



Roll Call Number

09-2113

Agenda Item Number

30

Date November 23, 2009

APPROVING EMPLOYMENT OF THE LAW FIRM OF BELIN MCCORMICK

WHEREAS, on April 10, 2006, the Des Moines City Council, by Resolution No. 06-651, approved 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, 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 costs of such services have been shared between the WRA and the City of Des Moines, Iowa; and

WHEREAS, negotiations with IDNR and the office of the Iowa Attorney General are nearing completion; and

WHEREAS, the WRA and City estimate that the costs to comply with the proposed Consent Order, Judgment and Decree will be \$204,826,378 (in 2009 dollars); and

WHEREAS, given the extensive costs, it is in the best interest of the WRA and the City to secure an additional legal review of the proposed consent decree, draft NPDES Permit and corresponding documents; and

WHEREAS, it is proposed that the cost of such additional legal services be split between the City of Des Moines and the WRA; and

WHEREAS, a roll call authorizing such action and approving the retention of Charles Becker as detailed below was approved by the WRA on November 17, 2009; and

WHEREAS, it is the recommendation of the City Attorney that the City should employ Charles Becker and the law firm of Belin McCormick, to consult and provide such additional review, on the terms described below.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa:

That Charles Becker and the law firm of Belin McCormick be employed to provide legal representation and review to the City of Des Moines as described above at an hourly rate not

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to exceed \$250.00, plus out of pocket expenses, and not to exceed a total amount of \$30,000 to be shared equally with the Des Moines Wastewater Reclamation Authority, to be billed on a periodic basis.

Moved by Coleman to adopt.

APPROVED AS TO FORM:

Bruce E. Bergman
City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, HENSLEY, KIERNAN, MAHAFFEY, MEYER, VLASSIS, and TOTAL.

MOTION CARRIED 7 APPROVED
T.M. Franklin Council 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