



# Memo

Legal Department

**TO:** Mayor Campbell and Members of the City Council

**FROM:** Doug Marek

**DATE:** February 25, 2011

**SUBJECT:** Clean Air Act Legal Consulting Services for Electric Services

In September 2009, the City Council approved an engagement and retainer agreement with Ritts Law Group of Alexandria, Virginia, for consulting services related to regulatory compliance issues under the Clean Air Act. For the initial agreement, Council authorized expenditure of an amount not to exceed \$100,000. During the initial twelve months, the Ritts Law Group worked closely with Electric Services and the Legal Department to evaluate the projects scheduled at the steam electric plant and the combustion turbines. The evaluation was necessary to determine the applicability of Clean Air Act regulatory requirements.

With the assistance of legal and engineering consultants from Ritts Law Group, in May of 2010 the City prepared and submitted a request for non-applicability determination to the Iowa Department of Natural Resources (IDNR). In August, 2010, the Ritts Law Group consultants joined Brian Trower and me for a meeting with the Air Quality Bureau staff at the IDNR to review and present legal and regulatory support for the pending request. Following that meeting, we provided the Air Quality Bureau with additional, detailed engineering and legal analyses of the planned projects at the electric plant. The Ritts consultants also provided technical assistance to City staff in addressing an issue raised by the IDNR concerning the status of the water and electric utilities as a single stationary source for air emissions.

With the need for consulting services continuing, and the PSD non-applicability determination request still pending, Council in September, 2010 approved an extension of the engagement with Ritts Law Group for an additional amount not to exceed \$50,000. In October, IDNR notified the City that it was unable to make a non-applicability determination. IDNR then indicated that before the City could proceed with the planned projects, permits for the power plant would need to be amended. Amendment of the permits required extensive engineering analysis conducted through the coordinated efforts of the Ritts Group consultants and Electric Services staff. The permit applications and supporting analyses were completed and submitted to IDNR last month.

It is anticipated that the need for consulting assistance will continue until the pending regulatory issues are clarified and resolved. Additional funding will be required. I am therefore requesting authorization to extend the engagement with Ritts Law Group for an additional amount not to exceed \$50,000. Funding is available from the balance in the Electric Fund.

Cc: Donald Kom, Brian Trower, Duane Pitcher