



Metropolitan Water Reclamation District of Greater Chicago

100 East Erie Street
Chicago, IL 60611

Legislation Text

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TRANSMITTAL LETTER FOR BOARD MEETING OF NOVEMBER 16, 2017

COMMITTEE ON PROCUREMENT

Mr. David St. Pierre, Executive Director

Authority to increase purchase order and amend agreement with Deutsch, Levy & Engel, LLC, for legal services in representing the District with respect to environmental remediation of District property located north of the Main Channel and west of Pulaski Road in Chicago, Illinois; Main Channel Parcels 40.02, 40.04 and 40.07, and vacant property located north of the Cal-Sag Channel on the southwest corner of Ann and James Streets in Blue Island, Illinois; Cal-Sag Channel Parcel 14.05, in an amount of \$100,000.00, from an amount of \$140,500.00, to an amount not to exceed \$240,500.00, Account 101-30000-612430, Purchase Order 3011853

Dear Sir:

On January 24, 2002, the Board of Commissioners authorized the Director of Procurement and Materials Management to issue a purchase order and enter into an agreement with Deutsch, Levy and Engel, LLC, for legal services in representing the District in legal matters concerning District Main Channel Parcels 40.02, 40.04, and 40.07 and Cal-Sag Channel Parcel 14.05 in an amount not to exceed \$40,000.00. The matters involve the District's efforts to have the prior occupants, The Peoples Gas Light and Coke Company and Commonwealth Edison Company, ("Peoples Gas") and ("ComEd") remediate the environmental contamination at the sites resulting from their prior operation of manufactured gas plants ("MGP's") at or near these locations.

By way of background, Peoples Gas is currently undertaking a program to investigate several of its former MGP sites under a Consent Decree with the U.S. Environmental Protection Agency ("USEPA"), which includes Parcels 40.02, 40.04 and 40.07 (the "Crawford Station Parcels"). Peoples Gas formerly leased Parcels 40.04 and 40.07 under a lease that commenced in 1916 and expired in 2015. These parcels are south of the former Crawford Station MGP site that Peoples Gas operated from 1920 through 1963. During the early part of its lease term, Peoples Gas used Parcels 40.04 and 40.07 for operations ancillary to its adjacent MGP plant. Currently, Peoples Gas is operating a natural gas pipeline on these parcels and has been conducting environmental testing on them since 2005.

Peoples Gas leased Main Channel Parcel 40.02 under a lease that commenced in 1917 and expired in 2016. The property was subleased to ExxonMobil Corporation ("ExxonMobil") in 1943. ExxonMobil currently has a permit to use Parcel 40.02 in conjunction with its operations and to perform environmental testing. The permit commenced October 30, 2016, and, as amended, expires October 29, 2018, pending conclusion of the statutory leasing process for a new lease on Parcel 40.02.

Since 2002, Deutsch, Levy & Engel, LLC has been negotiating additional acceptable site investigation plans and an acceptable remediation plan for the Crawford Station Parcels. The work under this purchase order has been sporadic as Peoples Gas has been working under approved investigations by the USEPA and conducting such tests pursuant to the USEPA's schedule, which has been intermittent. Although Peoples Gas' leases of the Crawford Station Parcels have expired, the USEPA has requested that the District issue a permit to allow Peoples Gas to conduct its environmental testing. The permit will reserve any and all rights the District may have under the 1916 and 1917 leases, including the remediation of the Crawford Station Parcels

in accordance with the lease requirements and District's policies.

With respect to Cal-Sag Channel Parcel 14.05 in Blue Island, ComEd performed a series of environmental testing on the parcel from 2002 through 2009. In 2011, the District issued a permit that allowed ComEd to perform a Comprehensive Environmental Clean-Up Action on the site, which has resulted in the submission of a Corrective Action Completion report to the IEPA. The District has been monitoring ComEd's clean-up actions and the project is now complete with the site being remediated to TACO Tier I Residential levels. The IEPA has issued a No Further Remediation ("NFR") letter which staff and outside counsel are currently reviewing. After review and acceptance of the NFR letter, it will be recorded against the property and the Blue Island matter will be concluded.

As of November 3, 2017, the attached list of change orders has been approved. The effect of these change orders results in an increase in an amount of \$100,000.00 from the original amount awarded of \$40,000.00. The current contract value is \$140,500.00.

Additional funds in the amount of \$100,000.00 are required for continued legal representation in the subject matters, particularly those involving the Crawford Station Parcels. Although the parties are attempting to settle this matter to arrive at an acceptable final site remediation plan, the matters requiring legal representation remain unresolved, and continued representation is therefore necessary.

This change order is in compliance with the Illinois Criminal Code since the change is due to circumstances not reasonably foreseen 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 and Materials Management to execute a change order to increase the purchase order and amend the agreement with Deutsch, Levy & Engel, LLC, in an amount of \$100,000.00 (71.17% of the current contract value), from an amount of \$140,500.00, to an amount not to exceed \$240,500.00.

Funds are available in account 101-30000-612430.

Requested, Susan T. Morakalis, General Counsel, STM:CMM:MLD:TN:vp

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 November 16, 2017

Attachment