



# 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 decrease purchase order and amend the agreement with Dykema Gossett PLLP, for Legal Services in an action brought by Apex Oil Company relating to 3301 South Kedzie Avenue in Chicago, Illinois, Main Channel Atlas Parcel 42.02, in an amount of \$9,082.76, from an amount of \$500,000.00, to an amount not to exceed \$490,917.24, Account 901-30000-667220, Purchase Order 3054933

### Sponsors:

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**Attachments:** 1. \_Dykema Change Order Log.pdf

Date	Ver.	Action By	Action	Result
12/16/2010	1	Committee of the Whole	Recommended	Pass
12/16/2010	1	Board of Commissioners	Approved	Pass

## TRANSMITTAL LETTER FOR BOARD MEETING OF DECEMBER 16, 2010

### COMMITTEE ON PROCUREMENT

Mr. Richard Lanyon, Executive Director

Authority to decrease purchase order and amend the agreement with Dykema Gossett PLLP, for Legal Services in an action brought by Apex Oil Company relating to 3301 South Kedzie Avenue in Chicago, Illinois, Main Channel Atlas Parcel 42.02, in an amount of \$9,082.76, from an amount of \$500,000.00, to an amount not to exceed \$490,917.24, Account 901-30000-667220, Purchase Order 3054933

Dear Sir:

On April 8, 2004, the Board authorized the Director of Procurement and Materials Management to issue a purchase order in the amount of \$125,000.00 and enter into an agreement with Schwartz, Cooper, Greenberger & Krauss, Chartered, Attorneys at Law, to represent the District in a lawsuit filed by Apex Oil Company (Apex). The Property commonly known as 3301 South Kedzie Avenue in Chicago, Illinois, contained 6 aboveground storage tanks. The property was leased to Apex Motor Fuel Co., a/k/a Torco Oil, until 2002. Apex was a customer of Torco's who rented tank space from Torco Oil and entered the site and allegedly stored its petroleum product in tanks 3-6. In July 2003, the District obtained an offer for possession against Torco Oil, and Apex was then advised to remove its oil from the property. In September 2003, Apex requested permission to remove its product from the tanks. The District agreed to allow Apex Oil to remove its product as long as it also cleaned and/or removed the four storage tanks as well. Apex did not agree to such conditions and, in response, filed a lawsuit in federal court against the District to remove its product alleging conversion. Apex's complaint filed in federal court was dismissed resulting in Apex Oil filing an inverse condemnation claim in state court.

In the summer of 2008, the law firm of Schwartz Cooper merged with and began operating under the law firm

name of Dykema Gossett PLLP. Accordingly, on December 29, 2008, the purchase order was assigned to the law firm of Dykema Gossett PLLP because it was in the best interests of the District to have the same attorneys continue to represent the District for the subject case.

As of November 22, 2010, the attached list of change orders has been approved. The effect of these change orders resulted in an increase in amount of \$375,000.00 from the original amount awarded of \$125,000.00. The current contract value is \$500,000.00. The prior approved change orders reflect a 300% increase to the original contract value.

Due to less than anticipated use of the Legal Services of Dykema Gossett PLLP in connection with the action brought by Apex Oil Company relating to 3301 South Kedzie Avenue in Chicago, Illinois, Main Channel Atlas Parcel 42.02, from December 29, 2008 to November 22, 2010, funds in the amount of \$9,082.76 were not utilized.

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, and is in the best interest of the District.

It is hereby recommended that the Board of Commissioners authorize the Director of Procurement & Materials Management to execute a change order to decrease the purchase order and amend the agreement in an amount of \$9,082.76 (approximately 1.8% of the current contract value) from an amount of \$500,000.00 in an amount not to exceed \$490,917.24.

Funds will be restored in Account 901-30000-667220.

Requested, Alan J. Cook, Acting General Counsel, AJC:egs

Recommended, Darlene A. LoCascio, Director of Procurement & 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 December 16, 2010.

Attachment