

ITEM #: 22
DATE: 03-14-23
DEPT: ELEC

COUNCIL ACTION FORM

SUBJECT: **LEGAL SERVICES FOR POWER PLANT**

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-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 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).
- Iowa DNR construction permit preparation work, specialized environmental legal support and extensive environmental analysis needed projects such as the power plant coal-to-natural gas conversion, large equipment replacements, or equipment repairs that include the Prevention of Significant Deterioration.

Since its engagement with The Ritts Law Group in 2009, the City has expended a total of \$1,035,811.75 with this firm. This agreement is about to be closed due to the length it has been open. Staff would like to move to a new year-by-year agreement.

Staff is requesting that the City Council waive the City's purchasing policies requiring formal competitive bids and award a contract to Ritts Law Group, PLLC, Alexandria, VA, for total amount of \$90,000.

Services needed at this time include:

- EPA's Title V emission inventory processing and submittal
- Air Heater Basket construction permit development, submittal, and approval

This amount is to be used during the remainder of FY 2022/23 and next FY 2023/24. The FY 2022/23 and FY 2023/24 budgets for outside contractual services include \$68,000 and \$60,000 respectively. The contract amount is based on an estimated 60 hours at \$600/hour and 160 hours at \$350/hour. These rates are reasonable for the highly specialized type of work involved for Washington DC.

ALTERNATIVES:

1. A. Waive the Purchasing Policies and Procedures requirement for competitive bids and
B. Award a contract for Legal Services to Ritts Law Group, Alexandria, VA, in the amount of \$90,000.
2. Do not approve the contract and direct staff to bid these services.

CITY MANAGER'S RECOMMENDED ACTION:

As the EPA continues to issue environmental rules, it is critical to the operation of the City electric generation that the City understands and follows these rules. At the same time, if a rule appears to be unclear, or its implementation could severely impact the utility operation, the City may wish to challenge the rule in court. This can only be accomplished with specialized legal advice. The City has relied on the Ritts Law Group to provide this specialized expertise, and staff believes the proposed agreement represents a good value to the City. Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1 A-B, as stated above.