

COUNCIL ACTION FORM

SUBJECT: CITY HALL (EOC) RENOVATION – ARCHITECTURAL AND
ENGINEERING SERVICES AND PROJECT STATUS

BACKGROUND:

On November 27, 2012, staff recommended that Council approve a change order to the architectural and engineering (A&E) agreement with Shive-Hattery for a scaled down Emergency Operations Center (EOC) renovation project in City Hall. That change order included an increase in fees of \$42,500 for the additional design work and a deduction of \$28,774 for the construction phase services not rendered in either of the two earlier failed bids. This created a net increase of \$13,726 (\$42,500 - \$28,774) to the A&E contract, for a grand total of \$128,726.

Upon further discussion with Shive-Hattery and after Council approved the change order, staff discovered that the \$28,774 deduction, which was an assumption made by staff, should not have been removed from the contract. Shive-Hattery intended to use that, plus the additional fees, to complete this project. With that understanding, the change order should have been only to add \$42,500, making the total A&E agreement \$157,500.

Following discovery of this oversight, staff took time to review and reevaluate other concerns related to the successful completion of this project. Those factors include the following:

- Meeting the FEMA completion deadline of December 31, 2013
- Recognizing that there are no guarantees in the FEMA grant that all the \$600,000 will be reimbursed
- Considering the likelihood of engaging a successful bidder who can complete this project successfully – on time and on budget
- Seeing the importance of construction being completed with little or no delays
- Recalling that the architect's past cost opinions having been significantly under bids actually received for the project
- Recognizing the architect's failure to advise the City of project cost increases during the earlier design phase at times when City staff may have requested an expansion of the project scope

- Citing numerous errors and omissions in the final plans and specifications
- Acknowledging the City's earlier inability to quickly react or make decisions to keep the project moving

Last week staff also met with ISU's Facilities, Planning and Management personnel, who do construction projects on a regular basis, to gain their input, expertise, and advice regarding these specific project dilemmas. ISU staff identified several areas to discuss with the architect to better protect the City, yet to complete this project on schedule and on budget.

Staff also met with a principal from Shive-Hattery to discuss the challenges still facing this project. This included asking why the additional architectural fees are as large as they are with a project roughly one third the size of the original project where most of the design work has already been done; and exploring options to reduce design costs, bring in acceptable bids, and successfully complete this project on time within budget. The Shive-Hattery representative explained that their fees are based on the number of hours it would take them to disassemble the current plans and specs, redesign and redraw the plans, and reassemble the specifications for the next bid.

Staff then conducted a second conference call with the Shive-Hattery principal to revisit their design and service fees and the concerns regarding the success of this project. Several options were discussed that include more shared responsibility of cost opinions and design fees by Shive-Hattery, providing ownership of electronic contract documents to the City, and gaining a strong commitment from the firm to make this a successful project.

As a result of these discussions, Shive-Hattery has agreed to the following stipulations in their contract:

1. Shive-Hattery will transfer ownership of the final documents to the City of Ames, subject to receipt of a waiver of liability.
2. Shive-Hattery will proactively pursue contractors during the bid period.
3. Shive-Hattery will deliver final bid documents to the City 60 days after receipt of written authorization from the City to proceed.
4. Shive-Hattery will provide updated cost opinions at the time of targeted 75% construction documents (CD) completion and at the time of 100% CD completion. Three separate cost opinions will be prepared; two by two separate individuals and one by the design team.
5. Redesign fees:
 - Will either be increased by \$35,859 if the bids received are less than \$950,000, or

- Will be increased by only \$17,929 if the bids received are between \$950,000 and \$1,000,000, or
- Will be increased by only \$0 if the bids received are over \$1,000,000.

6. Construction phase fees will remain in the contract.

The revised A&E contract fees would be as follows:

- Original contract	\$112,000	\$112,000
- C/O #1 – to include the print shop	3,000	3,000
- Corrected C/O #2	<u>35,859</u>	<u>35,859</u>
o New Total Contract	\$150,859	\$150,859
 - Deduct, if bids are \$950,000-\$1,000,000	<u>-17,929</u>	
o Total	\$132,930	
 - Deduct, if bids are over \$1,000,000		<u>- 35,859</u>
o Total		\$115,000

The budget and proposed expenses are now as follows:

FEMA Grant	\$600,000
General Fund	<u>\$800,000</u>
Total Funding	\$1,400,000
 Architect Fees (Shive Hattery)	\$ 150,859 maximum
Construction Advisory Fees (ISU)	\$ 30,000 (hrly, not to exceed)
Construction opinion (includes 10% contingency)	\$ 897,942 (12/14/12)
10% for Change Orders & Contingency	<u>\$ 89,794</u>
Estimated Total Project Costs	\$1,168,595
 Remaining funds (reserved for future project phases not included in EOC project)	\$ 231,405

ALTERNATIVES:

1. Rescind approval of the previous Change Order #2, and approve the updated Change Order #2 to Shive-Hattery for \$35,859 in redesign fees for a total contract amount of \$150,859 if the lowest responsible and responsive bid received is less than \$950,000; or \$17,929 if the lowest responsible and responsive bid received is between \$950,000 and \$1,000,000; or a zero cost increase if the lowest responsible and responsive bid received is over \$1,000,000.
2. Do not approve this Change Order, rescind approval of the previous A&E Change Order, cancel the existing A&E agreement with Shive-Hattery, and notify FEMA that the City will not utilize the \$600,000 EOC grant. Under this option, the City would

have spent \$88,005 for design fees that will not now be partially reimbursed by FEMA.

MANAGER'S RECOMMENDED ACTION:

The City Hall renovation project has met repeated stumbling blocks. The project twice was sent out to bids, and both times the bids greatly exceeded the project cost estimates and were rejected. In order to retain the FEMA EOC grant, staff previously recommended that Council approve additional A&E expenses for a scaled back project.

The recent misunderstanding over A&E costs led staff to conduct a comprehensive review of the pros and cons of continuing with this project. Helpful guidance was provided by ISU staff, and a principal from Shive-Hattery has made a number of strong commitments to demonstrate his firm's commitment to completing this project on time and within budget. This includes Shive-Hattery's commitments to expend extra effort in bringing capable bidders to the project, to transfer ownership of the electronic documents to the City, and to waive half or all of their redesign fees if the actual bids come in significantly higher than the architect's latest project cost estimate.

On balance, and notwithstanding the risks involved, moving forward with this A&E contract amendment provides the City with the opportunity to still access the \$600,000 federal EOC grant, and provides Shive-Hattery with the opportunity to help us bring a troubled project to a successful conclusion.

Therefore, it is the recommendation of the City Manager that the City Council accept Alternative No. 1 as outlined above.

Should Council elect to accept Alternative #2 and not proceed with the current project, staff would emphasize that the need for these improvements is still exists. Therefore, the next steps would be to hire a new design firm and identify project costs, and to identify additional local funding sources for the entire City Hall renovation project. Substantial additional funding will be needed to finance the EOC, the remaining improvements in the Police Department, and the additional renovations in the basement.