



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 the law firm of Horwood Marcus & Berk Chartered for Request for Proposal 20-RFP-08, Professional Legal Services for Bankruptcy and Collection Matters in an amount not to exceed \$50,000.00, Account 101-30000-612430, Requisition 1540474

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12/3/2020	1	Board of Commissioners	Approved	Pass

TRANSMITTAL LETTER FOR BOARD MEETING OF DECEMBER 3, 2020

COMMITTEE ON PROCUREMENT

Mr. Brian A. Perkovich, Executive Director

Issue purchase order and enter into an agreement with the law firm of Horwood Marcus & Berk Chartered for Request for Proposal 20-RFP-08, Professional Legal Services for Bankruptcy and Collection Matters in an amount not to exceed \$50,000.00, Account 101-30000-612430, Requisition 1540474

Dear Sir:

Authorization is requested to issue a purchase order and enter into an agreement with the law firm of Horwood Marcus & Berk Chartered (“HMB”) to represent and counsel the District in connection with bankruptcy and collection matters in an amount not to exceed \$50,000.00. This contract will be for a period of two years, commencing January 1, 2021, and ending December 31, 2022.

By way of background, the District has enacted two ordinances which protect the public health and safety by abating and preventing pollution through the regulation and control of the quantity and quality of sewage, industrial wastes, and other wastes admitted to or discharged into the sewerage systems, sewage treatment facilities, and waters under the jurisdiction of the District. The User Charge Ordinance (“UCO”) establishes the rates (“User Charges”) for wastewater treatment services provided to non-residential wastewater discharges within the District’s jurisdiction. The District’s Sewage and Waste Control Ordinance (“SWCO”) sets the limits for various pollutants that a facility’s discharged wastewater may contain and establishes an enforcement program when a discharger violates those limits. When a discharger fails to pay the User Charges it owes under the UCO and/or fails to pay the non-compliance enforcement charges assessed against it for violating the SWCO, the District’s Law Department is called upon to assist in the collection of those delinquent charges.

Often times, the District finds that the User has filed for bankruptcy protection. Based on the complexity of bankruptcy laws, specifically as to the rights of a governmental entity as a creditor, it is recommended that a

bankruptcy attorney be retained to protect the District's creditor's rights relative to bankruptcy and assignment-for-the-benefit-of-creditors proceedings, and to pursue lien and mortgage foreclosure actions, wage garnishments, and other possible ancillary matters related to creditor issues.

On August 19, 2020, Request for Proposal 20-RFP-08, Professional Legal Services for Bankruptcy and Collection Matters, was publicly advertised. Seventy-two (72) law firms and eight (8) state, county and local bar associations were notified, and nineteen (19) firms uploaded proposal documents. On September 11, 2020, the District received two (2) responsive proposals from the following vendors: HMB and Valentine Austriaco & Bueschel P.C.

The proposals were evaluated by staff from the Law, Finance, Monitoring and Research and Procurement and Materials Management Departments. The criteria for these evaluations were outlined in Request for Proposal 20-RFP-08 and included understanding the project, approach to the work, technical competence, personal effectiveness, cost of services, compliance with insurance requirements, and submission of all necessary licenses/permits. Following the preliminary evaluation of the proposals, both proposers were invited to a finalist interview. Finalist interviews were held on October 14 and 15, 2020. A solicitation was sent to the finalists on October 28, 2020 for an unqualified "best and final" offer. The "best and final" offers were returned to the Director of Procurement by November 3, 2020.

Based on the evaluation of the proposals using the criteria described above and the pricing provided in the "best and final" offers, it is recommended that a contract be awarded to HMB to represent and counsel the District in connection with bankruptcy and collection matters. HMB is a mid-sized firm located in Chicago, Illinois incorporated in 1984 that is comprised of approximately 60 attorneys and 40 support staff members, including a team of bankruptcy professionals. HMB's bankruptcy team has significant experience in litigating bankruptcy related matters such as adversary proceedings, citation hearings, and foreclosure defense proceedings; has served on numerous creditors' committees; is currently serving on the Northern District of Illinois Local Rules Advisory Committee which provides direct communication with the bench on the applicable local bankruptcy rules; and has lectured and continues to lecture on bankruptcy matters on both local and national stages including co-chairing regional conferences of the American Bankruptcy Institute.

HMB has agreed to hourly rates of \$250 for Managing Partner, Partner, Senior Associate and Associate; and \$185 for Paralegal. The attorneys' rates are significantly reduced from HMB's regular rates to conform to the Board of Commissioners' policy of an hourly rate cap of \$250 for outside legal services procured by the District.

The Diversity Section has reviewed the proposal and has concluded that goals under Appendix A and Appendix V are not required since the total value of the contract is not in excess of \$100,000.00.

In view of the foregoing, it is requested that the Director of Procurement and Materials Management be authorized to issue a purchase order and enter into an agreement with the law firm of Horwood Marcus & Berk Chartered for Request for Proposal 20-RFP-08, Professional Legal Services for Bankruptcy and Collection Matters in an amount of \$50,000.00. Funds for 2021 and 2022 are contingent on the Board of Commissioners' approval of the District's budget for those years.

Requested, Susan T. Morakalis, General Counsel, STM:CMM:CN

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 December 3, 2020