



Metropolitan Water Reclamation District of Greater Chicago

100 East Erie Street
Chicago, IL 60611

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Title: Issue purchase order and enter into an agreement with Dr. Marcelo H. Garcia, PhD for professional engineering and expert witness services in connection with Hampton, et al. v. Metropolitan Water Reclamation District of Greater Chicago, Case No. 2011 CH 25822, and Jacklin, et al. v. Metropolitan Water Reclamation District of Greater Chicago, Case No. 2011 CH 25985, in an amount not to exceed \$200,000.00, Account 101-30000-612430, Requisition 1529580

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TRANSMITTAL LETTER FOR BOARD MEETING OF OCTOBER 3, 2019

COMMITTEE ON PROCUREMENT

Mr. Brian A. Perkovich, Executive Director

Issue purchase order and enter into an agreement with Dr. Marcelo H. Garcia, PhD for professional engineering and expert witness services in connection with *Hampton, et al. v. Metropolitan Water Reclamation District of Greater Chicago*, Case No. 2011 CH 25822, and *Jacklin, et al. v. Metropolitan Water Reclamation District of Greater Chicago*, Case No. 2011 CH 25985, in an amount not to exceed \$200,000.00, Account 101-30000-612430, Requisition 1529580

Dear Sir:

Authorization is requested to issue a purchase order and enter into an agreement with Dr. Marcelo H. Garcia, PhD for professional engineering and expert witness services to assist in the Metropolitan Water Reclamation District of Greater Chicago's (the "District") defense of *Hampton, et al. v. Metropolitan Water Reclamation District of Greater Chicago*, Case No. 2011 CH 25822, and *Jacklin, et al. v. Metropolitan Water Reclamation District of Greater Chicago*, Case No. 2011 CH 25985, currently pending in the Circuit Court of Cook County, Illinois.

The District is the sole defendant in these proposed class actions filed by residents and homeowners in Bellwood, Hillside, and Westchester, Illinois for damages suffered following a July 2010 severe rain event. Plaintiffs allege that the District's actions during that rain event effectuated a taking of their homes without just compensation in violation of the United States and Illinois Constitutions.

During recent court hearings, plaintiffs indicated they will be retaining at least three expert witnesses to support their claims against the District. District technical staff will be used as part of the District's defense providing testimony on internal operations and procedures and some expert testimony. However, the District must also

retain the services of an independent expert in the areas of hydrology and modeling of area waterways. The District interviewed three experts in this field and they were: Dr. Susan Paulsen, PhD of Exponent, Dr. Marcelo Garcia, PhD, affiliated with the University of Illinois and Dr. Theodore Hromdaka of Hromdaka and Associates.

The Law Department interviewed three potential experts, and evaluated their credentials and proposed hourly rates. In order to adequately defend the District, the Law Department requests approval to retain Dr. Marcelo H. Garcia, PhD, a professor in the University of Illinois' Department of Civil and Environmental Engineering, to provide engineering and expert witness services in these cases.

The level of expertise required for this work is specialized, requiring experience in reviewing and analyzing rainfall data, collection systems, area waterways, and other hydraulic and hydrological data. Dr. Garcia is a reputable scientific investigator and researcher and has served as an expert witness in the past. The Law Department's recommendation is based on Dr. Garcia's superior knowledge of District operations, area waterways, and modeling.

Dr. Garcia has submitted a proposal for performing the requested work on an hourly basis. Dr. Garcia's rates for this service would be \$300.00 per hour for document review, research, and general file work; \$350.00 per hour for computer programming, engineering analysis, graphical presentations of data and results, exhibit preparation, 2D and 3D graphics and animations, image processing, simulations, and video preparation; and \$500.00 per hour for deposition or trial testimony. Dr. Garcia would also be reimbursed for reasonable costs and expenses incurred for travel.

Since the services to be provided require a high degree of professional skill where the ability of the individual plays an important part, and Dr. Garcia possesses the requisite skill, it is recommended that the Director of Procurement and Materials Management be authorized to issue a purchase order and enter into an agreement without advertising, as per Section 11.4 of the Purchasing Act, in an amount not to exceed \$200,000.00.

The Multi-Project Labor Agreement ("MPLA") is not applicable to this contract because the classification of work does not fall within the provisions of the MPLA.

The services requested do not provide practical opportunities for direct or indirect subcontracting. The vendor selected must be able to stake their professional reputation and credibility on their own work. Reliance on another vendor is not feasible. Therefore, Appendix A nor Appendix V should not be included.

Funds for the 2019 expenditure in the amount of \$30,000.00 are available in Account 101-30000-612430. The estimated expenditure for 2020 is \$170,000.00. Funds for 2020 expenditure are contingent on the Board of Commissioners' approval of the District's budget for that year.

Requested, Susan T. Morakalis, General Counsel, STM:EMA:ATF:CN:nm

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 October 3, 2019