

COUNCIL ACTION FORM

SUBJECT: CHANGE ORDER #8 TO THE RITTS LAW GROUP AGREEMENT

BACKGROUND:

In September 2009, the City Council approved an engagement and retainer agreement with The Ritts Law Group, PLLC of Alexandria, Virginia, for legal services related to the regulatory compliance with the Clean Air Act.

For the initial agreement, Council authorized expenditure of an amount not 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 the 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).
- Engineering, environmental and legal analyses necessary to develop/submit IDNR construction permits for the power plant for the conversion of units #7 and #8 from coal to natural gas, and two new cooling towers.

Since its engagement with The Ritts Law Group in 2009, the City has expended a total of \$545,717 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
Change Order #7	December 16, 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. Most recently, staff has submitted permits for the power plant fuel conversion which required, and continues to require, specialized environmental legal support and extensive environmental analysis. New EPA regulations regarding coal combustion residue and the clean power plan will require detailed review to determine impact to the City of Ames. **It should be noted that the Ritts Law group provides engineering services and environmental analyses in addition to legal services. All of these services continue to be needed to support the review of EPA regulations and to develop a course of action.**

Funding for these services are included in the approved FY2015/16 Capital Improvements Plan under the Unit #7 and #8 Fuel Conversion project.

ALTERNATIVES:

1. Approve contract Change Order #8 in the amount of \$100,000 to Ritts Law Group.
2. Reject contract Change Order #8.

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. After filing a permit application with the IDNR, there is a requirement to submit supporting documents that include extensive environmental analysis, and to respond to questions from the IDNR. An incomplete or incorrect permit application would delay issuance of a construction permit and delay the entire project. In addition, new regulations from the Federal EPA regarding the Clean Power Plan, the Coal Combustion Rule, and Supreme Court actions regarding the MATS rule, make the need for this specialized support all the more necessary.

Therefore it is the recommendation of the City Manager that City Council adopt Alternative No. 1 thereby approving Change Order #8 which continues Council authorization is now requested to extend the engagement with Ritts Law Group for an additional amount not to exceed \$100,000 the engagement with Ritts Law Group for an additional amount not to exceed \$100,000.