

**COUNCIL ACTION FORM**

**SUBJECT: NEW WATER PLANT – AMENDMENT FOR ADDITIONAL PROFESSIONAL SERVICES**

**BACKGROUND**

On August 28, 2012, Council approved a professional services agreement with FOX Engineering of Ames, IA, for the final detailed design of the new water treatment plant, including bidding and construction phase services.

A portion of the construction phase services is for construction “office administration”, which includes work such as reviewing equipment manuals, reviewing punch list items and warranty items, meeting with the City and subcontractors to get work completed, and other construction related activities.

Construction “office administration” is provided under Task Order 4.1 of the agreement. Wrap up of the construction of the water plant is taking longer than expected and work has exceeded the substantial completion date. Services of the consulting team are still needed to ensure the project is completed according to contract requirements. The consulting team has informed the City that the delay in project completion has caused them to exceed the number of hours they had contracted for this phase of the work.

Council approved an amendment to the contract on February 13, 2018, but due to the continued delay in closing out the project, additional expenses have been, and are expected, expected to be incurred. **The consultant has estimated the amount required to reach the likely final completion of the project and is requesting a change order based on an hourly fee and associated reimbursables not to exceed \$75,000.** A copy of the change order is attached.

**It should be noted that Staff anticipates being able to recover the additional \$75,000 portion of the change order from the general contractor through the Liquidated Damages provision of the construction contract.**

**Table 1: Total Project Expenses and Remaining Budget**

	Water Fund	SRF Loan
All Prior Year Expenses	\$ 1,368,824	\$ 68,089,458
Current Year Budget	214,676	1,909,997
Subtotal	\$ 1,583,500	\$ 69,999,455
<b>Total</b>		<b>\$ 71,582,955</b>

**Table 2: Total Project Costs To Date**

Contract	Amount	Total
FOX Engineering		
Original Contract	\$ 8,240,000	
Change Orders 1-13	869,922	
<b>Change Order 14 (<i>this action</i>)</b>	<b>75,000</b>	<b>\$ 9,184,922</b>
Contract 1: Utilities – S.M. Hentges & Sons		
Original Contract	\$ 3,197,273	
Change Orders 1-7	- 123,626	<b>\$ 3,073,647</b>
Contract 2: Treatment Plant – Knutson Construction		
Original Contract	\$ 52,497,000	
Change Orders 1-25	1,214,111	<b>\$ 53,711,111</b>
All Other Expenses		<b>\$ 3,163,437</b>
(e.g., land acquisition, lime sludge disposal, environmental investigations, etc.)		
Subtotal		<b>\$ 69,133,117</b>
Contingency		<b>\$ 2,449,838</b>
<b>Total</b>		<b>\$ 71,582,955</b>

**ALTERNATIVES:**

1. Approve a change order to Task Order 4.1 under the Master Agreement with FOX Engineering for the design, bidding and construction of the new water treatment plant in the amount of \$75,000.
2. Do not approve a change order to Task Order 4.1.

**MANAGER'S RECOMMENDED ACTION:**

The new water treatment plant project is exceptionally important for the long-term viability of the Ames community, both in terms of increasing the capability of the utility to meet growing demands, as well as to improve the redundancy and reliability of the treatment process. An important part of the construction process is ensuring the project is completed as designed and in accordance with contract documents. Staff is currently in negotiations with the general contractor to close out the remainder of the contract. It is anticipated that the ultimate settlement agreement will recoup the City's out of pocket expenses due to delays, including the additional engineering fees. **Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1 as stated above.**

This is **EXHIBIT K**, consisting of two (2) pages, plus attachments, referred to in and part of the **Master Agreement between Owner and Engineer for Professional Services** dated October 13, 2009.

**AMENDMENT TO OWNER-ENGINEER AGREEMENT**

**Amendment No. 11**

**1. BACKGROUND DATA:**

- a. Effective Date of Owner-Engineer Agreement: October 13, 2009 – Master Agreement  
August 28, 2012 – Task Order 4.1
- b. Owner: City of Ames
- c. Engineer: FOX Engineering Associates, Inc.
- d. Project: Ames Water Treatment Plant

**2. DESCRIPTION OF MODIFICATIONS:**

- a. The Scope of Services currently authorized to be performed by Engineer in accordance with the Agreement and previous amendments, if any, is modified as follows:
1. Task Order 4.1 is amended to include up to an estimated additional hourly fee and associated reimbursable expenses of Task Series 800 – Construction Office Administration beyond those noted in the original Task Order 4.1 and as previously amended. This provides for engineering administration time beyond the construction contract completion date of August 17, 2017 and the 33 months of construction time noted in Task Order 4.1.
    - This construction administration work will be performed as Task 803. Includes work identified in the Task Order as Tasks 801, 820, 830, 840, 850, 860, 870. Work associated with Task 865-Record Drawings is not included and will continue to be invoiced to Task 800.
    - Tasker Order 4.1 is amended to include an additional hourly fee of \$75,000 as Task 803. As of December 10, 2018, approximately \$160,600 has accrued.
- b. For the modifications to engineering services set forth above, Owner shall pay Engineer the following compensation:

Task Series	Basis of Fee	Current Amount	Change	Revised Amount
803	Method B-Hourly	\$100,000.00	Est at +\$75,000.00	\$175,000.00

- c. The schedule for rendering services is modified as follows:
1. As with the other services provided under Task Order 4.1, the Engineer shall perform these services with reasonable diligence and expediency consistent with sound professional practices.
  2. The services will be rendered throughout the construction phase of the project, Task Series 800.
- d. Other portions of the Agreement (including previous amendments, if any) are modified as follows:  
(no additional modifications noted).
- e. The responsibilities of Owner are modified as follows: (no additional modifications noted).

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment. All provisions of the Agreement not modified by this or previous Amendments remain in effect. The Effective Date of this Amendment is \_\_\_\_\_, 2018.

OWNER:

City of Ames, Iowa

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date Signed: \_\_\_\_\_

ENGINEER:

FOX Engineering Associates, Inc.

By: Lance Aldrich 

Title: Principal/Project Manager

Date Signed: 12/10/18