



Metropolitan Water Reclamation District of Greater Chicago

100 East Erie Street
Chicago, IL 60611

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Title: Authority to increase purchase order and amend the agreement with Barnes & Thornburg, for legal services in the pending rulemaking before the Illinois Pollution Control Board 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 an amount of \$100,000.00, from an amount of \$1,390,000.00, to an amount not to exceed \$1,490,000.00, Account 101-30000-601170, Purchase Order 3049607 (As Revised)

Sponsors:

Indexes:

Code sections:

Attachments: 1. 4.23.15 PO 3049607.pdf

Date	Ver.	Action By	Action	Result
4/23/2015	1	Board of Commissioners	Approved	Pass
4/23/2015	1	Committee of the Whole	Recommended	Pass

TRANSMITTAL LETTER FOR BOARD MEETING OF APRIL 23, 2015

COMMITTEE ON Procurement

Mr. David St. Pierre, Executive Director

Authority to increase purchase order and amend the agreement with Barnes & Thornburg, for legal services in the pending rulemaking before the Illinois Pollution Control Board 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 an amount of \$100,000.00, from an amount of \$1,390,000.00, to an amount not to exceed \$1,490,000.00, Account 101-30000-601170, Purchase Order 3049607 (*As Revised*)

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, for legal services in the pending rulemaking before the Illinois Pollution Control Board 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 an amount not to exceed \$300,000.00. The contract expires at the conclusion of all matters concerning the rulemaking.

As of April 10, 2015, the attached list of change orders has been approved. The effect of these change orders is an increase in the amount of \$1,090,000.00 from the original amount awarded of \$300,000.00. The current

contract value is \$1,390,000.00.

To date, the Illinois Pollution Control Board ("IPCB") has held over 50 days of hearings since commencement of the proceedings in early 2008 and received over 493 exhibits and 1400 public comments. In March 2010, the IPCB divided the docket into four subdockets. Subdockets A and B address proposed recreational uses (A) and criteria protective of those uses (B). Subdockets C and D address proposed aquatic life uses (C) and criteria protective of those uses (D). The recreational subdockets have been completed. The aquatic life uses subdocket has also been concluded. Subdocket (D) should be concluding in the next few months. Additionally, the IPCB subsequently opened Subdocket E to address the unique issues present in the area of the waterways known as Bubbly Creek. The IPCB recently issued an order seeking comments as to whether it should close Subdocket E and await completion of proposed work by the Corps.

Additional funds are necessary to continue utilizing the legal services of Barnes & Thornburg in the on-going rulemaking and related IPCB matters. Following issuance of the final rule in Subdocket D, MWRD will petition the IPCB for a variance from the new standards as to dissolved oxygen. It is important that MWRD be granted a variance from the new dissolved oxygen (DO) standard that has been issued by the IPCB because the waterways may have difficulty achieving total compliance with that new more stringent standard. The purpose of the variance is to allow MWRD a period of time to work toward instituting additional measures, including bringing additional components of TARP on-line and other best management practices that will aid in the waterways achieving compliance with the new DO standards.

This 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 an amount of \$100,000.00 (7.2% of the current contract value) from an amount of \$1,390,000.00 to an amount not to exceed \$1,490,000.00.

Funds are available in Account 101-30000-601170

Requested, Ronald M. Hill, General Counsel, RMH:MTC:bh

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 April 23, 2015

Attachment