



Metropolitan Water Reclamation District of Greater Chicago

100 East Erie Street
Chicago, IL 60611

Legislation Text

File #: 10-0126, **Version:** 1

TRANSMITTAL LETTER FOR BOARD MEETING OF FEBRUARY 4, 2010

COMMITTEE ON PROCUREMENT

Mr. Richard Lanyon, Executive Director

Issue purchase order and enter into an agreement with the law firm of Cray Huber Horstman Heil & VanAusdal LLC to represent the District in the matter of Rausch Construction Company, Inc. v. Metropolitan Water Reclamation District of Greater Chicago, Case No. 09 C 05873, in an amount not to exceed \$250,000.00. Account No. 401-50000-601170, Requisition 1297550 (*As Revised*)

Dear Sir:

Authorization is requested to issue a purchase order and enter into an agreement with Cray Huber Horstman Heil & VanAusdal LLC for legal services in the matter of Rausch Construction Co. v. Metropolitan Water Reclamation District of Greater Chicago, Case No. 09 C 05873. Rausch Construction Company, Inc. ("Rausch") has filed a two-count complaint against the Metropolitan Water Reclamation District of Greater Chicago ("District") in the United States District Court for the Northern District of Illinois seeking damages for alleged racial discrimination pursuant to 42 U.S.C. §1981 and for breach of contract in connection with Contract No. 00-275-2V entitled, "New Research & Development Building, Calumet Water Reclamation Plant, Chicago, Illinois."

Count I alleges that the District discriminated against Rausch because of the race of its majority shareholder and seeks damages in excess of \$50,000,000.00 plus prejudgment interest, punitive damages and costs. Count II alleges that the District materially breached the contract and seeks damages in an amount of at least \$4,000,000.00.

Given the complexity of the lawsuit and the potential for a substantial damage award in the event that judgment was to be entered against the District, it is the determination of the Law Department that the retention of outside counsel experienced in the defense of complex construction contract litigation and civil rights suits would be best calculated to protect the District's interests going forward.

Stephen W. Heil of the law firm of Cray Huber Horstman Heil & VanAusdal LLC, has extensive experience on behalf of owners and contractors in these matters, has successfully represented the District in the past and is highly qualified to represent the District in the Rausch lawsuit. Significantly, Mr. Heil represented the District in lawsuits filed by the general contractor and design engineers in connection with a project at the Stickney WRP in which similar allegations of breach of contract, construction delays and defective designs were made. The two lawsuits were ultimately settled on favorable terms. Mr. Heil will be assisted by one of his partners, Daniel K. Cray and a senior associate, Ronald L. Wisniewski. Mr. Cray was lead counsel for the air handling unit contractor and manufacturer in a dispute over the design and manufacture of the HVAC system in a \$55 million judicial facility in Wheaton, Illinois. As a former deputy attorney general, Mr. Wisniewski has extensive experience in labor and employment litigation and is exceptionally well-qualified to assist in the disposition of Count I of the Rausch complaint sounding in discrimination.

Cray Huber Horstman Heil & VanAusdal LLC, the provider of these legal services has submitted prices for the services required. Inasmuch as Cray Huber Horstman Heil & VanAusdal LLC possess a high degree of professional expertise in the subject areas, nothing would be gained by advertising for bids (Section 11.4 of the Purchasing Act.).

Cray Huber Horstman Heil & VanAusdal LLC is registered and in good standing with the State of Illinois.

Therefore, it is requested that the Board of Commissioners issue a purchase order and enter into an agreement with the law firm of Cray Huber Horstman Heil & VanAusdal LLC at the rate of \$245.00 per hour for partners, \$205.00 and \$187.00 per hour for senior and junior associates, respectively, and \$115 per hour for paralegals, to represent the District in the matter of Rausch Construction Company, Inc. v. Metropolitan Water Reclamation District of Greater Chicago, Case No. 09 C 05873, in an amount not to exceed \$250,000.00.

Funds for the 2010 expenditure in the amount of \$250,000.00 are available in Account 401-50000-601170.

Requested, Frederick M. Feldman, General Counsel, FMF:LJH:JJZ:crb

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 February 4, 2010

Attachment