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**Title:** Authorization to Approve a Contract Amendment for Permitting Program Alignment Engineering Services

**Resolution number:** 21-050

**Prepared by:** Name: Tom Dietrich  
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**Reviewed by:** Name/Title: Becky Christopher, Policy Planning Manager

**Recommended action:** Approve the contract amendment for permitting program alignment engineering services due to expanded meeting schedule and additional analysis.

**Schedule:** Program Alignment is expected to be completed in Q1 2022

**Budget considerations:** Fund name and code: Rule Revisions, 200-2007  
Fund budget: \$105,000

- 2021 Budget: \$51,945
- Contact Amount, Wenck Associates, Inc.: \$19,674.50
  - Total Contract Expenditures: \$17,296.60
  - 2021 YTD Expenditures: \$5,476.50
  - Total Contract Remaining: \$2,377.90
- Contract Amount, Smith Partners, PLLP: \$51,290
  - Total Contract Expenditures: \$28,321.45
  - 2021 YTD Expenditures: \$4,681.20
  - Total Contract Remaining: \$22,968.55

Total expenditures to date: \$46,781.80  
Requested amount of funding: \$7,863.10

**Past Board action:** Res # 19-081 Title: Authorization to contract with Smith Partners, PLLP and Wenck Associates, Inc. for program alignment and rule revisions support.

**Summary:**

In September 2019, the Board authorized staff to enter into contracts with Smith Partners, PLLP and Wenck Associates, Inc. (now part of Stantec) for support in aligning the Permitting Program. The goal of this effort is to reorient the Permitting Program around minimizing conflict and maximizing partnership with the land-use community by aligning stakeholder experiences with the District's message and the Balanced Urban Ecology policy. In service of this cooperative goal, Permitting sought support services from both Wenck Associates, Inc. and Smith Partners, PLLP to create a program that provides a heightened level of service to its applicants and communities through clear rules and process, alignment with other regulatory agencies, and creating greater efficiencies with its municipal partners. Of the \$105,000 allocated to the Rule Revisions fund over 2019 and 2020, \$70,964.50 was awarded via contracts to Smith Partners, PLLP and Wenck Associates, Inc. The amounts for both Smith Partners, PLLP and Wenck Associates, Inc. can be found in Table 1 below.

<b>Year</b>	<b>Consultant</b>	<b>Hours</b>	<b>Cost</b>
2019	Wenck Associates, Inc.	64	\$10,320.00
2020	Wenck Associates, Inc.	52.50	\$9,354.50
<b>Wenck Associates Total</b>		<b>116.50</b>	<b>\$19,674.50</b>
2019	Smith Partners, PLLP	52	\$11,960.00
2020	Smith Partners, PLLP	171	\$39,330.00
<b>Smith Partners Total</b>		<b>223</b>	<b>\$51,290.00</b>
<b>COMBINED TOTAL</b>		<b>339.50</b>	<b>\$70,964.50</b>
<b>2019 Total Cost</b>		<b>116.00</b>	<b>\$22,280.00</b>
<b>2020 Total Cost</b>		<b>223.50</b>	<b>\$48,684.50</b>

**Table 1: Consultant Quotes Received**

Since the contract's adoption, staff have been working with Smith Partners and Wenck Associates to complete the work outlined in the contract. Moving into 2020, COVID-19 and the ensuing global pandemic disrupted the planned work for the program alignment. The remote nature of work and heightened coordination costs required additional un-scoped meetings in order to accomplish the work that had originally been outlined.

Additionally, at the June 10, 2021 Board meeting, staff received Board feedback on the Wetland Protection rule and proposed modifications to buffer widths. Staff is proposing to undertake additional buffer width analysis, based upon this feedback, prior to engaging external audiences in late Q3 2021.

Sufficient contract funds remain for Smith Partners, PLLP portion of the contracted work. This is primarily due to the reduced scope of investigating partnership means and methods. This work was conducted in concert with the development of the Responsive Program Implementation Guidance, resulting in reduced hours and cost. However, the Wenck Associates, Inc. contract, has insufficient funds to complete the remaining work.

To accommodate the additional wetland analysis, and the remaining work, a contract amendment is required for Engineering Services. The original amount awarded to Wenck Associates, Inc. in September 2019 was not to exceed \$19,674.50. Through June 2021, \$17,296.90 has been spent. The most recent quote from Wenck Associates, Inc. outlines \$9,310.00 to complete the remaining work and analysis. Staff has added a 10% contingency to this amount to cover additional meetings or discussions that may be necessary in completing the work, bringing the total remaining work to \$10,241.00. Less the remaining current contract funds (\$2,377.90), a contract amendment in the amount \$7,863.10 is required to complete the work. This brings the total Engineering Services contract value to \$27,537.60.

The contract amendment can be accommodated within the overall project budget (carried over from 2019-2020), and will leave sufficient funds to complete all remaining legal work, contract services, and other miscellaneous expenditures associated with the Permitting Alignment.

Staff is requesting approval of the contract amendment request in an amount not to exceed \$7,863.10.

**Supporting documents (list attachments):**

1. Revised Scope of Work: Stantec Engineering Services



**RESOLUTION**

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**Resolution number:** 21-050

**Title:** Authorization to Approve a Contract Amendment for Permitting Program Alignment Engineering Services

WHEREAS, the Minnehaha Creek Watershed District (MCWD) outlined its focus on the protection and improvement of natural resources in ways that support thriving communities in its 2017 Watershed Management Plan;

WHEREAS, the collective efforts of the organization work towards enacting a vision of thriving communities generated through the interaction of the natural and built environments;

WHEREAS, MCWD’s primary strategy to materialize this vision is to work with those who shape the landscape. Because MCWD does not own or control the land, the organization must work collaboratively with the land-use community to achieve its mission, a strategy which is outlined in its Balanced Urban Ecology (BUE) policy;

WHEREAS, MCWD has undertaken work to realign its programming around the central strategy of the BUE policy;

WHEREAS, on September 12, 2019 the MCWD Board of Managers approved Resolution 19-081, which authorized a contract with Wenck Associates, Inc. (now a part of Stantec) for support in realigning the Permitting Program and revising its rules in an amount not to exceed \$19,674.50;

WHEREAS, COVID-19 and the ensuing global pandemic heightened coordination costs, and required additional, un-scope meetings in order to complete contracted work;

WHEREAS, on June 10, 2021, the MCWD Board of Managers received a briefing from staff on the intended direction of the proposed rules; based upon Board feedback, staff has determined that additional analysis should be incorporated into the wetland buffer component of the revisions prior to it being taken to the technical advisory committee;

WHEREAS, additional contract funds are required for Wenck Associates, Inc. to complete the remaining analysis and work.

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers authorizes the District Administrator to execute an amendment to the Wenck Associates, Inc. (now a part of Stantec) contract in an amount not to exceed \$7,863.10, for a total contract value of \$27,537.60.

Resolution Number 21- 050 was moved by Manager \_\_\_\_\_, seconded by Manager \_\_\_\_\_. Motion to adopt the resolution \_\_\_ ayes, \_\_\_ nays, \_\_\_ abstentions. Date: 7/22/2021

\_\_\_\_\_  
 Secretary Date: \_\_\_\_\_

Table 1: Engineering Scope of Work & Quote

Section	Description of Work	Priority	Task	Quote (CM \$203)	Quote EM (\$154)	Quote Total	Total Time (hrs)
Mapping the Governance Framework	Map District Regulations & Comparable Agency Analogs: This work involves identifying regulations that are analogous to District regulations at the local, state, and federal level. This effort will be built upon a staff-established matrix outlining both District rules and comparable member city rules.	Medium	Detailed matrix outlining the regulation of agencies with regulatory purview similar to MCWD (e.g. DNR via General Permit, MPCA - CSW requirements, City Ordinances, BWSR WCA Requirements, etc.) Vet final product with staff (city component already completed; Cole Thompson to supply City Ordinance Matrix)	0	0 \$	-	0
	Quantify the Benefits/Drawbacks of Regulating Single Family Homes: This work involves quantifying the value to natural resources achieved through regulating single-family homes (SFH). Additionally, this work will describe levels of natural resource risk imposed by various types of projects with the goal of identifying where SFHs fall in terms of risk.	High	Determine a quantitative value of regulating Single Family Homes (staff will compile data on SFH projects in the last 10 years with the factors outlined on page four, "Quantify staff time spent processing lower risk permits"). Quantitative Value should be assessed for the following: Erosion Control: The approximate TP/TSS reduction from retaining sediment on-site (Outlining cost of keeping sediment on-site vs. cost to remove from a downstream waterbody may be appropriate - use similar NRCS evaluation as guidance). This should be reported as the approximate value of regulating per average single family home. Wetland Buffers: use average number of single family homes requiring buffers per year and extrapolate approximate water quality benefit per SFH.	0	0	\$ -	-
			Devise method of assigning natural resource risk by project type (factors may include likelihood to impact key resources, types of remedial action available should something go wrong, inherent complexity of construction activity, etc.) AND identify natural resource risk imposed by average single family home project (e.g. very low, low, medium, high, very high). Provide short summary memo to identify how the analysis was done, and what the findings were.	0	0	\$ -	0
	Provide Guidance for Regulations Outside the District's Purview: This work will involve the drafting of an appendix document (by staff) to provide guidance on the triggers, applicability, and process of other agencies rules/regulations. This will be reviewed by legal and engineering before being incorporated as an appendix to the District's rules. The document will also include submittal guidance, described elsewhere in this scope of work.	Low	Review and edit guidance materials drafted by staff - the guidance materials will be for regulations outside of the District's purview (other agencies).	2	3	\$ 868.00	5
Rule Standard Consistency & Compliance	Compare MS4 Standards Against Analog District Rules, Programs, & Initiatives: This work will involve taking a staff generated matrices of District Rules/Programs to MS4 requirements, and identifying (1) Changes that must be made to District Operations; and, (2) Impacts to rule-making flexibility and how that might be mitigated (if at all).	Low	Quantify the difference between meeting current District standards and new MS4 standards (i.e., what is the delta between the two and how much difficulty is associated with achieving that delta on-site. This task should be reported informally to staff (email/bullet points)	0	0	\$ -	0
Simplifying & Streamlining Rule Language, Guidance, and Process	Draft Rule Language: This work will involve using plain language principles to reorganize and edit the rule structure and text. In addition, this work will involve pulling out submittal guidance of the rule text and relocating it into a guidance document.	High	Review draft of rule text (provided by Legal Counsel) and provide comments/edits. Assist in responding to any comments received within the comment period.	2	4	\$ 1,022.00	6
	SONAR's and Final Drafting: This work will involve drafting SONARs for public release of the rules, assistance in preparing materials for the Board of Managers, responding to comments received, and finalizing the rule text.	High	Final drafting/edits on rules based on comments.	2	4	\$ 1,022.00	16
	Draft Guidance Materials: This work (for purposes of this work task) is focused on relocating submittal requirements from the current rule text, and incorporating them into an appendix, as a supplement to the rules. The submittal guidelines are intended to incorporate the range of different materials that may be submitted to the District to demonstrate conformance with a provision of the rules, and is intended to be less rigid than its current format.	Low	In coordination with staff, build an outline of submittal guidance to be included in an appendix to the rules.	2	5	\$ 1,176.00	-
			Review final appendix document generated by staff.	1	2	\$ 511.00	10
Partnership Incentives & Process Memorialization	Alignment with Land Use Process: This work consists of outlining potential ways the Permitting Program can synchronize their process with local land use to encourage partnership opportunities.	Medium	Convene/discuss with staff and Legal Counsel to identify a list of options or potential methods to synchronize with local land use.	0	0	\$ -	-
			Review Legal Counsel's Tradeoff Analysis and Convene with staff and Legal Counsel to vet range of options and tradeoffs (analysis conducted by Legal Counsel), and identify a direction. Provide feedback on the implementation roadmap identified by Legal Counsel.	0	0	\$ -	0
	Identification of Potential Partnership Incentives: This work will outline the potential options the District may consider to encourage partnership opportunities, identify the tradeoffs with these options, and present recommendations on what mechanisms the District should incorporate into its program.	High	Initial focus meeting in coordination with staff and Legal Counsel to build out a list of potential incentivization options. Legal Counsel to conduct tradeoff analysis on identified options.	0	0	\$ -	-
			Review Legal Counsel's Tradeoff Analysis - Convene with staff and Legal Counsel to vet, identify potential submittal/engineering requirements; identify viable options and select a direction. Legal Counsel will expand on direction and submit draft mechanisms for comment.	0	0	\$ -	-
Compliance Process	Financial Assurance Updates: This work will consist of updating the financial assurance equations and amounts. Additionally, this area of work will explore the possibility of jointly pursuing financial assurances with partner cities.	Low	Conduct Initial High Level Research on how other Agencies (Watersheds/Select Cities) conduct financial assurances (note points of success, failure, difficulty, etc.) Develop a recommendation for new or updated financial assurance equations based upon current market and assessment of other agencies. Consider tying financial assurance amounts to the MnDOT Construction Index (updated annually for accurate construction costs).	0	0	\$ -	0
Guidance	Wetland Buffer Analysis, as outlined by the Board, including: -Additional Literature review -Analysis of the District's FAW -A scan of what other WMOs are doing -A comparison of buffer space created between your recommendation, and the District's existing rules Shoreline & Streambank -Identify and recommend simplified methods for shear stress and erosion intensity calculations			2	12	\$ 2,254.00	19
				1	4	\$ 819.00	
<b>Legend</b>				<b>Hours (Primary - \$197/hr)</b>	<b>Hours (Support - \$145/hr)</b>	<b>Cost (\$)</b>	<b>Total Hours</b>
	Work Completed			14	42	\$ 9,310.00	56
	Work Not Yet Started			0	0	\$ -	64
	Work No Longer Required			14	42	\$ 9,310.00	52.5