



# City of Rialto

## Legislation Details (With Text)

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**Title:** Request City Council to Award a Professional Services Agreement to Lynn Merrill and Associates, Inc., for National Pollution Discharge Elimination System (NPDES) Support Services, for three years at \$170,000 each year for a cumulative total in the amount of \$510,000.  
(ACTION)

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**Attachments:** 1. Attachment 1 - RFP and Addendum, 2. Attachment 2 Evaluatin Score Sheet, RFP 16-076, 3. Attachment 3 - Lynn Merrill and Associates, Proposal, 4. Attachment 4 - PSA Lynn Merrill and Associates, Inc 06-13-16

Date	Ver.	Action By	Action	Result
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For City Council Meeting [July 12, 2016]

TO: Honorable Mayor and City Council

APPROVAL: Michael E. Story, City Administrator

FROM: Robert G. Eisenbeisz, P.E., Public Works Director/City Engineer

Request City Council to Award a Professional Services Agreement to Lynn Merrill and Associates, Inc., for National Pollution Discharge Elimination System (NPDES) Support Services, for three years at \$170,000 each year for a cumulative total in the amount of \$510,000.  
(ACTION)

### **BACKGROUND:**

The Clean Water Act (CWA) establishes the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters. The CWA was based on laws enacted in 1948 and was then referred to as the Federal Water Pollution Control Act. The Act was significantly reorganized and expanded in 1972 and became known as the "Clean Water Act."

The CWA made it unlawful to discharge any pollutant from a point source into navigable waters, unless a permit was obtained. EPA's National Pollutant Discharge Elimination System (NPDES) permit program controls discharges. Point sources are discrete conveyances such as pipes or man-made ditches. Individual homes that are connected to a municipal system, use a septic system, or do not have a surface discharge do not need an NPDES permit; however, industrial, municipal and other facilities must obtain permits if their discharges go directly to surface waters.

The “CWA” establishes requirements for the discharge of urban runoff from the Municipal Separate Storm Sewer System (“MS4”) under the “NPDES” program. The Santa Ana Regional Water Quality Control Board (“RWQCB”) issued Permit Order No. R8-2010-0036 (“MS4 Permit”) to authorize the discharge of urban runoff from the collective San Bernardino County MS4’s within the Region on January 29, 2010. This is the fourth MS4 permit issued to the area-wide San Bernardino County Storm Water Program (“area-wide MS4 program”) since the RWQCB issued the first permit in 1990, and regulates discharges from all MS4 facilities within the Santa Ana River watershed in San Bernardino County. The MS4 Permit has been Administratively Extended by the Regional Board until such time that the new permit is approved.

The MS4 Permit coverage includes the San Bernardino County Flood Control District (“District”), San Bernardino County (“County”) and sixteen municipal jurisdictions, including the City of Rialto. The District is the Principal Permittee, while the other jurisdictions are considered “Co-Permittees.” Although all Permittees work cooperatively to implement the area-wide MS4 program, as a Co-Permittee the City of Rialto is ultimately responsible for compliance with the MS4 Permit within the City.

On March 22, 2016, the City Council authorized the release of Request for Proposal (RFP) 16-076 requesting proposals from qualified professional firms to provide the City with Technical Consultant Services to assist with the National Pollution Discharge Elimination System (NPDES) Program within the City.

The selected Consultant shall provide a variety of MS4/NPDES related services to the City on an as-needed / as-requested basis. Overall, the Consultant shall provide services which encompass all aspects of the NPDES program as it pertains to the Federal Clean Water Act, the Porter-Cologne Act, the statewide General Permits relating to Construction, Industrial, DeMinimus and all related regulations, policies, procedures and actions as implemented by the State Water Resources Control Board. Further, the Consultant shall provide policy assessment, scientific understanding and field implementation as necessary to provide comprehensive support to the City as it relates to the Waste Discharge Requirements for the County of San Bernardino and the Incorporated Cities of San Bernardino County, under Santa Ana Regional Water Quality Control Board Order No. R8-2010-0036, NPDES No. CAS 618036, Area-wide Urban Storm Water Runoff Permit and any successor permits.

The City needs a Consultant that has a comprehensive understanding of the NPDES program and can provide the capacity to advise the City on policy issues, review, develop and update ordinances, resolutions, processes, Local Implementation Plans and procedures within the City; and perform independent and systematic design review, plan check, WQMP reviews and integrated inspection services as they relate to construction, commercial, industrial and residential sites, while ensuring the professional development and understanding of the City’s existing staff.

Further, the City desires a Consultant that can provide immediate and appropriate technical support to the City’s Development, Administration, Finance and Engineering staff in order to ensure that the City has a comprehensive, integrated program that dovetails with other programs such as water conservation, landscape maintenance, as well as water and wastewater operations. The selected Consultant shall have a track record of working with the business community as a resource while ensuring that the development and business communities move into compliance with applicable NPDES requirements in a timely and fair approach. Finally, the selected Consultant should be able to initiate enforcement actions, if necessary, in order for the regulated community to comply with the

City's Ordinances, including but not limited to NPDES, Water Conservation, Illicit Discharges, as well as proper disposal of fats, oils and grease (FOG). The City desires an integrated approach with a combination of prime and sub-consultants in order to ensure full integration of the various components of the NPDES programs and in order to avoid gaps in program implementation.

Over the past five years, Lynn Merrill has accomplished the following tasks under the NPDES program for the last five years:

- Assisted the city in the 2012 EPA Regional Board audit and the subsequent implementation of corrective actions resulting from that audit.
- Developed and implemented an updated commercial industrial and restaurant inspection program and successfully conducted over 700 inspections during the last three years.
- Developed and implemented an inspection fee program for the mandated commercial industrial and restaurant inspections to eliminate this expense from the general fund.
- Reviewed all existing water quality management plans ( WQMP) throughout the city in order to verify installation of all best management practices on each site in accordance with approved plans and to perform required three-year maintenance verification inspections.
- Provided on-going NPDES support to approximately 25 capital improvement program projects during the last 2 1/2 years.
- Implemented the fats, oils and grease (FOG) inspection program in support of wastewater treatment requirements.
- Provided other environmental program support as requested by city staff.

The City released RFP 16-076 on March 24, 2016. The City advertised the RFP in the San Bernardino County Sun newspaper, posted it on the City's website, and distributed it to various plans rooms throughout Southern California. A copy of the RFP and its addenda are included as **Attachment 1**.

#### **ANALYSIS/DISCUSSION:**

In accordance with California Government Code Section 4562 and Chapter 2.48.440 of the Rialto Municipal Code, local agencies shall select firms providing professional services on the basis of demonstrated competence and on the professional qualifications necessary for satisfactory performance of the services required.

On April 28, 2016, the City received four (4) proposals in response to the RFP from the following firms (in alphabetical order):

1. CASC Engineering and Consulting (Colton, CA) - Non-Responsive Proposal
2. G&G Environmental Compliance, INC (Riverside, CA)
3. Lynn Merrill and Associates, Inc. (Redlands, CA)
4. WSP Parsons Brinkerhoff (San Bernardino, CA)

### **Disqualification of CASC**

The proposal from CASC was rejected due to non-responsiveness for failing to meet a requirement of the City's Notice Inviting Requests for Proposals, Technical Consultant Services to assist with the National Pollution Discharge Elimination System (NPDES) Program, RFP No. 16-076 ("Notice Inviting Requests for Proposals").

Specifically, CASC Engineering and Consulting failed to register as a firm interested in the Project and failed to acknowledge issued addenda. On page 1 of the RFP N0. 16-076, the fourth paragraph, "Obtaining RFP Documents and Addenda" states, in part "Upon downloading the RFP via the internet, contact the Public Works Department by e-mail at [bidinfo@rialto.ca.gov](mailto:bidinfo@rialto.ca.gov) to register as a firm interested in this project. Failure to register may result in not receiving addenda to the RFP." Similarly, the first paragraph on page 2 states, in part "Failure to register as a Respondent to this RFP process per the instructions in the Notice Inviting Requests for Proposals (under "Obtaining RFP Documents") may result in not receiving Addenda or other important information pertaining to this process. Failure to acknowledge Addenda may render a proposal as being non-responsive."

On April 19, 2016, the City issued Addendum No. 1. Addendum No. 1, Section I states:

**"The following shall be acknowledged:**

*Paragraph F - Cost Proposal on page 12 of 16 of the RFP and Paragraph G "The City will use..." on page 13 of 16 are deleted in their entirety. The following paragraph is hereby added:*

**"Paragraph F - Cost Proposal - "Due to the variable nature of the work proposed, the cost proposal shall include only the following items:**

- a. List the current hourly rates for all classifications of personnel who may work on providing the City with NPDES program consulting services as defined in the Scope of Services and tasks identified for Fiscal Year 2016-17, 2017-18 and 2018-19.
- b. List any reimbursable expenses the City may incur and the mark-up proposed on those expenses, including but not limited to, subcontracts, materials, or other expenses.
- c. The mileage rate shall be the IRS rate as established each year and published by the IRS. No markup shall be provided for mileage.
- d. The City shall include a provision in the final agreement with the selected firm(s) for annual CPI adjustments of the hourly rates after the base three year period for contract years four and five, if exercised by the City. Annual cost-of-living adjustments, if any, shall be based on the Consumer Price Index (CPI) for All Urban Consumers, for Los Angeles-Riverside-Orange County, CA.
- e. The City may, at its discretion during the life of the contract, request the vendor to provide task estimates for discrete tasks or projects for budgeting purposes, and may elect to allocate

annual budgets on a task basis, based on the type of work necessary to meet the program needs during the life of the contract. Said tasks will be based on estimated hours by classifications that the vendor expects to expend for that particular task or area.”

Because CASC Engineering and Consulting failed to register on the City’s website, CASC Engineering and Consulting did not receive or acknowledge Addendum No. 1 and failed to provide the additional detailed information requested in the Addendum. As a result of the above deficiencies, the City deems CASC Engineering and Consulting’s proposal as non-responsive and the proposal is rejected for failure to comply with the requirements prescribed in the Notice to Proposers.

### **Proposal Evaluation**

The City assembled an evaluation panel to review the submitted responsive proposals. The proposal evaluation panel consisted of the following members:

Katie Nickel, Public Works Program Coordinator (Public Works Department)  
Amy Crow, Administrative Analyst (Public Works Department)  
Hector Gonzalez, Associate Civil Engineer (Public Works Department)  
James Caro, Building & Code Enforcement Manager (Development Services)

Written proposals were evaluated in accordance with the criteria set forth in the RFP. Proposal evaluations considered each firm’s project understanding, scope of work, staff qualifications, firm qualifications, and project cost. The proposal evaluation summary sheet is included below and detail by evaluators is included as **Attachment 2**.

### **PROPOSAL EVALUATION SUMMARY SHEET**

Firm:	<b>Lynn Merrill</b>	<b>G&amp;G</b>	<b>WSP</b>
Score:	88.1	71.1	76
Rank:	1	3	2

Based on the submitted proposals and demonstrated experience, the evaluation panel concluded that Lynn Merrill and Associates, Inc. was the most qualified firm to provide Technical Consultant Services to Assist with the National Pollution Discharge Elimination System (NPDES) Program. Lynn Merrill and Associates has significant past experience working with the City of Rialto on the NPDES Program and has provided the City of Rialto with acceptable, satisfactory, and valuable service.

Staff reviewed the scope of services and cost proposal provided by Lynn Merrill and Associates, Inc. and found them to be appropriate for the tasks requested. A cost comparison summary sheet showing job title and hourly rate costs for each firm is included below.

### **COST COMPARISON SUMMARY**

RFP 16-076

	Principle-In-Charge	Program Manager	Inspector I	Inspector
Lynn Merrill & Associates	\$120.75	\$115.00	\$42.50	\$40.25
G&G Environmental	\$120.00	\$95.00	\$72.00	\$60.00
WSP Parsons Brinckerhoff	\$114.00	\$168.00	\$116.00	\$98.00

The Schedule of Compensation is included as Exhibit "C" to the Professional Services Agreement. A copy of the Lynn Merrill and Associates proposal is included as **Attachment 3**. A copy of the proposed Agreement is included as **Attachment 4**.

### **ENVIRONMENTAL IMPACT:**

The requested City Council action is not a "Project" as defined by the California Environmental Quality Act (CEQA). Pursuant to Section 15378(a), a "Project" means the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. According to Section 15378(b), a Project does not include: (5) Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.

### **GENERAL PLAN CONSISTENCY:**

This action is consistent with Guiding Principle 3A in the General Plan:

*Our City government will lead by example, and will operate in an open, transparent, and responsive manner that meets the needs of the citizens and is a good place to do business.*

### **LEGAL REVIEW:**

The City Attorney has reviewed and approved the staff report and Professional Services Agreement

### **FINANCIAL IMPACT:**

Budget is available in fiscal year 2016/2017 in the Waste & Environmental Fund Account No. 212-500-7313-2011 in the amount of \$120,000 for NPDES permit related activities and in the Water Fund Account No. 670-500-7960-2011 in the amount of \$50,000 for water conservation activities.

The table below shows the cost breakdown by task for the first three years of the agreement with Lynn Merrill and Associates.

Tasks	Year 1- FY2016/2017	Year 2- FY2017/2018	Year 3- FY2018/2019	Total 3 Years
Design & Development Process NPDES/WQMP Support	\$ 36,000.00	\$ 36,000.00	\$ 36,000.00	\$108,000.00
NPDES Program Administration and Presentation	\$ 24,000.00	\$ 24,000.00	\$ 24,000.00	\$ 72,000.00
Inspection Program	\$ 60,000.00	\$ 60,000.00	\$ 60,000.00	\$180,000.00
<b>Total NPDES Program</b>	<b>\$ 120,000.00</b>	<b>\$120,000.00</b>	<b>\$120,000.00</b>	<b>\$360,000.00</b>
Other Activities - Water Conservation	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$150,000.00
<b>Total Contract</b>	<b>\$ 170,000.00</b>	<b>\$170,000.00</b>	<b>\$170,000.00</b>	<b>\$510,000.00</b>

Funding for the two additional contract years will be budgeted during the subsequent fiscal years' budget process.

A Business license application and payment of a Business License tax at the Professional Service

rate in the amount of \$554 will be paid by the vendor prior to execution of the Professional Service Agreement.

**RECOMMENDATION:**

Staff recommends that the City Council award a Professional Services Agreement to Lynn Merrill and Associates, Inc., a California corporation, for National Pollution Discharge Elimination System (NPDES) Support Services, for three years at \$170,000 each year for a cumulative total in the amount of \$510,000.