

Date January 11, 2010

**APPROVING PAYMENT OF BILLINGS FROM HALL & ASSOCIATES
FOR SERVICES RELATED TO THE COMBINED SEWER SYSTEM
AND COMBINED SEWER OVERFLOWS RELATED TO THE NPDES PERMIT
AND ADDITIONAL WORK ON PROPOSED RULES BY IDNR**

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, pursuant to Roll Call No. 06-651, this City Council authorized the retention of Hall & Associates to provide consultation and representation services regarding an alleged Iowa Department of Natural Resources (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 National Pollution Discharge Elimination System (NPDES) Permit;

WHEREAS, on January 22, 2007, pursuant to Roll Call No. 07-124, the City Council increased the amount of authorization for employment of Hall & Associates by an additional \$25,000 and on November 19, 2007, pursuant to Roll Call No. 07-2205, the City Council increased the amount of authorization by an additional \$25,000, and on April 21, 2008, pursuant to Roll Call No. 08-671, the City Council increased the amount of authorization by an additional \$25,000, and on July 14, 2008, pursuant to Roll Call No. 08-1211, the City Council increased the amount of authorization by an additional \$50,000, and on November 9, 2009, pursuant to Roll Call No. 09-2012, the City Council increased the amount of authorization by an additional \$25,000; and

WHEREAS, on April 18, 2006, by WRA Board Resolution No. 06-39, the WRA approved 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, 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 on July 15, 2008, by WRA Board Resolution No. 08-112, the WRA Board approved increasing the amount of authorization for employment of Hall & Associates by an additional \$50,000, and on November 17, 2009 by WRA Board Resolution No. 09-172, the WRA Board approved increasing the amount of authorization for employment of Hall & Associates by an additional \$25,000; and

Date January 11, 2010

-2-

WHEREAS, the fees for such services are being allocated equally between the WRA and the City; and

WHEREAS, Hall & Associates has submitted a billing dated December 7, 2009 for such services in the amount of \$3,915.76; and

WHEREAS, on December 8, 2008 by Roll Call No.08-2122, the City Council authorized retaining Hall & Associates to do additional work on proposed rules by IDNR that would impose significant new wet weather treatment and compliance burdens on communities throughout the state with such fees to be shared between Des Moines and three other cities; and

WHEREAS, a billing dated December 8, 2009 in the total amount of \$5,952.36 has been submitted;

WHEREAS, the City Legal Department and the WRA Director have reviewed said billings and verified them to be correct and recommend payment; and

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

1. That the payment of \$1,957.88 is hereby authorized to be paid by the City for work on the Combined Sewer Overflows and NPDES Permit and the payment of \$5,952.36 is hereby authorized to be paid by the City for work on the proposed rules by IDNR and that the amount of \$1,957.88 shall be paid by the WRA, and has been authorized by the WRA Director.
2. That the total billings 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 \$9,868.12 to Hall & Associates.

APPROVED AS TO FORM:

Moved by Hensley to adopt.

Kathleen Vanderpool
Kathleen Vanderpool, Deputy City Attorney

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GRIESS	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MEYER	✓			
MOORE	✓			
TOTAL	7			

MOTION CARRIED 7 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