



Metropolitan Water Reclamation District of Greater Chicago

100 East Erie Street
Chicago, IL 60611

Legislation Details (With Text)

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Title: Authorization for payment to Rausch Construction Company in the amount of \$625,741.35, plus interest in the amount of \$3,702.96, for the judgment in the matter of Rausch Construction Company v. Metropolitan Water Reclamation District of Greater Chicago, No. 07 CH 4269, Purchase Order 5000162 (As Revised)

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Date	Ver.	Action By	Action	Result
1/21/2010	1	Committee of the Whole	Recommended	Pass
1/21/2010	1	Board of Commissioners	Approved	Pass

TRANSMITTAL LETTER FOR BOARD MEETING OF JANUARY 21, 2010

COMMITTEE ON JUDICIARY

Mr. Richard Lanyon, Executive Director

Authorization for payment to Rausch Construction Company in the amount of \$625,741.35, plus interest in the amount of \$3,702.96, for the judgment in the matter of Rausch Construction Company v. Metropolitan Water Reclamation District of Greater Chicago, No. 07 CH 4269, Purchase Order 5000162 (As Revised)

Dear Sir:

Rausch Construction Company filed suit against the District alleging breach of contract in Contract 97-362-1S Rehabilitation of Dropshaft 5 and Installation of an Odor Control Unit in DesPlaines, Illinois. Rausch sought \$980,000.00 in damages plus interest in the amount of \$285,413.00 pursuant to the Prompt Payment Act. Rausch also sought a determination that the assessment of a portion of the liquidated damages was a penalty.

The trial on this matter was conducted from October 26, 2009 through November 2, 2009. On December 17, 2009, the Court entered judgment in the amount of \$625,741.35 against the District which represents the liquidated damages amount it found were not assessed appropriately. The Court declined to find that the District's liquidated damage provision was a penalty. Nor did the Court find that the assessment of interest requested by Rausch was applicable under the Prompt Payment Act.

Although there were several technical errors in the Court's analysis, even considered in the aggregate, the Law Department believes that they were not of such significance as to warrant a reversal of the decision. However, even if these matters were reconsidered, it would not result in reversible error. Moreover, the Law Department does not believe that the trial court's decision turned on any of those matters. These funds are being held in Purchase Order 5000162 As such, it is the opinion of the Law Department that the judgment amount be tendered to Rausch and this Decision and Order not be appealed.

The Law Department requests authorization to make payment in the judgment amount of \$625,741.35 from Contract 97-362-1S to Rausch Construction Company. A direct voucher will be issued for the interest in the amount of \$3,702.96. Funds are available in Accounts 201-50000-645700 and 201-50000-612490.

Requested, Frederick M. Feldman, General Counsel, FMF:LJH:crb
Respectfully Submitted, Terrence J. O'Brien, Chairman Committee on Judiciary
Disposition of this agenda item will be documented in the official Regular Board Meeting Minutes of the Board of Commissioners for January 21, 2010