

COUNCIL ACTION FORM

SUBJECT: CLARIFICATION OF TERMINATION DATE IN CONTRACT FOR DESIGN AND CONSTRUCTION OF NEW WATER TREATMENT PLANT

BACKGROUND:

On September 8, 2009, Council awarded a professional services agreement to FOX Engineering Associates of Ames to initiate the final design, bidding, and construction of the new Water Treatment Plant. That agreement was executed in the form of a Master Agreement that included all of the over-arching terms and conditions, as well as a series of task orders executed over time that contain details of the specific work elements to be provided.

There is a discrepancy in the termination date of the agreement between the Master Agreement and one of the task orders. The Master Agreement, approved by the City Council on October 13, 2009, calls out in Paragraph 3.01(A) that, "This Agreement shall be effective and applicable to Task Orders issued hereunder for five (5) years from the Effective Date of the Agreement." The effective date of the agreement was the date of Council authorization, giving a termination date of October 13, 2014.

Task Order 4.1, approved by the City Council on August 28, 2012, included a statement that the term of work shall be "...24 months following the issuance of the Notice of Final Acceptance of the construction work related to this project." The completion date for Knutson Construction Services under Contract 2 is July 25, 2017. Based on this clause, the effective termination date of the Master Agreement would be July 25, 2019.

Staff felt it was appropriate to issue an addendum to the Master Agreement, clarifying the existing language in Paragraph 3.01(A) to read, "This Agreement shall be effective and applicable to Task Orders issued hereunder for five (5) years from the Effective Date of the Agreement, *except in the event that final construction is not completed within five years, in which event the term of the Master Agreement shall be extended to 24 months following the issuance of the Notice of Final Acceptance of the construction work related to this project, as provided for in paragraph 5(a) of Task Order 4.1.*" **With this change, both the Master Agreement and Task Order 4.1 would be in agreement and would call for the same end date to the Master Agreement.**

ALTERNATIVES:

1. Approve the amendment to the Master Agreement with FOX Engineering to adjust the term of the agreement to run until 24 months following issuance of the Notice of Final Acceptance of the construction work related to the new Water Treatment Plant project.

2. Do not approve the recommended contract amendment.

MANAGER'S RECOMMENDED ACTION:

This amendment corrects the minor discrepancy in the professional services agreement with FOX Engineering related to the new water treatment plant.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1, thereby approving an amendment to the Master Agreement with FOX Engineering to adjust the term of the agreement for professional engineering services related to the new Water Treatment Plant.