



Metropolitan Water Reclamation District of Greater Chicago

100 East Erie Street
Chicago, IL 60611

Legislation Details (With Text)

File #: 18-0726 **Version:** 1

Type: Agenda Item **Status:** Adopted

File created: 7/13/2018 **In control:** Procurement Committee

On agenda: 8/2/2018 **Final action:** 8/2/2018

Title: Authority to increase purchase order and amend the agreement with Barnes & Thornburg LLP for legal services in the pending rulemaking before the Illinois Pollution Control Board entitled, "Metropolitan Water Reclamation District of Greater Chicago v. Illinois Environmental Protection Agency, PCB No. 2016-028 (Variance - Water)", in an amount of \$60,000.00 from an amount of \$1,490,000.00, to an amount not to exceed \$1,550,000.00, Account 101-30000-612430, Purchase Order 3049607

Sponsors:

Indexes:

Code sections:

Attachments: 1. PMM - Increase PO to Barnes Thornburg.pdf

| Date | Ver. | Action By | Action | Result |
|----------|------|------------------------|-------------|--------|
| 8/2/2018 | 1 | Board of Commissioners | Approved | Pass |
| 8/2/2018 | 1 | Committee of the Whole | Recommended | Pass |

TRANSMITTAL LETTER FOR BOARD MEETING OF AUGUST 2, 2018

COMMITTEE ON PROCUREMENT

Mr. John P. Murray, Acting Executive Director

Authority to increase purchase order and amend the agreement with Barnes & Thornburg LLP for legal services in the pending rulemaking before the Illinois Pollution Control Board entitled, "Metropolitan Water Reclamation District of Greater Chicago v. Illinois Environmental Protection Agency, PCB No. 2016-028 (Variance - Water)", in an amount of \$60,000.00 from an amount of \$1,490,000.00, to an amount not to exceed \$1,550,000.00, Account 101-30000-612430, Purchase Order 3049607

Dear Sir:

On January 3, 2008, 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 (Barnes & Thornburg) for legal services in the rulemaking before the Illinois Pollution Control Board (IPCB) entitled In the Matter of: Water Quality Standards and Effluent Limitations for the Chicago Area Waterways System and the Lower Des Plaines River: Proposed Amendments to 35 Ill. Adm. Code Parts 301, 302, 303, and 304, R08-09 (Rulemaking-Water). In July 2015, the IPCB adopted more stringent water quality standards for dissolved oxygen, among other constituents.

On July 21, 2015, Barnes & Thornburg filed a petition for a variance on the District's behalf from the new dissolved oxygen standard in the matter entitled Metropolitan Water Reclamation District of Greater Chicago v. Illinois Environmental Protection Agency, PCB No. 2016-028 (Variance-Water). That petition was the subject of extensive negotiations between various environmental groups, the Illinois Environmental Protection Agency, and the United States Environmental Protection Agency.

Prior to the completion of the variance proceedings, the Illinois General Assembly created a new category of variance called Time Limited Water Quality Standards (TLWQS) and the IEPA amended its regulations on variances. As a result of this change in the applicable variance regulations, Barnes & Thornburg was required to revise the District's pending variance petition, in order to convert it into a TLWQS variance petition.

The necessary modifications to the District's variance petition have been extensive and require additional negotiations between the District, the environmental groups, IEPA and EPA. Once the TLWQS petition is finalized, Barnes & Thornburg will file it with the Illinois Pollution Control Board. If the District's TLWQS petition is approved, the District will require Barnes & Thornburg's continuing legal guidance on implementation under the new variance regulations. If the District's TLWQS petition is denied, the District will also require Barnes & Thornburg's legal guidance in any potential appeal.

Additional funds are necessary to continue utilizing the legal services of Barnes & Thornburg in the District's TLWQS variance petition for dissolved oxygen and any related subsequent proceedings.

As of July 6, 2018, the attached change orders have been approved. The effect of these change orders is an increase in the amount of \$1,190,000.00 from the original amount awarded of \$300,000.00. The current contract value is \$1,490,000.00.

A change order is in compliance with the Illinois Criminal Code since the change is due to circumstances not reasonably foreseeable at the time the contract was signed, is germane to the contract, 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 (4% of the current contract value) from an amount of \$1,490,000.00 to an amount not to exceed \$1,550,000.00.

Funds are available in account 101-30000-612430.

Requested, Susan Morakalis, General Counsel STM:EMA:JTM:MTC:TN:kk

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 August 2, 2018

Attachment