

★ **Roll Call Number**

08-1211

Agenda Item Number

39

Date July 14, 2008

RESOLUTION INCREASING THE AMOUNT OF THE AUTHORIZATION FOR EMPLOYMENT OF HALL & ASSOCIATES TO PROVIDE PROFESSIONAL CONSULTATION AND LEGAL REPRESENTATION SERVICES RELATED TO THE COMBINED SEWER OVERFLOW AND NPDES PERMIT FOR THE WASTEWATER RECLAMATION FACILITY BY AN ADDITIONAL \$50,000 AND APPROVAL OF PAYMENT OF BILLING

WHEREAS, Hall & Associates was employed in 2003 to serve as special legal counsel for the City of Des Moines in dealing with the IDNR regarding the National Pollution Discharge Elimination System (NPDES) permit for the Wastewater Reclamation Authority; and

WHEREAS, on December 20, 2004, pursuant to Roll Call 04-2791, the Des Moines 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; and

WHEREAS, on March 22, 2005, by WRA Board Resolution No. 5-28, the WRA approved the retention of Hall & Associates regarding the issuance of the TMDL for the Des Moines River and its impact on the WRA's NPDES Permit for the WRF; and

WHEREAS, on April 10, 2006, the Des Moines City Council, by Resolution No. 06-651, approved expanding retention of Hall & Associates to encompass professional consultation and representation services to the City regarding an alleged IDNR violation, the negotiation of a consent decree for the implementation of a Long Term Control Plan for the combined sewer system and combined sewer overflows required by the WRF NPDES Permit; and

WHEREAS, the Roll Call by the City Council also provided that such consultation and representation was to be provided on the basis of a fee of not to exceed \$250.00 per hour, for a total fee not to exceed \$25,000 without further authorization; and

WHEREAS, on April 18, 2006, by WRA Board Resolution No. 06-39, the WRA approved expanding retention of Hall & Associates to encompass professional consultation and representation services to the WRA regarding an alleged IDNR violation, the negotiation of a consent decree for the implementation of a Long Term Control Plan for the combined sewer system and combined sewer overflows required by the WRF NPDES Permit; and

WHEREAS, the WRA Resolution provided that such consultation and representation was to be provided on the basis of a fee of not to exceed \$250.00 per hour, for a total fee not to exceed \$25,000 without further authorization; and

WHEREAS, on January 22, 2007, by Resolution No. 07-124 on November 19, 2007 by Resolution No. 07-2205, and on April 21, 2008, by Resolution No. 08-671, the City Council approved increasing the amount of authorization for employment of Hall & Associates by an additional \$25,000; and

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WHEREAS, on January 16, 2007 by WRA Board Resolution No. 07-10, on November 20, 2007, by WRA Board Resolution No. 07-161, and on April 15, 2008 by WRA Board Resolution No. 08-76, the WRA approved increasing the amount of authorization for employment of Hall & Associates by an additional \$25,000; and

WHEREAS, the fees for such services provided by Hall & Associates are allocated equally between the WRA and the City.

WHEREAS, billings are currently below the authorized amounts but it is anticipated that additional authorization will soon be needed; and

WHEREAS, on July 15, 2008, the WRA will be asked to approve increasing the amount of authorization for employment of Hall & Associates by an additional \$50,000; and

WHEREAS, it is recommended that an additional \$50,000 be authorized.

WHEREAS, Hall & Associates has submitted a billing dated May 30, 2008 in the total amount of \$15,814.70; and

WHEREAS, the City Legal Department has reviewed said billing and has verified it to be correct and recommends payment.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF DES MOINES, IOWA that the employment of Hall & Associates as previously authorized by the City Council to provide professional consultation and legal representation services is now increased by an additional amount of \$50,000 on the basis of a fee not to exceed \$250.00 per hour.

BE IT FURTHER RESOLVED by the City Council of the City of Des Moines, Iowa, that the billing be forwarded to the Finance Department, and that the Finance Director be and is hereby authorized and directed to issue a check in the amount of \$15,814.70 to Hall & Associates.

APPROVED AS TO FORM:

Moved by Mahaffey to adopt.

Kathleen Vanderpool
 Kathleen Vanderpool, Deputy City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
HENSLEY	✓			
KIERNAN	✓			
MAHAFFEY	✓			
MEYER	✓			
VLASSIS	✓			
TOTAL	7			

MOTION CARRIED APPROVED
T. M. Franklin Mayor

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

Diane Rauh City Clerk