

COUNCIL ACTION FORM

SUBJECT: CHANGE ORDER # 6 TO THE RITTS LAW GROUP AGREEMENT

BACKGROUND:

In September of 2009 the City Council approved an 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, Ritts worked closely with Electric Services and the Legal Department to evaluate projects scheduled at the steam electric plant and the combustion turbines. In the ensuing years Ritts has continued to provide assistance in support of a number of matters facing Electric Services, including the following:

- The City's request to the Iowa Department of Natural Resources (IDNR) for a Prevention of Serious Deterioration (PSD) non-applicability determination.
- Engineering and legal analyses necessary to amend the air permits for the power plant as required by IDNR.
- 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.
- Support regarding the U.S. Court of Appeals decision regarding the Environmental Protection Agency's Cross-State Air Pollution Rule (CSAPR).

Since its engagement with The Ritts Law Group in 2009, the City has expended a total of \$431,823 with this firm. The initial engagement and the subsequent change order history is summarized 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
Change Order #5	July 11, 2013	\$ 50,000
Change Order #6	August 26, 2014	\$100,000

Additional funding is needed 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. **Staff is now in the process of filing permits for the power plant fuel conversion which requires**

specialized environmental legal support and extensive environmental analysis. These services continue to be needed under the Ritts agreement.

Council authorization is now requested to extend the engagement with Ritts Law Group for an additional amount not to exceed \$100,000. Funding is included in the approved FY15 Capital Improvements Plan under the Unit #7 and #8 Fuel Conversion project.

ALTERNATIVES:

1. Approve contract Change Order No. 7 in the amount of \$100,000 to Ritts Law Group for specialized environmental legal support, extensive environmental analysis and Iowa DNR construction permit preparation work.
2. Reject contract Change Order No. 7.

MANAGER'S RECOMMENDED ACTION:

A construction permit from the IDNR is required in order to begin the physical conversion of the power plant from coal-fired operation to natural gas-fired operation. In filing a permit application with IDNR, there is a requirement to submit supporting documents that include extensive environmental analysis. Submitting an incomplete or incorrect permit application would delay issuance of the construction permit and delay the entire project. Funding to provide the analysis and support is available from the original project budget.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1 as stated above.