



*Caring People ♦ Quality Programs ♦ Exceptional Service*

# MEMO

To: Mayor Campbell and Members of the City Council

From: Judy Parks

Date: June 21, 2013

Subject: Item # 39: Additional Funding for Legal Services for Clean Air Act Regulatory Compliance

In September of 2009 the City Council approved the engagement and retainer agreement with The Ritts Law Group, PLLC of Alexandria, Virginia, for legal services related to regulatory compliance with the Clean Air Act. For the initial agreement, Council authorized expenditure of an amount not to exceed \$100,000. During the initial twelve months, the Ritts Law Group worked closely with Electric Services and the Legal Department to evaluate projects scheduled at the steam electric plant and the combustion turbines.

The Ritts Law Group provided legal and engineering assistance in support of a number of matters facing Electric Services, including the City's request to the Iowa Department of Natural Resources (IDNR) for a Prevention of Serious Deterioration (PSD) non-applicability determination. In September 2010, Council approved an extension of engagement with The Ritts Law Group for an additional amount not to exceed \$50,000. The Ritts Law Group then provided engineering and legal analyses necessary to amend the air permits for the power plant as required by IDNR. Ritts also provided technical assistance to City staff in obtaining a determination that the wastewater treatment facility and the power plant do not comprise a single stationary source for air emissions.

Most recently, on February 14, 2012, Council approved an additional extension in an amount not to exceed \$50,000 so that The Ritts Law Group could continue to provide legal and engineering assistance to the City of Ames and specifically for Electric Services regarding Clean Air Act issues, most notably regarding the U.S. Court of Appeals decision regarding the Environmental Protection Agency's Cross-State Air Pollution Rule (CSAPR). In response to the City's appeal, the U.S. Court of Appeals - District of Columbia Circuit vacated CSAPR and remanded it back to the EPA to be re-written. The EPA has since petitioned the U.S. Supreme Court to overturn the D.C. Circuit Court's ruling. At this time, the U.S. Supreme Court has not announced whether or not it would accept the EPA's appeal.

Since its engagement with The Ritts Law Group in 2009, the City has expended a total of \$292,441.18. The initial engagement and the subsequent change order history is shown below:

Initial Purchase Order	September 8, 2009	\$100,000
Change Order #1	September 28, 2010	\$50,000
Change Order #2	March 1, 2011	\$50,000
Change Order #3	November 1, 2011	\$50,000
Change Order #4	February 14, 2012	\$50,000

Additional funding is required for the City to continue to receive analyses and legal advice from The Ritts Law Group regarding existing Clean Air Act issues and proposed regulations that currently affect the City's electric utility, or are critical in planning and mapping out the future of the utility's energy producing resources.

I am requesting authorization to extend the engagement with Ritts Law Group for an additional amount not to exceed \$50,000. Funding is available from the balance in the Electric Fund.

c: Donald Kom  
Brian Trower