

April 10, 2006

Date.....

APPROVING EMPLOYMENT OF HALL & ASSOCIATES TO PROVIDE PROFESSIONAL CONSULTATION AND REPRESENTATION SERVICES RELATED TO THE COMBINED SEWER SYSTEM AND COMBINED SEWER OVERFLOWS RELATED TO THE NPDES PERMIT

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 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 28, 2005, by Roll Call No. 05-720, the City Council approved the retention of Hall & Associates regarding the issuance of TMDLs and the impact on their impact on the City's MS-4 NPDES Permit; and

WHEREAS, it is now recommended that Hall & Associates be retained to assist the City with regard to a finding of violation by IDNR, a negotiation of a consent decree for implementation of the Long Term Control Plan for the combined sewer system and combined sewer overflows; and

WHEREAS, the City has transferred the Wastewater Reclamation Facility to the Des Moines Metropolitan Wastewater Reclamation Authority (WRA), the NPDES Permit for the WRF specifically permits the City's combined sewer system and combined sewer overflows and the WRA combined sewer overflow; and

WHEREAS, in December 2004, the WRA and City of Des Moines submitted a Long Term Control Plan for its combined sewer system and combined sewer overflows to the Iowa Department of Natural Resources (IDNR) as required by the NPDES Permit for the WRF; and

WHEREAS, the City owns ten of the combined sewer overflows and the WRA owns one of the combined sewer overflows; and

WHEREAS, the Long Term Control Plan addresses the nine minimum control standards required for a combined sewer system; and

WHEREAS, it is anticipated that implementation of the Long Term Control Plan will need to be through negotiation of a consent decree initiated through a finding of violation; and

WHEREAS, once a violation has been found it is anticipated that negotiations will ensue regarding implementation of the Long Term Control Plan for the combined sewer system and combined sewer overflows through a consent decree; and

WHEREAS, the Long Term Control Plan for the combined sewer overflows effects both the WRA and City as to the combined sewer overflows and the combined sewer system; and

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WHEREAS, the law firm of Hall & Associates has substantial expertise and experience in environmental law issues at the national level, particularly with respect to Long Term Control Plans for combined sewer systems and combined sewer overflows, negotiation of consent decrees and NPDES Permits; and

WHEREAS, it is the recommendation of the Public Works Department, upon consultation with the Legal Department, that Hall & Associates be retained by the City to provide professional consultation and representation services to the City regarding the negotiation of a consent decree for the implementation of a Long Term Control Plan for the combined sewer system and combined sewer overflows; and

WHEREAS, the Operating Contractor is recommending to the WRA, with consultation with its Legal Department, that Hall & Associates be retained by the WRA to provide consultation and representation services to the WRA regarding the negotiation of a consent decree for implementation of the Long Term Control Plan for the combined sewer system and combined sewer overflows; and

WHEREAS, the fees for such services provided by Hall & Associates would be allocated between the WRA and the City, as appropriate.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF DES MOINES, IOWA that the employment of Hall & Associates be and hereby expanded to encompass professional consultation and representation services to the City regarding an 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, such consultation and representation 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.

APPROVED AS TO FORM:

Moved by _____ to adopt.

Kathleen Vanderpool

Kathleen Vanderpool
Deputy City Attorney

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.

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BROOKS				
COLEMAN				
HENSLEY				
MAHAFFEY				
KIERNAN				
VLASSIS				
TOTAL				

MOTION CARRIED

APPROVED

Mayor

City Clerk