



Metropolitan Water Reclamation District of Greater Chicago

100 East Erie Street
Chicago, IL 60611

Legislation Details (With Text)

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Title: Authority to increase purchase order and amend the agreement with Barnes & Thornburg LLP to represent and counsel the District in connection with the chlorides water quality standards initiative and work group and petition for Time Limited Water Quality Standard (TLWQS) for chlorides in an amount of \$60,000.00, from an amount of \$300,000.00 to an amount not to exceed \$360,000.00, Account 101-30000-612430, Purchase Order 3086922

Sponsors:

Indexes:

Code sections:

Attachments: 1. PMM - Barnes Thornburg Change Order - change order log.pdf

Date	Ver.	Action By	Action	Result
7/11/2019	1	Board of Commissioners	Approved	Pass

TRANSMITTAL LETTER FOR BOARD MEETING OF JULY 11, 2019

COMMITTEE ON PROCUREMENT

Mr. Brian Perkovich, Executive Director

Authority to increase purchase order and amend the agreement with Barnes & Thornburg LLP to represent and counsel the District in connection with the chlorides water quality standards initiative and work group and petition for Time Limited Water Quality Standard (TLWQS) for chlorides in an amount of \$60,000.00, from an amount of \$300,000.00 to an amount not to exceed \$360,000.00, Account 101-30000-612430, Purchase Order 3086922

Dear Sir:

On July 9, 2015, the Board of Commissioners authorized the Director of Procurement and Materials Management to issue a purchase order and enter into an agreement with Barnes & Thornburg LLP to represent and counsel the District in connection with the preparation and prosecution of a petition for a variance from the water quality standard for chlorides in the Chicago Area Waterway System (CAWS) in an amount not to exceed \$60,000.00. Barnes & Thornburg was also retained to assist the District with the formation and administration of a stakeholder work group with the ultimate goal of reducing chloride discharges and the resulting impact to the area waterways. The group was formed at the behest of the Illinois Environmental Protection Agency (IEPA). It is comprised of state and local governmental agencies and municipalities as well as private industry that will be required to comply with the new chlorides water quality standards. The work group collaborated on an extensive technical report that was submitted in support of each Petition for a TLWQS filed in July, 2018. In addition to the District, there are 48 other petitioners.

As of June 26, 2019, the attached list of change orders have been approved. The effect of these change orders resulted in an increase in an amount of \$150,000.00 from the original amount awarded of \$150,000.00. The current contract value is \$300,000.00. The prior approved change orders reflect a 100% increase to the

original contract value.

The reason for the requested change order is two-fold. First, it will enable the District to continue the process of seeking relief from the water quality standards for chlorides. Second, it will enable Barnes & Thornburg to continue to assist the District with its role in the CAWS Chlorides Watershed Group.

The next step in the process of seeking relief through the TLWQS is to present pre-filed testimony and possibly witnesses before the Illinois Pollution Control Board (IPCB). It is expected that there will be multiple hearing dates. Following the hearings, there may be post-hearing comments filed by petitioners. Thereafter, the IPCB will issue an order either granting or denying the TLWQS for the CAWS.

If the TLWQS is granted, there will be a host of requirements that the District and the other petitioners will undertake for purposes of complying with the TLWQS. This will be done on an individual basis and collaboratively as part of a formal CAWS Watershed Chlorides Group. This new group is currently being formed and will take over the work being done by the current chlorides workgroup led by the District. Participation in this Watershed Group is a mandate from the IEPA.

If the Watershed TLWQS is granted and approved by the United States Environmental Protection Agency (USEPA), the District will require the legal expertise of Barnes and Thornburg to navigate its role in this new type of variance and all its legal requirements. If the IPCB denies the Watershed TLWQS, the District will require the legal services of Barnes and Thornburg to appeal the decision.

This change order is in compliance with the Illinois Criminal Code because the change is germane to the original agreement, is necessary due to circumstances not reasonably foreseeable at the time the contract was signed, and, is in the best interest of the District.

It is hereby recommended that the Board of Commissioners authorize the Director of Procurement and Materials Management to execute a change order to increase the purchase order and amend the agreement in the amount of \$60,000.00 from an amount of \$300,000.00 to and amount not to exceed \$360,000.00.

Funds will become available in account 101-30000-612430 contingent upon approval of a funds transfer also submitted for this July 11, 2019 Board Meeting.

Requested, Susan T. Morakalis, General Counsel STM:EMA:MTC:CN:mmv

Recommended, Darlene A. LoCascio, Director of Procurement and Materials Management

Respectfully Submitted, Barbara J. McGowan, Chairman Committee on Procurement

Disposition of this agenda item will be documented in the official Regular Board Meeting Minutes of the Board of Commissioners for July 11, 2019

Attachment