



Metropolitan Water Reclamation District of Greater Chicago

100 East Erie Street
Chicago, IL 60611

Legislation Text

File #: 15-1025, **Version:** 1

TRANSMITTAL LETTER FOR BOARD MEETING OF SEPTEMBER 3, 2015

COMMITTEE ON JUDICIARY

Mr. David St. Pierre, Executive Director

Authorization to Settle lawsuit of *Gardner-Gibson, Inc., et al. v. Metropolitan Water Reclamation District of Greater Chicago*, Case No. 15 cv 2927, by rescinding Board Order of June 4, 2015, accepting Gardner-Gibson, Incorporated's Amendment to Bid for Proposal to Lease for 39-years on approximately 11.66 acres of District real estate located at 3301 S. California Avenue in Chicago, Illinois, Main Channel Parcel 42.03, Lease 14-366-11R, in the amount of \$841,000.00 and refunding Gardner-Gibson, Incorporated's \$420,500.00 bid deposit

Dear Sir:

The District is a defendant in a case entitled *Gardner-Gibson, Inc. v. Metropolitan Water Reclamation District of Greater Chicago*, Case No. 15 cv 2927, currently pending in the United States District Court for the Northern District of Illinois, Eastern Division ("Litigation"). In its Complaint, Gardner-Gibson, Inc. ("Gardner-Gibson") seeks declaratory and injunctive relief against the District for alleged statutory violations relating to the District's leasing and permitting of District Main Channel Parcel 42.03 located at 3301 S. California Avenue in Chicago, Illinois ("Property"). The District denies the allegations in the Complaint. The District's current permittee on the Property, Ameropan Oil Corporation, has also filed a Complaint against the District in the Litigation.

Apart from the Litigation, at its meeting of June 4, 2015, the Board of Commissioners accepted Gardner-Gibson's Amendment to Bid for Proposal to Lease for 39-years on approximately 11.66 acres of District real estate located at 3301 S. California Avenue in Chicago, Illinois, Main Channel Parcel 42.03 in the amount of \$841,000.00, Contract 14-366-11R ("Proposal"). However, the MWRD and Gardner-Gibson have been unable to agree upon the terms of a lease for the Property.

As a result, Gardner-Gibson has agreed to dismiss its Complaint against the District in exchange for a rescission of the Board's June 4, 2015, Order accepting the Proposal, and a refund of its bid deposit in the amount of \$420,500.00 ("Bid Deposit"). A companion transmittal letter is on today's agenda seeking authority to accept Ameropan's bid as the sole remaining bidder. Ameropan will also be dismissing its lawsuit in the Litigation. The General Counsel finds the proposed settlements to be reasonable and in the District's best interest. The parties will execute settlement agreements, indicating approval of this matter on the aforementioned terms and conditions contemporaneous with the Board of Commissioners' approval of the proposed settlements.

It is requested that the Executive Director recommend to the Board of Commissioners that it rescind its Order of June 4, 2015, accepting Gardner-Gibson's, Incorporated's Amendment to Bid for Proposal to Lease for 39-years on approximately 11.66 acres of District real estate located at 3301 S. California Avenue in Chicago,

Illinois, Main Channel Parcel 42.03, Lease 14-366-11R, in the amount of \$841,000.00 and refunding Gardner-Gibson, Incorporated's \$420,500.00 bid deposit.

It is further requested that the Executive Director recommend to the Board of Commissioners that it authorize the General Counsel, and if necessary the Director of Procurement and Materials Management, to execute such documents as may be necessary to effectuate the settlement of all claims under the Litigation.

Requested, Ronald M. Hill, General Counsel, RMH:SM:EA:vp

Recommended by David St. Pierre, Executive Director

Respectfully Submitted, Mariyana Spyropoulos, Chairman Committee on Judiciary

Disposition of this agenda item will be documented in the official Regular Board Meeting Minutes of the Board of Commissioners for September 3, 2015