this Agreement, including the Proposal and any Attachments constitute the entire Agreement between them. Unless stated otherwise in this Agreement, this Agreement may not be modified except in a writing signed by both parties. The parties agree that Wisconsin law governs this Agreement and any dispute involving the Agreement. Venue for any litigation arising from this Agreement shall be in the Milwaukee County, Wisconsin Circuit Court of the U.S. District Court for the Eastern District of Wisconsin.

APPENDIX A

SCOPE OF SERVICES

2009 NR 216 Storm Water Compliance
for the City of West Allis
February 19, 2009

Project Background

The City of West Allis is in its first year of its third WPDES municipal storm water discharge permit. This permit authorizes and regulates the discharge of storm water from the City's municipal separate storm sewer systems to waters of the state and requires the City of West Allis to be responsible for the following tasks, which are to be conducted and/or submitted to the Wisconsin Department of Natural Resources (WDNR). There are some additional requirements included in the newly issued permit that have not been in previous permits. ATS is prepared to assist the City of West Allis with these additional and the previously permitted requirements for the items listed in this scope for submittal with the City's annual report due to the WDNR by March 31, 2010.

1.0 Impaired Water Bodies and Total Maximum Daily Load (TMDL) Assessment

1.1 Impaired Water Body Determination

Determine the City of West Allis watershed basins that discharge to an impaired water body.

1.2 Management Measures in Drainage Areas to Impaired Water Bodies

If there are impaired water bodies that major outfalls discharge to, draft and review with City of West Allis staff a section to be included in the City's stormwater management program that addresses the management practices and control measures that the City will implement to reduce and/or eliminate the discharge pollutant(s) of concern that contribute(s) to the impairment of the water body.

2.0 Illicit Discharge (Dry Weather) Field Screening

In general, the project will be conducted in accordance with the Illicit Connections/Dry Weather Field Screening Proposal submitted to the WDNR in March 2005.

2.1 Field Screening

The City's WPDES permit requires on-going dry weather field screening of outfalls.

2.1.1 Annual Field Screening

AECOM will conduct a visual field screening of 37 major outfalls during dry weather in 2009 and document outfall conditions. Where flow is observed, conduct chemical testing on grab samples for pH, detergents, chloride, phenols and copper using portable test kits.

Note: The 2008 Illicit Discharge Detection and Elimination (IDDE) Monitoring Program Report for the City of West Allis recommended that the 12 major outfalls that did not have dry weather flows during both the 2007 and 2008 field screening efforts be dropped from screening in 2009. AECOM confirmed the acceptance of this reduction in field screening effort with Matt Aho of the WDNR on 3/18/2009 at which time he allowed the reduction of field screening for 2009 and subsequent years until further notice.

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2.1.2 Additional Field Screening Test Parameters (OPTIONAL SERVICE)

AECOM will conduct field screening for ammonia, potassium, and fluoride on a per location (outfall or manhole) basis as authorized by the City of West Allis.

Note: While not required by the City's permit, ammonia, potassium, and fluoride in conjunction with detergents have been identified by the WDNR and other sources as better screening tools to identify whether the flow is contaminated with wastewater or if the source is tap water or natural water.

AECOM has provided a testing cost per outfall site for either testing kit and will invoice the City of West Allis at these rates, depending upon the type of testing kit utilized.

2.2 Follow-up Investigations

The City's WPDES permit requires the investigation of portions of the MS4 that, based on the results of field screening or other information, indicate a reasonable potential for containing illicit discharges or other sources of non-storm water discharges.

2.2.1 W-03B and W-03D Follow-Up Investigation

The 2008 IDDE Monitoring Program Report recommended that the City be prepared to conduct a detailed follow-up investigation of the area upstream of MS4 outfalls W-03B and W-03D where there were concerns about the color, surface sheen and level of detergents sampled. The goal of this effort is to expand the investigation of these outfalls that, based on past screening indicate the potential for containing illicit discharges, by following a standard set of procedures in an attempt to isolate the source(s) of the pollutant(s) of interest.

If either outfall tests positive for one (1) or more parameters and, based on discussion with City staff, it is decided that the test result warrants additional field screening, the field crew will test locations throughout the drainage system associated with the subject outfall(s) following the development of a drainage system review (detailed look at each tributary subbasin and junction points to field screen).

For the purposes of this scope of services, it is estimated that up to fourteen (14) total locations may require additional field screening. The goal is to isolate the pollutant(s) of interest to a single location and move on to subsequent steps, if possible. If the pollutant(s) of interest appears to be from a diffuse source, test data results will be reviewed for patterning prior to taking any additional steps.

The City may elect to add the optional field screening test parameters as detailed in task 2.1.2.

2.2.2 Additional Illicit Discharge Follow-Up Investigation (as needed/authorized)

Based on the results of the outfall field screening, if an illicit discharge is suspected, the source of that discharge will be investigated. Efforts to provide follow-up services for wet outfalls to investigate potential illicit discharges will be provided on a time and materials basis since the number of illicit discharges that may be identified is unknown as is the level of effort necessary to locate them. The level of effort will be estimated as necessary based on results/discussion with the City and will be only initiated as authorized by the City.

2.3 Memo/Meetings

Meet with the City once to review the results of the annual field screening. Outfalls where flow was

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observed and chemical testing indicates potential discharges will be further evaluated. The decision to conduct any follow-up illicit discharge investigations will be based on the results of that meeting and if necessary, after consultation with the WDNR. Results of annual field screening and any follow-up investigations will be summarized in a format acceptable for inclusion in the City's annual NR 216 report due March 31, 2010.

3.0 NR 151 Total Suspended Solids (TSS) Compliance Plan

Per the permit, the City is to have achieved a 20% TSS reduction by March 10, 2008. Furthermore, the City is required to achieve a 40% TSS reduction by March 10, 2013. An assessment of compliance indicates that the March 10, 2008 reduction was not achieved. A compliance plan and schedule is required to be developed and implemented by November 30, 2009. The following Tasks are identified to assist with the Compliance Planning process:

- 3.1 Meet with City staff to review the TSS reduction requirements and current efforts (including City projects and development / redevelopment).
- 3.2 Meet with WDNR to discuss current TSS reduction level and practicability of achieving the required goals. The goal of this meeting is to achieve an understanding of what may be practicably attainable for the City of West Allis and at what schedule of attainment. One (1) meeting is assumed to occur in 2009 for this task.
- 3.3 Develop a TSS Compliance Plan based on the result of the meeting with the WDNR in Task 3.2. (As the level of effort associated with this task is difficult to determine at this time a \$2,000 T&M allowance is included for this item.)

4.0 West Allis Storm Sewer Map Updates

AECOM will update the City's storm sewer map to include the following:

- 4.1 Waters of the State of Wisconsin and their classification (ORW, ERW, impaired)
- 4.2 Publicly owned parks, recreational areas and open lands
- 4.3 Locations of municipal garages, storage areas and other public works facilities

5.0 Industrial High Risk Analysis (Re-Inspection)

Per the recommendations of the September 19, 2006 Memorandum from Jenny Hackbarth (AECOM) to Michael Pertmer (City of West Allis Director of Public Works) AECOM will:

- 5.1 Inspect the seven (7) properties recommended for re-inspection in 2007, listed as the following:
 - 5.1.1 Air-Tite Window Company – 207 Curtis Road
 - 5.1.2 Great Lakes Recycling – 116th Street & Fairview Avenue
 - 5.1.3 CBA of Wisconsin, Inc – 10930 Lapham Street
 - 5.1.4 Priced Steel Tank Company – 66th – 67th Street & Greenfield Avenue
 - 5.1.5 Motor Castings Company – 65th Street & Washington Street
 - 5.1.6 Unit Drop Forge Company, Inc. – 62nd Street & Burnham Street
 - 5.1.7 Tax Key #474-0002-001 – 53rd Street (east side) between Rogers Street and Burnham Street
- 5.2 Re-inspection will consist of a drive-by inspection with photographs and a completion of a field report.
- 5.3 Prepare a memo of inspection findings, similar to the September 2006 report.

6.0 Annual Report Updates

AECOM

AECOM will assist the City of West Allis in the following aspects of their Annual Report to WDNR:

- 6.1 Item 3g: Pollutant loading removal rates and status of meeting performance standards. AECOM will not provide an updated SLAMM analysis as part of this work, but will include some language about continued redevelopment efforts within the City that address TSS removal.
- 6.2 Item 4: AECOM will provide a summary of the revisions made to the stormwater management plan. This item includes the impaired water bodies and TMDL assessment, NR151 compliance plan, industrial high risk analysis and storm sewer map updates.
- 6.3 Item 8: AECOM will provide a summary of control measures implemented to reduce any pollutants of concern. This item includes private and public projects to reduce peak flow rates and TSS loading levels in municipal storm sewers. AECOM will summarize private stormwater permit applications received in 2009 and will look for the City of West Allis to provide information on any public projects constructed.

ASSUMPTIONS:

- 1. The City shall furnish AECOM all information, which AECOM may rely upon without independent verification in performing the Services. Much of this information may already be available from reports generated by AECOM (formerly Earth Tech) for the City.
- 2. The City will assist ATS in the completion of the NR 151 TSS Compliance Plan and the Storm Sewer Map Updates including providing AECOM with updates to the City's storm sewer atlas in CAD or GIS format.
- 3. The City will furnish AECOM with any record drawings of public works projects constructed in 2009 to aid in the reduction of peak storm sewer flow rates and TSS levels.
- 4. The pH, detergents, chloride, phenols and copper test kit charges are included in the base proposal cost estimate.

COST ESTIMATE:

Task	2009 NR 216 Stormwater Permit Compliance	Cost
1.1 – 1.2	Impaired Water Bodies and Total Maximum Daily Load (TMDL) Assessment	\$3,404
2.1.1 & 2.3	Illicit Discharge Monitoring and Report	\$15,142
2.1.2	Additional Field Screening Test Parameters (OPTIONAL SERVICE)	OPTIONAL SERVICE
2.2.1	W-03B and W-03D Follow-Up Investigation	\$3,366
2.2.2	Illicit Discharge Follow-up (as needed/authorized)	T&M as Authorized
3.1 – 3.3	NR 151 Total Suspended Solids (TSS) Compliance Plan	\$5,408
4.1 – 4.3	West Allis Storm Sewer Map Updates	\$1,804
5.1 – 5.3	Industrial High Risk Analysis (Re-Inspection)	\$3,002
6.1 – 6.3	Annual Report Updates	\$1,738
	Travel, Testing Supplies, Etc.	\$2,073
	Total	\$35,937

Test Kit Charges (per site):

Test Kit	\$ per Site (Testing ONLY)
pH, detergents, chloride, phenols and copper	\$210
Ammonia, potassium and fluoride	\$317

AECOM