

**COUNCIL ACTION FORM**

**SUBJECT: CHANGE ORDER TO PROFESSIONAL LEGAL SERVICES PURCHASE ORDER WITH BROWWINICK ON 161KV TIE LINE FRANCHISE**

**BACKGROUND:**

The 2008/09 Capital Improvements Plan includes a project to install a 161-kV interconnection with MidAmerican Energy Company. In order to improve electric service reliability for our customers, there is the need for an additional transmission line to connect to the regional electric transmission grid. Following years of system impact studies, a route study, and substation and transmission line design work, the City determined that the best route for an additional transmission line extends from Ames to Ankeny. This project has been underway since 2004.

On July 2, 2008, the Iowa Utilities Board (IUB) issued its final ruling, effectively denying the City's petition for a franchise to construct its 161kV transmission line outside the City limits to northeast Ankeny. In its final decision, the IUB acknowledged the need for the line and did not contest the route specifically, but rather took issue with evidence of compliance with Code requirements as the basis for the initial route planning. On August 7, 2008, proposals were solicited for professional services to conduct a routing selection study conforming to Iowa Code and franchising requirements. On September 9, 2008, the City Council approved a contract with Burns & McDonnell to conduct a routing study as we again began a process for obtaining a franchise.

Members of the City staff interviewed representatives from two law firms that specialize in franchise representation. After careful consideration and discussions of availability, experience, and cost, the staff recommended and the Council approved on September 9, 2008 an agreement for legal counsel with the BrownWinick law firm of Des Moines. The principal attorney who has been heading the City's legal team, Mr. Philip Stoffregen, has years of experience in guiding franchise proposals successfully through the IUB process, and has been doing an outstanding job for the City.

Our second routing study has now been submitted to the IUB staff, and IUB staff's comments have been received and addressed. Legal counsel is advising that the City proceed with the process of preparing for public hearings and our appearance before the Administrative Law Judge (ALJ).

Hourly rates for staff anticipated to be involved in this contract have varied between \$160 and \$275 per hour. The City may be charged separately for items such as computer time, courier costs, copy/printing, document retrieval and related services as they are incurred. In September of 2008, the Council was informed that staff anticipated the cost of this contract to be between \$60,000 and \$100,000. A Purchase order was

issued in the amount of \$50,000 to begin the work. Approximately \$61,000 has been spent to date.

In order to now prepare for the presentations to be made during the public hearings and the appearance before the ALJ, staff is requesting that Council approve a change order to the initial Purchase Order, increasing it to the full \$100,000 estimate made in September of 2008. Communication from BrownWinick indicates that the actual bill should be less than that if all goes as planned.

**ALTERNATIVES:**

- 1. Approve a change order to the professional services Purchase Order with BrownWinnick of Des Moines, Iowa, increasing the amount of the Purchase Order to \$100,000. The City will continue to be billed on an hourly and services incurred basis.
- 2. Reject the proposed change order and ask staff for further information.

**MANAGER'S RECOMMENDED ACTION:**

It is in the City's best interest and in the best interest of our electric customers to keep this interconnection project moving forward as quickly as possible. Customer reliability is in danger of being compromised by the limitations in import being placed on our current 69-kV southbound interconnection.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1, approving a change order to the professional services agreement with BrownWinnick of Des Moines, Iowa, increasing the total amount to \$100,000.