



Roll Call Number

09-1303

Agenda Item Number

7C

July 27, 2009

Date

**RESOLUTION APPROVING RETENTION OF JOHN HALL & ASSOCIATES
FOR ASSISTANCE WITH ENVIRONMENTAL CLEARANCE AS IT
RELATES TO THE NATIONAL HISTORIC PRESERVATION ACT**

WHEREAS, the Environmental Protection Agency grant accepted by the City on September 22, 2003 by Resolution No. 03-2172 provided funding for projects that included lining of brick sewers and were determined by the Environmental Protection Agency to qualify for Categorical Exclusions and that the National Historic Preservation Act compliance would be coordinated pursuant to the regulations at 36 CFR Section 800.8; and

WHEREAS, following installation of the lining, on or about November 19, 2008, the Environmental Protection Agency (EPA) consulted with and received advice from the State Historic Preservation Office (SHPO) about certain brick sewers within the project area that may be historic cultural resources; and

WHEREAS, in response from the opinion from SHPO, EPA sent an electronic mail message, dated January 30, 2009, to the City Manager requiring an historic context of the municipal sewer system be prepared; and

WHEREAS, in response, the City Manager sent a letter on April 29, 2009, and requested that the EPA reconsider their determination; and

WHEREAS, by letter dated May 21, 2009, the EPA responded repeating their request that the City complete a Phase 1A characterization; and

WHEREAS, in order to close the grant, the City of Des Moines has agreed to prepare the Phase 1A, Characterization and Historic Context, of our sewers as required by the Environmental Protection Agency, in consultation with the Iowa State Historical Preservation Office; and

WHEREAS, the City of Des Moines continues to object to the determination made and the potential affect this type of determination has on future projects that may affect historic cultural resources subject to National Historic Preservation Act review and approval by Federal and State agencies in consultation with the Iowa State Historic Preservation Office; and

WHEREAS, the City of Des Moines is requesting the assistance of the Honorable Senator Tom Harkin, Senator Grassley and Congressman Boswell to further review the issue and provide possible direction in clarifying requirements and authorities as they relate to satisfying interpretations provided by Federal and State agencies in consultation with the Iowa State Historic Preservation Office; and

WHEREAS, the City has previously engaged John Hall & Associates for assistance in 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; and

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WHEREAS, on December 8, 2008 by Roll Call No.08-2122, the City Council authorized retaining Hall & Associated 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, it is recommended that the City Council retain John Hall & Associates to assist with environmental clearance with the National Historic Preservation Act through the Iowa State Historic Preservation Office, United States Environmental Protection Agency and the Iowa Department of Natural Resources at the hourly rate of \$250.00 with the cost to be shared with the Metropolitan Wastewater Reclamation Authority as appropriate.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF DES MOINES, IOWA: That it hereby authorizes the retention of John Hall & Associates law firm to assist with environmental clearance with the National Historic Preservation Act through the Iowa State Historic Preservation Office, United States Environmental Protection Agency and the Iowa Department of Natural Resources at the hourly rate of \$250.00 with the cost to be shared with the Metropolitan Wastewater Reclamation Authority as appropriate.

Moved by Vlassis to adopt.

APPROVED AS TO FORM:

Ann DiDonato
 Ann DiDonato
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
COLEMAN		✓		
HENSLEY	✓			
KIERNAN		✓		
MAHAFFEY	✓			
MEYER	✓			
VLASSIS	✓			
TOTAL	5	2		

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