



Roll Call Number

15-0305

Agenda Item Number

20

Date February 23, 2015

**APPROVING EMPLOYMENT OF HALL & ASSOCIATES TO  
PROVIDE PROFESSIONAL CONSULTATION AND REPRESENTATION  
SERVICES RELATED TO NPDES PERMIT**

WHEREAS, Hall & Associates was retained by the Des Moines Metropolitan Wastewater Reclamation Authority (WRA) on April 18, 2006, by Resolution No. 06-39 to provide professional consultation and representation services to the WRA regarding an alleged IDNR violation, the negotiation of the a consent decree for 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; and

WHEREAS, Hall & Associates was retained by the City of Des Moines, Iowa by Resolution No. 06-651 on April 10, 2006 to provide professional consultation and representation services related to the combined sewer system and combined sewer overflows related to the NPDES Permit; and

WHEREAS, the fees for the representation were allocated between the WRA and the City of Des Moines; and

WHEREAS, the WRA's current NPDES Permit was negotiated and included as part of the Consent Decree which was approved by the WRA on March 16, 2010 by Resolution No. 10-48; and

WHEREAS, the WRA's NPDES Permit includes "Special Conditions – Combined Sewer Overflows" that apply to the City of Des Moines as the sole entity that is responsible and liable for the operations and control of the overflows identified in the special conditions as City owned outfalls; and

WHEREAS, the current NPDES Permit expires on April 27, 2015 and timely application for a new NPDES Permit has been made; and

WHEREAS, the law firm of Hall & Associates has substantial expertise and experience in environmental law issues at the national level, in negotiating NPDES permits and has valuable past experience and knowledge in representing the City during the consent decree and NPDES permit negotiations; and

WHEREAS, the Consent Decree has ongoing obligations on the WRA and the City of Des Moines; and

WHEREAS, on February 17, 2015, the WRA authorized retention of Hall & Associates to provide consultation and representation services to the WRA regarding negotiation of its NPDES Permit and consented to joint representation and consent to waiver of any conflict of interest with joint representation with the City of Des Moines; and

WHEREAS, it is recommended that the City of Des Moines approve employment of Hall & Associates for negotiation of those combined sewer overflows in the "Special Conditions – Combined Sewer Overflows" of the NPDES permit that are the responsibility of the City of Des Moines and consent to joint representation and waiver of any conflict of interest with joint representation with the WRA; and



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WHEREAS, Hall & Associates will bill the WRA and the City separately for the representation; and

**NOW THEREFORE BE IT RESOLVED BY THE DES MOINES CITY COUNCIL:**

1. That it authorizes employment of Hall & Associates for consultation and representation services related to the negotiation of a "Special Conditions – Combined Sewer Overflow" included as a part of the WRA's NPDES Permit, such consultation and representation to be provided at the fees set forth below:

John Hall	\$385.00
Gary Cohen	\$325.00
Bill Hall	\$275.00
Philip Rosenman	\$225.00
Associate Attorney	\$190.00
Research Associates	\$135.00
Research Engineer	\$135.00
Law Clerk	\$ 95.00

and as such fees may be updated annually and such other staff as necessary, including legal research fees and out of pocket expenses with such authorization not to exceed \$25,000 without further authorization.

2. That it hereby consents to joint representation of the WRA and the City of Des Moines and hereby consents to a waiver of any conflict of interest with the joint representation in this matter.
3. Be it further resolved that the City Attorney is authorized and directed to sign a Terms of Retainer or other such agreement as may be necessary.

APPROVED AS TO FORM:

Moved by Coleman to adopt.

Kathleen Vanderpool  
Kathleen Vanderpool  
Deputy City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
HENSLEY	✓			
MAHAFFEY	✓			
MOORE	✓			
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