



Agenda Item:

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COUNCIL COMMUNICATION City Manager's Office

GENERAL INFORMATION

Agenda Date: 05/09/05
258

Communication No.: 05-

Agenda Item Type: Resolution
No.:

Roll Call

Submitted by: William G. Stowe, Assistant City Manager - Public Works

SUBJECT—

Approving Extension of Authorization to Employ Hall & Associates (Suite 203, 1101 15th Street NW, Washington, D.C. 20005-5004, John C. Hall, President) to Represent the City Stormwater Management Utility With Regard to Iowa Department of Natural Resource's Issuance of Total Maximum Daily Load's Impacting the City's Municipal Separate Storm Sewer System National Pollutant Discharge Elimination System Permit, and Authorizing the Retention of Sullivan & Ward Law Firm (801 Grand, Suite 3500, Des Moines, Iowa, 50309, John T. Ward, President and Chief Executive Officer) to Act as Local Counsel for Hall and Associates.

SYNOPSIS—

Extension of Authorization to Employ Hall & Associates to Represent the City Stormwater Management Utility With Regard to IDNR's Issuance of TMDL's Impacting the City's MS-4 NPDES Permit, and Authorizing the Retention of Sullivan & Ward Law Firm to Act as Local Counsel for Hall and Associates

FISCAL IMPACT—

Additional funding for Hall & Associates is 40 hours at a per hour fee not to exceed \$250.00 for a total additional fee not to exceed \$10,000. Funding for Sullivan & Ward is on the basis of a per hour fee of not to exceed \$135.00 per hour for a total fee on not more than \$5,000.

RECOMMENDATION—

Approval

BACKGROUND—

On December 20, 2004, pursuant to Roll Call 04-2791, this City Council approved the retention of Hall & Associates to assist the City with regard to watershed impairment issues potentially affecting the City's MS-4 (Storm Water Discharge) NPDES Permit. The IDNR recently issued Total Maximum Daily Limits (TMDLs) for Easter Lake in Des Moines. The TMDL issued for Easter Lake has the potential to significantly impact the City's MS-4 NPDES Permit and the City's required level of effort and cost in complying with NPDES Permit requirements. On March 28, 2005, by Roll Call No.05-720, the City Council authorized the expansion of Hall & Associates' employment by the City to encompass consultation and representation of the City regarding the issuance of TMDLs and their impact on the City's MS-4 NPDES Permit.

The Public Works Department, upon consultation with the Legal Department, now recommends that the employment authorization of Hall & Associates be expanded to encompass not only the issuance of TMDLs and their impact on the City's MS-4 NPDES Permit but a possible lawsuit to be brought against the Iowa Department of Natural Resources challenging the Easter Lake TMDL. Hall & Associates will need local counsel here to represent the City and it is recommended by the Public Works Department, upon consultation with the Legal Department, that Sullivan & Ward be retained as local counsel.