



# DuPage Water Commission

600 E. Butterfield Road, Elmhurst, IL 60126-4642  
(630)834-0100 Fax: (630)834-0120

## REVISED AGENDA

### DUPAGE WATER COMMISSION

THURSDAY, FEBRUARY 10, 2011  
7:30 P.M.

600 EAST BUTTERFIELD ROAD  
ELMHURST, IL 60126

- I. Call to Order and Pledge of Allegiance
- II. Roll Call  
(Majority of the Commissioners then in Office—minimum 7)
- III. Public Comments (limited to 5 minutes per person)
- IV. Approval of Minutes
  - Regular Meeting of January 13, 2011  
(Concurrence of a Majority of those Commissioners Present, provided there is a quorum—minimum 4)

**RECOMMENDED MOTION: To approve the Minutes of the January 13, 2011 Regular Meeting of the DuPage Water Commission (Voice Vote).**

- V. Treasurer's Report – January 2011  
(Concurrence of a Majority of those Commissioners Present, provided there is a quorum—minimum 4)

**RECOMMENDED MOTION: To accept the January 2011 Treasurer's Report (Voice Vote).**

- VI. Committee Reports
  - A. Administration Committee
    1. Report of 2/10/11 Administration Committee
    2. Actions on Items Listed on 2/10/11 Administration Committee

All visitors must present a valid driver's license or other government-issued photo identification, sign in at the reception area and wear a visitor badge while at the DuPage Pumping Station.

## B. Engineering &amp; Construction Committee

1. Report of 2/10/11 Engineering & Construction Committee
2. Actions on Items Listed on 2/10/11 Engineering & Construction Committee

## C. Finance Committee

1. Report of 2/10/11 Finance Committee
2. Applicability of Municipal Advisor Regulation to Public Officers
3. Actions on Items Listed on 2/10/11 Finance Committee Agenda

## VII. Chairman's Report

## VIII. Omnibus Vote Requiring Majority Vote

- A. Ordinance No. O-2-11: An Ordinance Transferring Appropriations Within Certain Funds for the Fiscal Year Commencing May 1, 2010 and Ending April 30, 2011  
(Concurrence of a Majority of the Appointed Commissioners—7)
- B. Resolution No. R-7-11: A Resolution Approving and Ratifying Certain Change Orders to the Contract for Supply of Engine Generator Units at the February 10, 2011, DuPage Water Commission Meeting
- C. Resolution No. R-10-11: A Resolution Approving and Authorizing the Execution of a Master Load Response Agreement and Load Response Program Schedule  
(Concurrence of a Majority of the Appointed Commissioners—7)

**RECOMMENDED MOTION: To adopt the items listed on the Majority Omnibus Vote Agenda in a single group pursuant to the Omnibus Vote Procedures (Roll Call).**

## IX. Omnibus Vote Requiring Super-Majority or Special Majority Vote

- A. Resolution No. R-2-11: A Resolution Approving and Ratifying Certain Work Authorization Orders Under Quick Response Contract QR-8/08 at the February 10, 2011, DuPage Water Commission Meeting  
(Affirmative Majority of the Appointed Commissioners, containing the votes of at least 1/3 of the County Appointed Commissioners and 40% of the Municipal Appointed Commissioners—3 County + 3 Muni+1=7)
- B. Resolution No. R-3-11: A Resolution Directing Advertisement for Bids on a Contract for Quick Response Construction Work (Contract QR-9/11)  
(Affirmative Majority of the Appointed Commissioners, containing the votes of at least 1/3 of the County Appointed Commissioners and 40% of the Municipal Appointed Commissioners—3 County + 3 Muni+1=7)

C. Resolution No. R-4-11: A Resolution Directing Advertisement for Bids on a Contract for High Lift Pump Motor Re-Build—Phase II

(Affirmative Majority of the Appointed Commissioners, containing the votes of at least 1/3 of the County Appointed Commissioners and 40% of the Municipal Appointed Commissioners—3 County + 3 Muni+1=7)

D. Resolution No. R-5-11: A Resolution Approving a First Amendment to Task Order No. 2a under the Master Contract with Startec Consulting Services Inc.

(Affirmative Majority of the Appointed Commissioners, containing the votes of at least 1/3 of the County Appointed Commissioners and 40% of the Municipal Appointed Commissioners—3 County + 3 Muni+1=7)

E. Resolution No. R-6-11: A Resolution Approving and Ratifying Certain Contract PSC-5/08 Change Orders at the February 10, 2011, DuPage Water Commission Meeting

(Affirmative Majority of the Appointed Commissioners, containing the votes of at least 1/3 of the County Appointed Commissioners and 40% of the Municipal Appointed Commissioners—3 County + 3 Muni+1=7)

F. Resolution No. R-8-11: A Resolution Approving and Ratifying Certain Work Authorization Orders Under Quick Response Electrical Contract QRE-5/10 at the February 10, 2011, DuPage Water Commission Meeting

(Affirmative Majority of the Appointed Commissioners, containing the votes of at least 1/3 of the County Appointed Commissioners and 40% of the Municipal Appointed Commissioners—3 County + 3 Muni+1=7)

G. Resolution No. R-9-11: A Resolution Approving and Authorizing the Execution of An Amendment and A New Pricing Schedule to the Master Electricity Supply Agreement with Constellation NewEnergy, Inc.

(TO SUSPEND PURCHASING PROCEDURES: 2/3 Majority of those Commissioners Present, provided there is a quorum—minimum 5)

(TO APPROVE: Concurrence of a Majority of the Appointed Commissioners—7)

**RECOMMENDED MOTION: To adopt the items listed on the Super/Special Majority Omnibus Vote Agenda in a single group pursuant to the Omnibus Vote Procedures (Roll Call).**

X. Old Business

A. Downers Grove Contaminated Well Loan

B. Retain Financial Services Provider

(Affirmative Majority of the Appointed Commissioners, containing the votes of at least 1/3 of the County Appointed Commissioners and 40% of the Municipal Appointed Commissioners—3 County + 3 Muni+1=7)

**RECOMMENDED MOTION: To retain the services of XXXXX as Financial Services Provider at a cost of \$XXXXX (Roll Call).**

C. Request by City of Naperville to Pay for the Cost of Relocation of Transmission Main at 75<sup>th</sup> Street and Washington Street

(Concurrence of a Majority of the Appointed Commissioners—7)

## XI. New Business

- Extension/Refinancing of \$40MM Certificate of Debt issued to Northern Trust Bank

(Concurrence of a Majority of those Commissioners Present, provided there is a quorum—minimum 4)

**RECOMMENDED MOTION:** To authorize Treasurer Rasins, Finance Committee Chairman Suess, Former Financial Administrator Skiba, and Staff Attorney Crowley to negotiate, for recommendation to the Board, an extension or refinancing of the \$40MM Certificate of Debt issued to Northern Trust Bank (Voice Vote).

## XII. Accounts Payable

(Affirmative Majority of the Appointed Commissioners, containing the votes of at least 1/3 of the County Appointed Commissioners and 40% of the Municipal Appointed Commissioners—3 County + 3 Muni+1=7)

**RECOMMENDED MOTION:** To approve the Accounts Payable in the amount of \$4,303,106.77, subject to submission of all contractually required documentation, for invoices that have been received (Roll Call).

**RECOMMENDED MOTION:** To approve the Accounts Payable in the amount of \$911,100.00, subject to submission of all contractually required documentation, for invoices that have not yet been received but have been estimated (Roll Call).

## XIII. Executive Session

(Concurrence of a Majority of those Commissioners Present, provided there is a quorum—minimum 4)

**RECOMMENDED MOTION:** To go into Executive Session to discuss security procedures pursuant to 5 ILCS 120/2(c)(8), to discuss matters related to personnel pursuant to 5 ILCS 120/2(c)(1) and (2), to discuss acquisition of real estate pursuant to 5 ILCS 120/2(c)(5), to discuss pending, probable, or imminent litigation pursuant to 5 ILCS 120/2(c)(11), and/or to discuss minutes of closed meetings pursuant to 5 ILCS 120/2(c)(21) (Roll Call).

**RECOMMENDED MOTION:** To come out of Executive Session (Voice Vote).

## XIV. Adjournment

(Concurrence of a Majority of those Commissioners Present, provided there is a quorum—minimum 4)

**MINUTES OF A MEETING OF THE  
DuPAGE WATER COMMISSION  
HELD ON THURSDAY JANUARY 13, 2011  
600 E. BUTTERFIELD ROAD  
ELMHURST, ILLINOIS**

The meeting was called to order by Chairman Zay at 7:00 P.M.

Commissioners in attendance: L. Crawford, T. Cullerton, R. Furstenau, C. Janc, D. Loftus, W. Murphy, J. Pruyn, D. Russo, F. Saverino, M. Scheck, P. Suess, J. B. Webb, and J. Zay

Commissioners Absent: None

Also in attendance: T. McGhee, R. Skiba, M. Crowley, C. Johnson, J. Nesbitt, R. C. Bostick, J. Schori, M. Weed, E. Kazmierczak, and F. Frelka

**ORGANIZATIONAL MATTERS**

Chairman Zay introduced the Honorable Kenneth Popejoy to administer the Oaths of Office. The Commissioners took their respective Oaths of Office in unison, followed by Chairman Zay.

The County Appointed Commissioners and the Municipal Appointed Commissioners, respectively, determined by lot their terms of office as follows:

Municipal Appointed Commissioners			County Appointed Commissioners		
Commissioner	District	Term (# of years beginning 1/1/11)	Commissioner	District	Term (# of years beginning 1/1/11)
Jeffrey J. Pruyn	1	4	Christopher Janc	1	4
Thomas Cullerton	2	6	Daniel J. Loftus	2	2
William F. Murphy	3	4	Michael R. Scheck	3	2
Philip J. Suess	4	2	J. Bradley Webb	4	4
Richard R. Furstenau	5	6	Laura Crawford	5	6
Frank Saverino, Sr.	6	2	David Russo	6	6

Commissioner Murphy moved to approve the appointment of James F. Zay as Chairperson of the DuPage Water Commission. Seconded by Commissioner Furstenau and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

## Minutes of the 1/13/11 Meeting

Commissioner Saverino moved to appoint Commissioner Murphy to serve as Vice-Chairman of the DuPage Water Commission for a term expiring April 30, 2012, or until his successor is duly appointed and confirmed. Seconded by Commissioner Furstenau and unanimously approved by a Voice Vote of the Municipal Appointed Commissioners.

All Municipal Appointed Commissioners voted aye. Motion carried.

### **PUBLIC COMMENT**

None

### **APPROVAL OF MINUTES**

Commissioner Suess moved to approve the Minutes of the December 9, 2010 Special Committee of the Whole Meeting of the DuPage Water Commission. Seconded by Commissioner Furstenau and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

Commissioner Suess moved to approve the Minutes of the December 9, 2010 Regular Meeting of the DuPage Water Commission. Seconded by Commissioner Pruyn and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

Commissioner Saverino moved to approve the Executive Session Minutes of the December 9, 2010 Regular Meeting of the DuPage Water Commission. Seconded by Commissioner Furstenau and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

### **TREASURER'S REPORT**

Former Financial Administrator Skiba presented the December 2010 Treasurer's Report, which consisted of three pages designated Reports A, B, and C, and the Financial Report.

With respect to the Financial Report, Former Financial Administrator Skiba began by reviewing the highlights listed on page 1. Former Financial Administrator Skiba then referred to page 3—Summary of Specific Account Requirement Compliance and Summary of Net Assets—and noted that the Operations and Maintenance Account was fully funded, with the Operations and Maintenance Reserve Account and the Depreciation Account over funded. Former Financial Administrator Skiba advised that it was critical for the Board to monitor compliance with the account requirements, explaining the source of the requirements and how they were calculated.

## Minutes of the 1/13/11 Meeting

Commissioner Suess then asked for an explanation of the “negative” unrestricted net assets. Former Financial Administrator Skiba explained that it related to the allocation of the bulk of the Commission’s short-term debt as an operating expense rather than a capital cost and was akin to a credit card balance that exceeds the amount available in your checking account.

With respect to Report A of the Treasurer’s Report, Former Financial Administrator Skiba noted the positive cash flow, adding that the report covered operating cash flows only. Commissioner Suess highlighted the approximate \$2.1 million in total net operating cash. Commissioner Furstenau commented that if the sales tax receipts were eliminated, as they will be in 2016, operating cash flows would still be negative.

With respect to Report B of the Treasurer’s Report, Former Financial Administrator Skiba explained that Report B was prepared on a cash basis as opposed to an accounting basis. Former Financial Administrator Skiba also apologized for the small print, but explained that the report was developed by former Treasurer/Commissioner Zeilenga for a month to month comparison. Chairman Zay suggested changing the report to reflect only the most recent three months. Commissioner Furstenau later requested that no data be eliminated from the report until such time as the new Treasurer had a chance to determine the utility of the data.

After assuring the Commissioners that the 2011 general obligation account was fully funded for the final payment due March 1, 2011, Former Financial Administrator Skiba noted that Report C of the Treasurer’s Report was the “traditional” Treasurer’s Report which was prepared on an accounting basis. Former Financial Administrator Skiba also noted that Reports A and C reconciled with each other.

Commissioner Furstenau moved to accept the December 2010 Treasurer’s Report.  
Seconded by Commissioner Saverino and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

### **COMMITTEE REPORTS**

#### **Administration Committee**

Meeting Canceled

#### **Engineering & Construction Committee**

Meeting Canceled

#### **Finance Committee**

Meeting Canceled

## **CHAIRMAN'S REPORT**

Chairman Zay began by thanking everyone for attending the meeting and for their support. Chairman Zay noted that the Commission was under new direction with a lot of work ahead for everyone involved. Chairman Zay added that over the next couple of months, the Board would need to focus on several priorities and, specifically, selecting a qualified General Manager and Financial Administrator, conducting a water rate study to better analyze water rates, and developing a financial plan to pay down the two debt certificates.

With respect to the selection of a General Manager, it was the consensus of the Commissioners to re-interview the prior Board's three most favorably ranked candidates for the General Manager position in advance of the February 10, 2010 regular meeting, so that the Board could determine whether it needed to renew the search process.

Chairman Zay also noted that a Treasurer needed to be appointed and offered the appointment of James W. Rasins for confirmation by the Board, noting that Mr. Rasins had a strong financial background and could help to continue moving the Commission in a positive direction.

Chairman Zay concluded his opening remarks by thanking staff for their hard work and dedication, noting teamwork plays an important role in the Commission's continued success.

## **Committee Appointments**

After Chairman Zay advised that, in addition to the appointments he made in his January 6, 2011 memorandum, he was also appointing Commissioners Janc and Russo to serve on the Finance Committee, Commissioner Murphy moved to confirm Chairman Zay's appointments of Commissioners to serve on the Committees, as Chair or otherwise, as set forth in Chairman Zay's memorandum dated January 6, 2011, as amended to add Commissioners Janc and Russo to the Finance Committee. Seconded by Commissioner Furstenau and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

## **Treasurer Appointment**

After Commissioner Furstenau confirmed that the Treasurer would be an officer but not an employee of the Commission, Commissioner Saverino moved to confirm Chairman Zay's appointment of James W. Rasins to serve as the Treasurer of the DuPage Water Commission, subject to the advice and consent of the DuPage County Board. Seconded by Commissioner Furstenau and unanimously approved by a Roll Call Vote:

Ayes: L. Crawford, T. Cullerton, R. Furstenau, C. Janc, D. Loftus, W. Murphy, J. Pruyn, D. Russo, F. Saverino, M. Scheck, P. Suess, J. B. Webb, and J. Zay



## Minutes of the 1/13/11 Meeting

Nays: None

Absent: None

### **Meeting Schedule**

Chairman Zay advised that he would like to change the regular meeting schedule to allow staff the time needed to prepare a single, complete Board packet, eliminating the need for supplemental packets on a regular basis. After Chairman Zay noted a schedule conflict in February and suggested that the revised meeting schedule begin in March, Commissioner Furstenau moved to change the regular Commission and Committee meeting schedule from the second Thursday of each month to the third Thursday of each month, starting in March 2011, with the regular Board meeting to begin at 7:30 p.m., the Administration Committee to begin at 7:00 P.M., the Engineering and Construction Committee to begin at 6:30 P.M., and the Finance Committee to begin at 6:00 P.M. prior to the regular Board meetings. Seconded by Commissioner Loftus and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

### **MAJORITY OMNIBUS VOTE AGENDA**

Commissioner Pruyn moved to adopt Ordinance No. O-1-11: An Ordinance Transferring Appropriations Within Certain Funds for the Fiscal Year Commencing May 1, 2010 and Ending April 30, 2011. Seconded by Commissioner Murphy.

Former Financial Administrator Skiba explained that the main reason for the transfer was because of the recent bond rating downgrades made by Moody's Investors Service which resulted in the automatic increase in the interest rate that had to be paid under the terms and conditions of the \$40MM Certificate of Debt issued to Northern Trust Bank. In response to questions from the Commissioners, Staff Attorney Crowley added that even though the \$40MM Certificate of Debt did not contain an automatic interest adjustment mechanism should the Commission's bond ratings be raised, the \$40MM Certificate of Debt was a short-term obligation coming due May 1, 2011.

After Commissioner Suess questioned whether, and Former Financial Administrator confirmed that, the decrease of \$244,000 in the contingency line item was to balance to the appropriation transfer, the motion was unanimously approved by a Roll Call Vote:

Ayes: L. Crawford, T. Cullerton, R. Furstenau, C. Janc, D. Loftus, W. Murphy, J. Pruyn, D. Russo, F. Saverino, M. Scheck, P. Suess, J. B. Webb, and J. Zay

Nays: None

Absent: None

**SUPER/SPECIAL MAJORITY OMNIBUS VOTE AGENDA**

Commissioner Murphy moved to adopt Resolution No. R-1-10: A Resolution Approving and Ratifying Certain Contract PSD-7/08 Change Orders at the January 13, 2011, DuPage Water Commission Meeting. Seconded by Commissioner Furstenau.

Acting General Manager McGhee explained the following changes included in the proposed Contract PSD-7/08 Change Order: 1) Consolidation of HVAC control cabinets including engineering, I/O boards, conduit and wire (\$7,871.00); 2) Installation of addressable smoke detectors in air handlers AHU-1 and AHU-2 and in supply fan SF-1 (\$6,118.00); and 3) Installation of additional data cabling to connect electric power analyzers to the DWC SCADA control cabinet (\$3,059.00).

Commissioner Suess asked how many more change orders were expected and when the project would be completed. Facilities Construction Supervisor/Safety Coordinator Bostick replied that there were approximately four open requests for change orders and that the project had been scheduled for completion on December 31<sup>st</sup> but because an environmental issue with the fuel system of the portable generator that is to be shared between the DuPage Pumping Station and the Lexington Pumping Station was recently discovered, the portable generator needed to be modified and then retested at both pumping stations before the project could be closed out.

With no further discussion, the motion was unanimously approved by a Roll Call Vote:

Ayes: L. Crawford, T. Cullerton, R. Furstenau, C. Janc, D. Loftus, W. Murphy, J. Pruyne, D. Russo, F. Saverino, M. Scheck, P. Suess, J. B. Webb, and J. Zay

Nays: None

Absent: None

**OLD BUSINESS**

**Downers Grove Contaminated Well Loan**

Chairman Zay asked Acting General Manager McGhee to report on the status of the Contaminated Well Water Loan to the Village of Downers Grove. Acting General Manager McGhee advised that the Village was still in default under the loan but that David Fieldman, the Downers Grove Village Manager, had recently advised Acting General Manager McGhee that the Village was continuing negotiations to fund the Village's payment obligations under the loan through contributions from the parties responsible or potentially responsible for the contamination in the affected areas under the Contaminated Well Program (PRPs).

Commissioner Suess suggested that the Village submit, in writing, the current status of its negotiations with the PRPs, along with quarterly status updates, so that the Commission could be assured that the Village was negotiating along the terms

## Minutes of the 1/13/11 Meeting

preliminarily discussed at a meeting involving representatives from the Village, representatives of certain PRPs, Commissioners Elliott, Zay, and Furstenau, Acting General Manager McGhee, and Staff Attorney Crowley, and discussed with the Board at the December 2010 meeting. Commissioner Furstenau agreed with Commissioner Suess, and suggested that the status reports also include written confirmation of the Village's intent to pay \$X on X date.

Commissioner Pruyn asked if the Village was current on the interest portion of the loan. Acting General Manager McGhee replied that the Village was current on interest but in default with respect to the August 2010 principal payment.

Commissioner Murphy agreed with Commissioners Suess' and Furstenau's suggestions of obtaining a written status report and confirmation of intent from the Village before any action is taken by the Board. Commissioner Murphy also noted for the new Board members that at the December 9, 2010 Board meeting, Former Commissioner Tim Elliott distributed a two-page document which summarized, among other things, the discussions at the meeting with the Village and the PRPs and asked staff to provide a copy of that document to the new Board members. Commissioner Murphy then read from the second page of that document and, specifically, bullet point number 4, which summarized the Village's preliminary proposal as follows:

The DWC would permit Downers Grove to continue to pay interest on the full loan amount through June 30, 2011. On that date, Downers Grove would make a lump sum payment to the Water Commission in the amount of \$4.363 million (plus any accrued interest from August 15, 2010 through June 30, 2011 in full satisfaction of the amount due under the Loan Agreement).

In an effort to bring the new Board members up to speed, Chairman Zay asked Acting General Manager McGhee to provide a brief summary of the genesis of the Downers Grove Contaminated Well Loan. Acting General Manager McGhee explained that in 2002 it was discovered that a section of unincorporated Downers Grove tested positive for containments in their groundwater and, as such, the Commission entered into an intergovernmental agreement with the Village of Downers Grove to lend \$4.788 million to the Village to help construct the improvements needed to deliver Lake Michigan water to the residents in the affected areas.

Chairman Zay also noted that he had received an email from Mr. Fieldman requesting confirmation from the new Board that it was willing to consider the Village's preliminary proposal as discussed at the meeting with the Village and the PRPs. It was the preliminary consensus of the Commissioners that they would be willing to accept the Village's proposal so long as the Village was negotiating with the PRPs on the terms discussed in Former Commissioner Elliott's bullet point number 4 and those negotiations progressed.

## Minutes of the 1/13/11 Meeting

Commissioner Russo asked if the loan agreement needed to be amended in the interim. Staff Attorney Crowley advised that any amendment to the loan agreement would require the approval of the Commission's 23 Charter Customers under what is called the "Enabling Agreement" and pursuant to which the loan agreement with the Village was entered into. Staff Attorney Crowley also advised that the best position for the Commission to be in was to simply forgo taking any action to enforce the loan agreement with the Village for so long as the Board believed the Village was negotiating in good faith and the negotiations progressed.

Commissioner Furstenau moved to direct the Chairman to send a letter to the Village of Downers Grove requesting written confirmation that the Village is negotiating with the PRPs upon such terms as will enable the Village to pay to the Commission the sum of \$4.363 million (plus any accrued interest from August 15, 2010 through June 30, 2011 final payment), requesting quarterly updates on the status of those negotiations, and confirming the preliminary consensus of the new Board to accept such a lump sum payment in full satisfaction under the loan agreement. Seconded by Commissioner Loftus and unanimously approved by a Voice Vote.

All voted aye. Motion carried.

### **Retain Financial Services Provider**

Acting General Manager McGhee reported that at the 2010 October Board meeting, staff was directed to formally solicit outsourcing proposals from reputable accounting firms and, of the seven proposals solicited, four proposals had been received, copies of which had been provided to Former Chairman Rathje, Former Treasurer/Commissioner Zeilenga, Former Finance Committee Chairman Zay, and Commissioner Murphy for review. Acting General Manager McGhee also noted that based upon staff's review of the various firm qualifications, together with the separately sealed cost information that had been provided to the full Board as requested at the November meeting, Crowe Horwath remained the staff's most favored firm in terms of both cost (\$19,500/month) and qualifications, with Baker Tilly (\$23,872/month) next in line. Acting General Manager McGhee concluded his remarks by noting that based upon the Commission's current cost to retain three independent financial consultants, in addition to the employment of one full time account clerk, it would be more cost efficient to outsource the financial department.

Commissioners Murphy and Suess suggested placing the item on the February Finance Committee Agenda for a detailed review and recommendation. After Chairman Zay thanked Former Financial Administrator Skiba for his help throughout the Commission's financial shortfall, he then noted that having a Treasurer involved in the Commission's day-to-day finances should help ease the financial workload.

## **NEW BUSINESS**

Commissioner Furstenau referred to his memorandum regarding the relocation of a Commission watermain at the intersection of 75<sup>th</sup> and Washington Street in the City of Naperville, noting that he would like the Board to reconsider the prior Board's decision to refuse to pay for the cost of the relocation. Commissioner Furstenau also requested that the item be placed on the February Agenda for potential action, adding that the City Mayor and City Manager would be present to address any questions or concerns that the Board might have.

Commissioner Murphy responded that he could support Commissioner Furstenau's request to discuss the matter but noted that the dispute centered on whether the Washington Street bicycle underpass was a County highway improvement and whether the Commission was legally obligated to relocate the main at its own cost to make way for that improvement. Commissioner Murphy also noted that the prior Board had deliberated the matter thoroughly, as reflected in numerous meeting minutes, and that the prior Board's deliberations included several staff memos, all of which Commissioner Murphy requested that staff provide to the new Board well in advance of the February meeting.

Commissioner Loftus then suggested having the item placed on the February Engineering & Construction Committee Agenda for a detailed review and recommendation.

## **Continuing Disclosure Material Event Notices**

After Staff Attorney Crowley explained that the Commission is required to file Material Event Notices for both the Commission's revenue and general obligation bonds as a result of the ratings downgrades made by Moody's Investors Service, Commissioner Murphy moved to direct staff to file the Continuing Disclosure Material Event Notices as presented. Seconded by Commissioner Furstenau.

After Commissioner Cullerton noted a typo on page 3 of the Moody's Investors Service report under Key Statistics and, specifically, that the number of people served should be identified as 900,000 (and not 9000,000), the motion was unanimously approved by a Voice Vote.

All vote aye. Motion carried.

## **ACCOUNTS PAYABLE**

Commissioner Pruyn moved to approve both Accounts Payable in the combined amount of \$5,197,972.08, subject to submission of all contractually required documentation, for invoices that have been received and for invoices that have not yet been received but have been estimated. Seconded by Commissioner Saverino and unanimously approved by a Roll Call Vote:

## Minutes of the 1/13/11 Meeting

Ayes: L. Crawford, T. Cullerton, R. Furstenau, C. Janc, D. Loftus, W. Murphy, J. Pruyn, D. Russo, F. Saverino, M. Scheck, P. Suess, J. B. Webb, and J. Zay

Nays: None

Absent: None

Acting General Manager McGhee then asked whether the Board would prefer to have both the estimated and the actual Accounts Payable consolidated into a single motion on future agendas. After some discussion, it was the consensus of the Commissioners that the motions could be consolidated if staff preferred so long as the two different dollar amounts were included.

### **EXECUTIVE SESSION**

None

Commissioner Murphy moved to adjourn the meeting at 8:20 P.M. Seconded by Commissioner Pruyn and unanimously approved by a Voice Vote.

All voted aye. Motion carried.



# DuPage Water Commission

## MEMORANDUM

TO: Terry McGhee  
Acting General Manager

FROM: Maureen A. Crowley   
Staff Attorney

DATE: February 4, 2011

SUBJECT: SEC Proposal to Require Appointed Officers of Governmental Entities to Register as "municipal advisors" Release 34-63576

Attached is a draft letter commenting on rules proposed by the Securities and Exchange Commission (SEC) that would exclude only elected but not appointed governing board members and no other persons holding public office from regulation as municipal advisors under the Dodd-Frank Wall Street Reform and Consumer Protection Act.

The Dodd-Frank Act subjects "municipal advisors" to annual registration requirements: first, with the SEC, and then with the Municipal Securities Rulemaking Board (MSRB). In addition, the Act grants the MSRB regulatory authority over municipal advisors, and imposes a fiduciary duty on municipal advisors when advising municipal entities.

Under the Act, a "municipal advisor" is defined to include a person (who is not a municipal entity or an employee of a municipal entity) who provides advice to or on behalf of a municipal entity or obligated person with respect to "municipal financial products" or the issuance of municipal securities, including advice with respect to the structure, timing, terms, and other similar matters concerning such municipal financial products or securities issuance. "Municipal financial products" is defined to mean municipal derivatives, guaranteed investment contracts, and investment strategies. "Investment strategies" is defined to include plans or programs for the investment of the proceeds of municipal securities, guaranteed investment contracts, and the recommendation of and brokerage of municipal escrow investments. Under the proposed SEC rules, "investment strategies" also includes "plans, programs or pools of assets that invest funds held by or on behalf of a municipal entity," whether or not such funds are proceeds of municipal securities, and would include pension funds, general funds, special purpose funds, and investment pools.

Under the proposed rules, the SEC stated that the "employee" exclusion should extend to *elected* members of a governing body of a municipal entity, and *ex officio* members who are on such governing body by virtue of holding an elective office. The SEC declined to exclude *appointed* members of a municipal entity's governing body from the definition of "municipal advisor," stating that "the Commission is concerned that appointed members, unlike elected officials and elected *ex officio* members, are not directly accountable for their performance to the citizens of the municipal entity." In addition, the proposed rules are silent as to whether the many appointed officers of local

Terry McGhee  
Municipal Advisor Regulation  
February 4, 2011  
Page 2

government that provide advice to their governing boards on bond issues and investment policy, and who hold positions various titled: treasurer, comptroller, manager, etc., are exempt from regulation as municipal advisors.

The release of the proposed rules by the SEC solicits comment on whether there are any persons who engage in uncompensated or indirectly compensated municipal advisory activities who should be excluded from the definition of a municipal advisor. The release also solicits comments on whether its distinction between appointed board members and elected board members is appropriate, and whether there are other persons associated with a municipal entity who might not be "employees" of the entity but should nevertheless be excluded from the definition of a municipal advisor.

Unless the Board has any questions or concerns, I suggest the letter be sent on Friday, February 11, 2011, as the comment period ends February 22, 2011.



February 11, 2011

Securities and Exchange Commission  
c/o Elizabeth M. Murphy, Secretary  
100 F Street, NE., Washington, DC  
20549-1090

Re: File Number S7-45-10

SEC Proposal to Require Appointed Officers of Governmental Entities to Register as "municipal advisors" Release 34-63576

Dear Chairman Schapiro and Members of the Commission:

I am writing to comment on the rules proposed by the Securities and Exchange Commission (SEC) concerning the exclusion of municipal entities and their employees from regulation as municipal advisors under the Dodd-Frank Wall Street Reform and Consumer Protection Act. Specifically, I am concerned with the SEC's narrow interpretation of the exclusion such that only elected but not appointed governing board members and no other persons holding public office would be exempted. By creating artificial distinctions between elected and appointed officials, and between public officers and employees, the proposal fails to consider the identical roles these officials play in the operation of municipal entities, not to mention the negative affect the regulation will have on local government budgets and operations.

When Congress excepted municipal entities and their employees from the definition of "municipal advisor," I believe it did so with the express intent to include all of the entity's officers and employees within the exemption, including governing board members and other persons holding public office, regardless of whether elected or appointed or compensated. Members of governing bodies and other officers of units of local government are the very personnel that deliberate and determine policy and are responsible for the day-to-day operations of the municipal entity. They are the personnel that are advised by traditional, third-party financial advisors. It confuses the issue to suggest that these officials—the very intended beneficiaries of the municipal advisor regulation—somehow are "municipal advisors" themselves. In short, the proposed regulations turn on its head the concept of "advice" and transform decision makers into advisors.

For example, responsibility for the operating and financial policies of the DuPage Water Commission is vested in its Board of Commissioners. The Board of Commissioners consists of: a Chairman, appointed by the Chairman of the DuPage County Board with the advice and consent of the County Board and with the advice and consent of the Board of Commissioners; one Commissioner from each of the six DuPage County

Board districts, appointed by the Chairman of the County Board with the advice and consent of the County Board; and one Commissioner from each DuPage County Board district, appointed by majority vote of the mayors of municipalities which are "included units" and that have the greatest percentage of their respective populations residing within the respective districts.

Similarly, the Treasurer of the DuPage Water Commission is appointed by the Chairman of the Board of Commissioners with the advice and consent of the Board of Commissioners and with the advice and consent of the County Board. The Treasurer is responsible for a periodic review of the financial procedures and practices being employed by staff, and is required to advise the Commission on the adequacy of these procedures and practices. If necessary, the Treasurer is required to formulate recommendations to be used in establishing the Commission's financial policies regarding, among other things, receipt and disbursement of funds, investment practices, accounting and control systems, relationships with the local financial community, and treasury and cash management objectives.

None of these individuals is an employee of the Commission in the traditional sense. These individuals are all appointed officers performing public duties imposed by Illinois state statute and are subject to extensive regulation that is for the most part identical to that applicable to elected public officers. However, according to the Release:

The Commission believes that the exclusion from the definition of a "municipal advisor" for "employees of a municipal entity" should include any person serving as an elected member of the governing body of the municipal entity to the extent that person is acting within the scope of his or her role as an elected member of the governing body of the municipal entity. "Employees of a municipal entity" should also include appointed members of a governing body to the extent such appointed members are ex officio members of the governing body by virtue of holding an elective office. The Commission does not believe that appointed members of a governing body of a municipal entity that are not elected *ex officio* members should be excluded from the definition of a "municipal advisor. The Commission believes that this interpretation is appropriate because employees and elected members are accountable to the municipal entity for their actions. In addition, the Commission is concerned that appointed members, unlike elected officials and elected ex officio members, are not directly accountable for their performance to the citizens of the municipal entity." [Footnotes omitted.]

*Municipal Advisors.* 76 Fed. Reg. 834 January 6, 2011.

It does not make sense to exempt elected but not appointed members of the entity's governing board, turning traditional advisees into advisors simply because they happen to be appointed rather than elected. Likewise, it does not make sense to subject the many appointed officers of local government that provide advice to their governing

boards on bond issues and investment policy, and who hold positions various titled: treasurer, comptroller, manager, etc., to regulation as a municipal advisor but exempt employees of the municipal entity that engage in the very same activities.

Creating artificial distinctions between elected and appointed officers and between officers and employees does not serve the stated purpose of the Dodd-Frank Act to improve accountability and transparency in the financial system. Virtually every state and local government subjects itself to transparency through a combination of public information and public meeting laws and extensive reporting through the media to their stakeholders. These are coupled with an accessibility that fosters immediate individual contact with those concerned stakeholders.

Besides, persons who hold public office—positions of trust within units of local government—subject themselves to state and local ethics laws and common law responsibilities that include potential penalties for misfeasance or malfeasance. Each of these controls protect the public by providing significant and sufficient state and local deterrent to misconduct that another layer of protection does not enhance.

In addition, the complexity of this regulation will deter volunteer service. Local governments depend upon members of their communities to help facilitate and run their operations through varying volunteer activities. Tens of thousands of community volunteers give their time, expertise, and common sense to enable local governments to plan, finance, and manage their operations.

Finally, the cost to local governments and officials to comply with this regulation will be extensive and comes at the worst time for local governments. Not only will local governments have to pay the cost of registering appointed officers, but local governments will also need to hire special counsel to ensure that these officials are properly trained and advised in the intricacies of securities law.

I respectfully request that you reconsider including only elected but not appointed governing board members and no other persons holding public within the definition of "municipal advisor" as proposed in Release 34-63576.

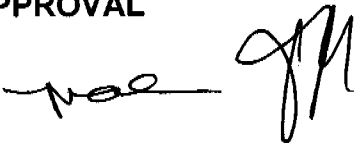
Sincerely,

James F. Zay  
Chairman

cc: Congressional Delegation  
Commissioners  
Terry McGhee, Acting General Manager

DATE: February 3, 2010

## REQUEST FOR BOARD ACTION

<b>AGENDA SECTION</b> Omnibus Vote Requiring Majority Vote	<b>ORIGINATING DEPARTMENT</b> Facilities Construction
<b>ITEM</b> A Resolution Approving and Ratifying Certain Change Orders to the Contract for Supply of Engine Generator Units at the February 10, 2011, DuPage Water Commission Meeting  Resolution No. R-7-11	<b>APPROVAL</b> 
<p>Account Numbers: 01-60-7213.01</p> <p>Resolution No. R-7-11 would approve the following Change Orders to the Contract for Supply of Engine Generator Units:</p> <p><b>Change Order No. 2 to Contract for Supply of Engine Generator Units:</b> Change Order No. 2 would authorize the Contractor to equip the fuel tank for the Portable Generator with various environmental safety devices needed to provide for safe and proper automatic fuel fill operation, at a cost equal to the sum of \$14,200.00 plus, for the automatic fuel fill testing only, \$2,252.00 per day, for an estimated total cost of \$27,712.00 (which would allow six full days for the automatic fuel fill testing at both the Lexington and DuPage Pumping Stations).</p> <p>Approval of this negotiated Change Order would increase the Contract Price by an estimated \$27,712.00, but does not authorize or necessitate an increase in the Contract Price that is 50% or more of the original Contract Price nor, based upon the Contractor's sworn certification, authorize or necessitate an increase in the price of any subcontract under the Contract that is 50% or more of the original subcontract price.</p> <p>The cost of this additional work will be borne by the Commission because the Portable Generator was not part of the Intergovernmental Agreement with the City of Chicago, and any use of the Portable Generator at the Lexington Pumping Station will be at the sole discretion of the Commission. It is important to note, however, that all or a portion of the cost of Portable Generator has at times been included in various calculations regarding the cost of the Lexington Pumping Station projects and, as such, those estimates were in error.</p>	
<b>MOTION:</b> To adopt Resolution No. R-7-11.	

DUPAGE WATER COMMISSION

RESOLUTION NO. R-7-11

A RESOLUTION APPROVING AND RATIFYING CERTAIN CHANGE ORDERS  
TO THE CONTRACT FOR SUPPLY OF ENGINE GENERATOR UNITS AT THE  
FEBRUARY 10, 2011, DUPAGE WATER COMMISSION MEETING

BE IT RESOLVED by the Board of Commissioners of the DuPage Water Commission as follows:

SECTION ONE: The Change Orders to the Contract for Supply of Engine Generator Units set forth on Exhibit 1, attached hereto and by this reference incorporated herein and made a part hereof, shall be and hereby are approved and, if already issued, ratified because the Board of Commissioners of the DuPage Water Commission has determined, based upon the representations of staff and the Contractor, that the circumstances said to necessitate the changes were not reasonably foreseeable at the time the Contract for Supply of Engine Generator Units was signed, the Change Orders to the Contract for Supply of Engine Generator Units are germane to the original Contract for Supply of Engine Generator Units as signed and/or the Change Orders to the Contract for Supply of Engine Generator Units are in the best interest of the DuPage Water Commission and authorized by law.

SECTION TWO: This Resolution shall constitute the written determination required by Section 33E-9 of Article 33E of the Criminal Code of 1961 and shall be in full force and effect from and after its adoption.

AYES:

NAYS:

ABSENT:

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

ATTEST

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Clerk

Exhibit 1

1. Change Order No. 2 to the Contract for Supply of Engine Generator Units in the estimated amount of \$27,712.00.

## CHANGE ORDER

DUPAGE WATER COMMISSION

SHEET  1  OF  3

PROJECT NAME: Supply of Engine Generator Units

CHANGE ORDER NO. 2

CONTRACTOR: Patten Industries, Inc.

DATE: February 11, 2011

I. A. DESCRIPTION OF CHANGES INVOLVED:

1. Transport the Portable Generator from the Lexington Pump Station to the PPPI, Inc., Darien Wisconsin facility, and, upon completion of the fuel tank modification work described in IA2 below, return the Portable Generator to the Lexington Pumping Station. Inspect upon pick-up or delivery, as the case may be. Report any defects or damage observed during this inspection promptly to Owner in writing. Contractor shall have sole responsibility for the proper transportation and for all risk of loss or damage or destruction to the Portable Generator from and after pick-up at the Lexington Pump Station and until returned to the Lexington Pump Station.
2. Install a 2" Overfill Prevention Valve and a 2" Anti-Siphon Valve on the fuel tank, including 2-2" male Cam-Lok connectors with dust caps. Install an electronic multi level fuel tank safety switch, wire and connect to the Local Engine Generator Control Panel. Fuel level switch settings to be provided by Owner.
3. Provide automatic fuel fill testing at both the Lexington and DuPage Pumping Stations in coordination with the applicable Installation Contractor's fuel systems testing.

B. REASON FOR CHANGE:

To provide for safe and proper automatic fuel fill operation.

C. NEGOTIATED REVISION IN CONTRACT PRICE:

1. \$2,800.00
2. \$11,400.00
3. \$2,252.00 per day, for an estimated cost of \$13,512.00 (which would allow six full days for the automatic fuel fill testing at both the Lexington and DuPage Pumping Stations)

II. CHANGE ORDER CONDITIONS:

1. Any Work to be performed under this Change Order shall be provided, performed, and completed in full compliance with, and as required by or pursuant to, the Contract/Proposal, including any Specifications and Drawings for the Work to be performed under this Change Order and for Work of the same type as the Work to be performed under this Change Order, and as specified in the preceding "Description of Changes Involved."
2. Unless otherwise provided herein, all Work included in this Change Order shall be guaranteed and warranted as set forth in, and Contractor shall not be relieved from strict compliance with, the guaranty and warranty provisions of the Contract/Proposal.
3. All Work included in this Change Order shall be covered under the insurance coverages specified in the Contract/Proposal.



III. ADJUSTMENTS IN CONTRACT PRICE:

1.	Original Contract Price	\$	<u>6,417,608.00</u>
2.	Net (addition) (reduction) due to all previous Change Orders Nos. <u>1</u> to <u>1</u>	\$	<u>0.00</u>
3.	Contract Price, not including this Change Order	\$	<u>6,417,608.00</u>
4.	<del>(Addition)</del> <del>(Reduction)</del> to Contract Price due to this Change Order	\$	<u>(est.) 27,712.00</u>
5.	Contract Price including this Change Order	\$	<u>(est.) 6,445,320.00</u>

RECOMMENDED FOR ACCEPTANCE:

CONSULTING ENGINEERS: Camp Dresser & McKee Inc.

By: \_\_\_\_\_ ( )  
Signature of Authorized Representative Date

ACCEPTED: By my authorized signature below, being first duly sworn on oath, I certify on behalf of Contractor that this Change Order does not authorize or necessitate an increase in the price of any subcontract under the Contract/Proposal that is 50% or more of the original subcontract price. I further certify by my authorized signature below, being first duly sworn on oath, that (1) Contractor agrees that no requirement, direction, instruction, interpretation, determination, or decision of Owner or Engineer to date entitles Contractor to an equitable adjustment in the Contract Price or Delivery Period that has not been included, or fully included, in this Change Order or in any other Change Order issued to date and (2) Contractor waives all claims based on any such requirement, direction, instruction, interpretation, determination, or decision to date.

CONTRACTOR: Patten Industries, Inc.

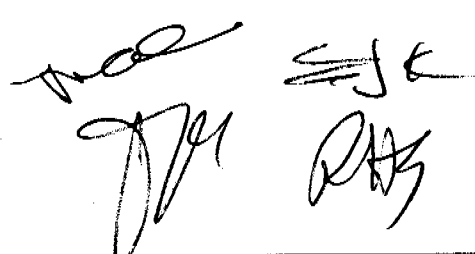
By: \_\_\_\_\_ ( )  
Signature of Authorized Representative Date

DUPAGE WATER COMMISSION:

By: \_\_\_\_\_ ( )  
Signature of Authorized Representative Date

DATE: February 3, 2011

## REQUEST FOR BOARD ACTION

<b>AGENDA SECTION</b>	Omnibus Vote Requiring Super-Majority or Special Majority Vote	<b>ORIGINATING DEPARTMENT</b>	Pipeline
<b>ITEM</b>	A Resolution Approving and Ratifying Certain Work Authorization Orders Under Quick Response Contract QR-8/08 at the February 10, 2011, DuPage Water Commission Meeting  Resolution No. R-2-11	<b>APPROVAL</b>	
Account Number: 01-60-6631			
<p>The Commission entered into certain agreements dated June 30, 2008, with Martam Construction Incorporated and Rossi Contractors, Inc. for quick response construction work as needed through the issuance of Work Authorization Orders. Resolution No. R-2-11 would approve the following Work Authorization Orders under the Quick Response Contracts:</p> <p><b>Work Authorization Order No. 0024 to Rossi Contractors Inc.:</b> This Work Authorization was issued, and the work started, prior to board approval and was in response to the discovery of a leak in the Commission's 72" steel water main located in vicinity of West Avenue and Randolph Street in the City of Elmhurst. Located within the general area of the leak (as shown on exhibit 2) the Commission maintains, 2-72" diameter water mains, 1-54" diameter water main, 1-42" diameter water main and 13 valves of various sizes and functions.</p> <p>The pipe that failed is of made of steel. As designed and constructed the entire area of the pipe, with the exception of the granular bedding material, is encased in concrete. The concrete encasement varied in thickness and ranged from 16 to 18 inches over the top of the pipe, and 5 to 6 feet in thickness around the sides. It was necessary to remove a substantial portion of this concrete encasement in order to expose the exact point of failure. To do so, without causing additional damage to the main, require the use of hand operated pneumatic "chipping" hammers. The process of concrete removal and excavation alone took 6 days to complete and, once completed, revealed 2 separate areas of failure.</p> <p>The scope of the repair work will include upon completion of the work; providing traffic and pedestrian controls, excavation to expose Commission facilities, concrete removal, locate and identify the areas of pipe in need of repair, 24 hour/7 day a week dewatering, repairing the failed areas by means of welded patch panels and welded joint filler rods, installation of corrosion control devices, construction of concrete thrust blocks, backfilling the excavation with excavated soil and with virgin granular material, restoration of the area to its existing condition, and pipeline disinfection and flushing.</p> <p>The total cost for this work is not known but is estimated to range between be \$150,000.00 to \$175,000.00.</p>			
<b>MOTION:</b> To approve Resolution No. R-2-11.			

## DUPAGE WATER COMMISSION

## RESOLUTION NO. R-2-11

A RESOLUTION APPROVING AND RATIFYING  
CERTAIN WORK AUTHORIZATION ORDERS  
UNDER QUICK RESPONSE CONTRACT QR-8/08 AT THE  
FEBRUARY 10, 2011, DUPAGE WATER COMMISSION MEETING

WHEREAS, the DuPage Water Commission (the "Commission") entered into certain agreements dated June 30, 2008, with Martam Construction Incorporated and Rossi Contractors, Inc. for quick response construction work related to the Commission's Waterworks System (said agreements being hereinafter collectively referred to as "Contract QR-8/08"); and

WHEREAS, Contract QR-8/08 is designed to allow the Commission to direct one or more or all of the quick response contractors to perform quick response construction work, including without limitation construction, alteration, and repair related to the Commission's Waterworks System, as needed through the issuance of Work Authorization Orders; and

WHEREAS, the need for quick response construction work could not have been reasonably foreseen at the time the contracts were signed;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the DuPage Water Commission as follows:

SECTION ONE: The foregoing recitals are by this reference incorporated herein and made a part hereof as findings of the Board of Commissioners of the DuPage Water Commission.

SECTION TWO: The Work Authorization Orders attached hereto and by this reference incorporated herein and made a part hereof as Exhibit 1 shall be and hereby are

Resolution No. R-2-11

approved and, if already issued, ratified because the Board of Commissioners of the DuPage Water Commission has determined, based upon the representations of staff, that the circumstances said to necessitate the Work Authorization Orders were not reasonably foreseeable at the time the contracts were signed, the Work Authorization Orders are germane to the original contracts as signed, and/or the Work Authorization Orders are in the best interest of the DuPage Water Commission and authorized by law.

SECTION THREE: This Resolution shall constitute the written determination required by Section 33E-9 of the Criminal Code of 1961 and shall be in full force and effect from and after its adoption.

AYES:

NAYS:

ABSENT:

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Clerk

Board/Resolutions/R-2-11.docx

**WORK AUTHORIZATION ORDER**

**SHEET 1 OF 2**

**CONTRACT QR-8/08: QUICK RESPONSE CONTRACT**

**WORK AUTHORIZATION ORDER NO.: QR-8.0024**

**LOCATION:**

At the intersection of the Prairie Path Trail, West Avenue and Randolph Street in the City of Elmhurst.

**CONTRACTOR:**

Rossi Contractors Inc.

**DESCRIPTION OF WORK:**

Provide traffic and pedestrian controls as necessary, excavate and expose Commission facilities, locate and identify the area(s) of pipe in need of repair, repair the areas(s) as necessary by means of a welded patch panel(s) or repair band(s), repair sleeve(s), pipe replacement, or a combination of these or other methods as necessary or as directed by the Commission. Construct and /or install pipe restraints and corrosion control devices as necessary, backfill the excavation with excavated and/or virgin material, restore the area to its existing condition, pipeline disinfection and all other work that may be necessary or as directed by the Commission.

**REASON FOR WORK:**

To repair a leak in an existing 72" diameter steel water main.

**MINIMUM RESPONSE TIME:**

N/A

**COMMISSION-SUPPLIED MATERIALS, EQUIPMENT AND SUPPLIES TO BE INCORPORATED INTO THE WORK:**

N/A

**THE WORK ORDERED PURSUANT TO THIS WORK AUTHORIZATION ORDER**


IS  IS NOT PRIORITY WORK

SUPPLEMENTARY NOTIFICATION OF POTENTIALLY HAZARDOUS CONDITIONS:  
N/A

SUBMITTALS REQUESTED: N/A

SUPPLEMENTARY CONTRACT SPECIFICATIONS AND DRAWINGS: N/A

DuPAGE WATER COMMISSION

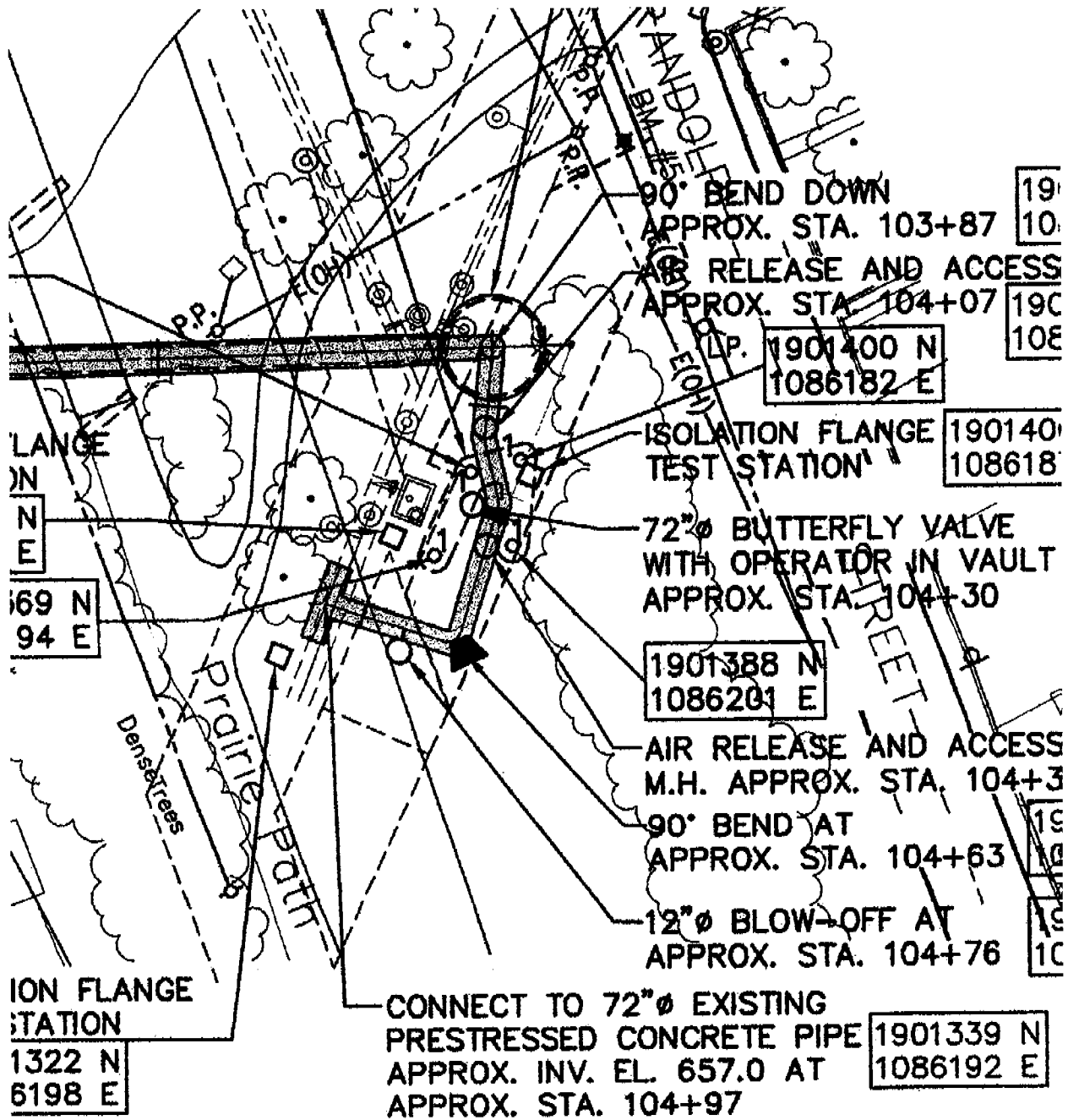
By:   
Signature of Authorized  
Representative

DATE: 1-18-11

CONTRACTOR RECEIPT ACKNOWLEDGED:

By:   
Signature of Authorized  
Representative

DATE: 1-18-11



90° BEND DOWN  
APPROX. STA. 103+87

AIR RELEASE AND ACCESS  
APPROX. STA. 104+07

1901400 N  
1086182 E

ISOLATION FLANGE  
TEST STATION

1901400  
1086182

72"Ø BUTTERFLY VALVE  
WITH OPERATOR IN VAULT  
APPROX. STA. 104+30

1901388 N  
1086201 E

AIR RELEASE AND ACCESS  
M.H. APPROX. STA. 104+30

90° BEND AT  
APPROX. STA. 104+63

12"Ø BLOW-OFF AT  
APPROX. STA. 104+76

CONNECT TO 72"Ø EXISTING  
PRESTRESSED CONCRETE PIPE  
APPROX. INV. EL. 657.0 AT  
APPROX. STA. 104+97

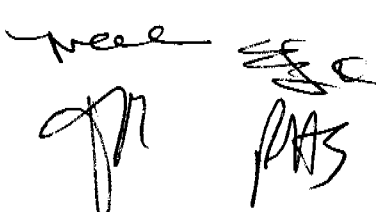
1901339 N  
1086192 E

ISOLATION FLANGE  
TEST STATION  
1901400 N  
1086182 E

ISOLATION FLANGE  
TEST STATION  
1901322 N  
1086198 E

DATE: February 3, 2011

## REQUEST FOR BOARD ACTION

<b>AGENDA SECTION</b>	Omnibus Vote Requiring Super-Majority or Special Majority Vote	<b>ORIGINATING DEPARTMENT</b>	Pipeline
<b>ITEM</b>	A Resolution Directing Advertisement for Bids on a Contract for Quick Response Construction Work (Contract QR-9/11)  Resolution No. R-3-11	<b>APPROVAL</b>  	
Account Number: 01-60-6631			
<p>The Commission entered into certain agreements dated June 30, 2008, with Martam Construction Incorporated and Rossi Contractors, Inc. for quick response construction work as needed through the issuance of Work Authorization Orders (Contract QR-8/08). Contract QR-8/08 expires June 30, 2011, and staff desires to continue to retain stand-by contractors to perform construction work that the Commission is unable to perform through its own personnel and with its own equipment. Resolution No. R-3-11 would authorize the advertisement for bids on Contract QR-9/11 for quick response construction work through June 30, 2013, and would establish all requirements necessary for the bidding, for the awarding of the contract(s), and for the approval of the contractor's/contractors' bonds, all as required by state statute.</p>			
<b>MOTION:</b> To approve Resolution No. R-3-11.			



## DUPAGE WATER COMMISSION

## RESOLUTION NO. R-3-11

**A RESOLUTION DIRECTING ADVERTISEMENT  
FOR BIDS ON A CONTRACT FOR  
QUICK RESPONSE CONSTRUCTION WORK**

(Contract QR-9/11)

BE IT RESOLVED by the Board of Commissioners of the DuPage Water Commission as follows:

**SECTION ONE:** Advertisement for Bids. The Acting General Manager is hereby authorized and directed to advertise for bids for the contract entitled "Quick Response Construction Contract — QR-9/11" (the "Contract") in accordance with the requirements of 65 ILCS 5/11-135-5.

**SECTION TWO:** Notice Inviting Bids. The Notice inviting bids on the Contract shall be in substantially the form of the "Invitation for Bids" attached hereto as Exhibit A and by this reference incorporated herein and made a part hereof.

**SECTION THREE:** Requirements for Bidding. Sealed envelopes or packages containing proposals for the performance of the Contract shall be submitted to the Commission in accordance with the "General Instructions to Bidders" substantially in the form attached hereto as Exhibit B and by this reference incorporated herein and made a part hereof.

**SECTION FOUR:** Awarding of Contracts. The Commission will award one or more Contracts to a bidder or bidders whose proposal is found to be in the best interests of the Commission. The bidder(s) who is to receive an award shall be determined in accordance with Article VIII of the Commission By-Laws and the General Instructions to Bidders substantially in the form attached hereto as Exhibit B.

Resolution No. R-3-11

SECTION FIVE: Approval of Bonds. The approval of contractors' faithful performance bonds shall be subject to the requirements set forth under the subheading "Bonds" in the Invitation for Bids attached hereto as Exhibit A.

SECTION SIX: Effective Date. This resolution shall be in full force and effect from and after its adoption.

AYES:

NAYS:

ABSENT:

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Clerk

Board/Resolutions/R-3-11.docx

DUPAGE WATER COMMISSION  
CONTRACT QR-9/11  
QUICK RESPONSE CONSTRUCTION CONTRACT

INVITATION FOR BIDS

1. **Bid Opening**

The DUPAGE WATER COMMISSION (the "Commission") will receive sealed proposals until 1:00 p.m., local time, **[Date TBD]**, 2011, at the office of the Commission, 600 East Butterfield Road, Elmhurst, Illinois 60126-4642, for quick response construction work related to the Commission's Waterworks System, in accordance with the Specifications prepared by the Commission and any drawings from time to time prepared by the Commission during the term of the Contract, at which time or as soon thereafter as possible, all bids will be publicly opened and read aloud.

2. **Bid Security and Bonds**

(a) **Bid Security**. A Bid Bond, Cashier's Check or Certified Check drawn on a solvent bank and insured by the Federal Deposit Insurance Corporation and payable without condition to the Commission, in the amount of Fifty Thousand Dollars (\$50,000.00), shall accompany each proposal. The Bid Bond shall be in a form satisfactory to the Commission from a surety company meeting the requirements set forth below with respect to Performance and Labor and Material Payment Bonds.

(b) **Bonds**. A Performance Bond and a Labor and Material Payment Bond from a surety company licensed to do business in the State of Illinois with a general rating of A minus and a financial size category of Class X or better in Best's Insurance Guide will be required upon award of the Contract to the successful bidder or successful bidders, each in the penal sum of One Hundred Thousand Dollars (\$100,000.00).

3. **The Commission and Its Waterworks System**

The Commission is a county water commission, duly organized and existing under the laws of the State of Illinois. The Commission provides its Charter Customers and other customers in the DuPage County area with a common source of supply of water from Lake Michigan. The Commission purchases treated lake water from the City of Chicago, delivers the water to the Commission in the City of Chicago, and the water is transported from the City of Chicago to and throughout the DuPage County area. A general map depicting the Commission's Waterworks System is included as an Appendix to the Contract Documents.

4. **The Work**

A general description of the Work for which the Commission is inviting bids by this Invitation is as follows:

The work consists of furnishing all materials, tools, appliances, methods, labor, equipment, supplies, transportation, services and other items and facilities as needed to perform quick response construction work related to the Commission's Waterworks System at any time from the date of execution of the Contract Agreement through June 30, 2013. Quick response construction work includes, without limitation, construction, maintenance, and repair work that the Commission is unable to perform through its own personnel and with its own equipment, as determined by the Commission in its sole and absolute discretion.

5. **Time of Commencement and Completion**

All Work required by a Work Authorization Order issued in accordance with the Contract Documents shall be commenced within the time set forth in such Work Authorization Order and diligently and continuously prosecuted to completion. The time of beginning, rate of progress and time of completion is of the essence.

6. **Contract Documents**

The Contract Documents, as may be modified by Addenda, consist of the following component parts, all of which are by this reference made a part hereof as though fully set forth herein:

- A. the Invitation for Bids;
- B. the General Instructions to Bidders;
- C. the Work Authorization Order(s), if any;
- D. the General Conditions of Contract;
- E. the Specifications, and the Contract Drawings, if any;
- F. the Bidder's Proposal, including the Work History Statement; and
- G. the Contract Agreement.

The Contract Documents may be examined at the office of the Commission. A copy of the Contract Documents may be purchased at the offices of the Commission upon payment of \$25.00 per set, which fee is nonrefundable. Persons requesting documents to be sent by mail shall include an additional \$10.00 per set to cover postage and handling.

7. **Pre-Bid Conference**

A pre-bid conference of all prospective Bidder's and/or their representatives shall be held at Owner's office listed above on **[Date TBD]** 2011, at 10:00 a.m. All prospective Bidder's and/or their representatives are strongly encouraged to attend the pre-bid conference.

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2011.

DUPAGE WATER COMMISSION

By: /s/ Terrance McGhee  
Acting General Manager

## GENERAL INSTRUCTIONS TO BIDDERS

### TABLE OF CONTENTS

<u>Section</u>	<u>Page</u>	<u>Section</u>	<u>Page</u>
1. Examination of Contract Documents	III-1	11. Public Opening of Proposals	III-6
2. Interpretation of Contract Documents	III-2	12. Confidentiality	III-6
3. Prevailing Wages	III-3	13. Qualification of Bidders	III-7
4. Taxes	III-3	14. Disqualification of Bidders	III-7
5. Preparation of Bidder's Proposal	III-3	15. Award of Contract	III-8
6. Requirements for Signing Proposals	III-4	16. Effective Date of Award	III-9
7. Bid Security	III-5	17. Penalty for Collusion	III-9
8. Surety and Insurance Commitments	III-5	18. Closing	III-9
9. Filing of Proposal	III-6	19. Failure to Close	III-10
10. Withdrawal of Proposal	III-6	20. Time of Starting and Completion	III-10
		21. Non-Discrimination	III-11

#### 1. Examination of Contract Documents

(a) Contract Documents. Prospective bidders shall, before submitting a bid, carefully examine the Contract Documents, which consist of the Invitation for Bids, General Instructions to Bidders, Bidder's Proposal including the Work History Statement, Contract Agreement, Work Authorization Orders, if any, General Conditions, Specifications, Drawings, if any, and all Addenda thereto, all of which contain provisions applicable not only to any successful bidder but also to any Subcontractors of a successful bidder.

Special attention shall be given to the cost and feasibility of the procedures necessary for maintenance of a successful bidder's ability to meet minimum response times and uninterrupted operations; the need to interrupt operations for any reason; the availability and cost of labor; and the availability and cost of facilities for transportation, handling and storage of materials and equipment.

(b) Work Authorization Orders. The Commission may award a Contract to more than one bidder. The Commission shall not be obligated to issue any Work Authorization Orders under any Contract awarded. The Commission reserves the right to select which Contract, among any of the Contracts awarded, under which any such Work Authorization Order shall be issued. The Commission further reserves the right, in

the exercise of its sole discretion, but shall not be obligated, to direct a successful bidder to use Commission supplied pipe and appurtenances or other materials in the performance of any Work ordered pursuant to a Work Authorization Order. A general listing of the pipe and appurtenances currently owned and stored by the Commission is attached to the Contract Documents as an Appendix. Bidders shall not, after submission of their proposal, dispute or complain nor assert that there was any misunderstanding in regard to the nature or the amount of Work to be done.

(c) Representation and Warranty of Bidder. All prospective bidders submitting a proposal expressly represent and warrant that by virtue thereof they have had an adequate period of time to conduct the independent investigation required by these Instructions during the bid period.

(d) Remedies for Failure to Comply. Any successful bidder will be responsible for all errors in its proposal resulting from bidder's failure or neglect to comply with these Instructions. No extra compensation will be allowed by reason of any such errors or by reason of any matters or things concerning which bidder failed or neglected to inform itself prior to bidding. The Commission will, in no case, be responsible for any additional compensation or any change in anticipated profits from such errors, failures or neglect and any successful bidder shall bear all costs associated therewith or arising therefrom.

## 2. Interpretation of Contract Documents

(a) Addenda. If any prospective bidder is in doubt as to the true meaning of any part of the Contract Documents, bidder may submit to the Commission a written request for an interpretation thereof at least ten (10) calendar days before the scheduled opening of bids. The person submitting the request will be responsible for its prompt delivery.

Any interpretation of the Contract Documents will be made only by Addendum duly issued or delivered by the Commission to each person receiving a set of the Contract Documents.

All Addenda issued prior to the opening of bids shall become a part of the Contract Documents.

Those questions not resolved by an Addendum shall not be considered valid questions.

(b) Informal Responses. The Commission will not give oral answers to any inquiries regarding the meaning of the Contract Documents or oral instructions prior to the award of the Contract nor any indication as to the validity of any inquiry. Any oral statement regarding same by any persons, prior to the award, shall not be binding, shall be deemed to be unauthorized and given informally for the information and convenience of bidder, shall not be guaranteed and shall not be relied upon by any bidder. Bidder hereby agrees that such information shall not be used as a basis of, nor shall the giving

of any such information entitle bidder to assert, any claim or demand against the Commission, its officers, employees, agents, attorneys or engineers on account thereof.

3. **Prevailing Wages**

In accordance with "An Act Regulating Wages of Laborers, Mechanics, and Other Workers Employed in any Public Works by the State, County, City or any Public Body or any Political Subdivision or by any one Under Contract for Public Works," 820 ILCS 130/1 et seq., not less than the prevailing rate of wages for similar work in the locality in which the Work is to be performed shall be paid to all laborers. A copy of the Commission's "Ordinance Ascertaining the Prevailing Rate of Wages in DuPage County and Cook County," in effect as of the date of the Invitation for Bids, is attached to the Contract Documents as an Appendix. If the Illinois Department of Labor revises the prevailing rate of hourly wages to be paid, the revised rate shall apply to the Contract.

4. **Taxes**

The Commission is exempt from state and local sales and use taxes and certain federal excise taxes. A letter of exemption will be provided to any bidder to whom a Contract is awarded, if necessary. The Commission will not reimburse nor assist any successful bidder in obtaining reimbursement for any state or local sales, use or excise taxes paid by that successful bidder. Successful bidders shall be required to reimburse the Commission for any such taxes paid, all as is more specifically provided in the General Conditions.

All rates and fees stated in proposals shall include any other applicable taxes.

5. **Preparation of Bidder's Proposal**

A bid on the Work shall be made only on the blank proposal form furnished by the Commission and included in the Contract Documents. Entries on the bidder's proposal form shall be typed or legibly written in ink. Bid prices are to be written by words and/or by figures as provided on the blank proposal form included in the Contract Documents, and in case of any conflict, words will prevail. In case of any error in adding or multiplying individual items, the prices listed for individual items shall control over any incorrect total of such items. A proposal may be rejected if it does not contain a requested price for each and every item named in the proposal or may be interpreted as bidding "no charge" to the Commission for any item left blank.

Bidders are warned against making alterations of any kind, and proposals that contain omissions, conditions, alterations, or additions not called for may be rejected or interpreted so as to be most favorable to the Commission.

Proposals that are not submitted on the proposal form included in the Contract Documents or that are separated from the Contract Documents may be rejected.

The bidder shall staple, or otherwise bind into the Contract Documents submitted, a copy of each Addendum issued for the Contract Documents during the



bidding period and include on the proposal a listing of such Addenda where required. Proposals that fail to comply with this Instruction may be rejected.

All bidders submitting a proposal shall be conclusively deemed to have evidenced an intention to be bound thereby whether or not the requirements for signing proposals found in Section 6 of these Instructions are complied with. However, proposals that fail to comply with Section 6 of these Instructions may nevertheless be rejected as provided for therein.

If a deficiently prepared proposal is not rejected, the Commission may demand correction of any deficiency and award a Contract to the bidder upon satisfactory compliance with this Instruction.

## 6. **Requirements for Signing Proposals**

The following requirements must be observed in the signing of proposals:

- (a) **Individuals.** Proposals that are signed for an Individual shall be signed by such individual or signed by an attorney-in-fact. If signed by an attorney-in-fact, there shall be attached to the proposal a power of attorney evidencing authority to sign the proposal, executed by such individual.
- (b) **Partnerships.** Proposals that are signed for a Partnership shall have the correct Partnership name thereof, State of registration, address of its principal place of business, and shall be signed by all of the General Partners or by an attorney-in-fact. If signed by an attorney-in-fact, there shall be attached to the proposal a power of attorney evidencing authority to sign the proposal, executed by all of the General Partners.
- (c) **Corporations.** Proposals that are signed for a Corporation shall have the correct corporate name thereof, State of incorporation, address of its principal place of business, and the signature of the President or other authorized officer of the Corporation, manually written below the corporate name following the word "By: \_\_\_\_\_." A certified copy of a resolution of the Board of Directors evidencing the authority of the official signing the proposal to sign the proposal shall be attached to it. The proposal shall also bear the attesting signature of the Secretary or Assistant Secretary of the Corporation.
- (d) **Joint Ventures.** Proposals that are signed for a Joint Venture shall have the correct joint venture name thereof, address of its principal place of business and date of joint venture agreement and shall be signed by each signator of the joint venture agreement in accordance with the applicable provisions of (a), (b) and (c) above.

Proposals that fail to comply with this Instruction may be rejected, or, if not rejected, the Commission may demand correction thereof and award a Contract to the bidder upon satisfactory compliance with this Instruction.

## 7. **Bid Security**

(a) **Deficiencies.** Proposals may be rejected unless accompanied by a Bid Bond, Cashier's Check or Certified Check as set forth in the Invitation for Bids, as a guaranty that (i) if bidder is determined to be one of the "most favorable bidders" (see Section 13(b) below), bidder will submit all additional information requested by the Commission, and (ii) if the bid is accepted, bidder will timely execute the Contract Agreement. If a proposal with deficient bid security is not rejected, the Commission may demand correction of any deficiency and award a Contract to bidder upon satisfactory compliance with this Instruction.

(b) **Return of Bid Securities.** Bid securities submitted in the form of Cashier's Checks or Certified Checks will be returned to all except the "most favorable bidders" within five (5) workdays after the opening of bids, and to the "most favorable bidders" within five (5) workdays after execution of a Contract Agreement by the Commission for all Contracts awarded. Bid Bonds will not be returned unless otherwise requested by the bidder.

(c) **Liquidated Damages.** If a "most favorable bidder" fails to timely submit all additional information requested by the Commission, or if a successful bidder fails to timely execute the Contract Agreement, it will be difficult and impracticable to ascertain and determine the amount of damage that the Commission will sustain by reason of such failure. For such reason, it is agreed that, at the Commission's option, bidder shall pay to the Commission, as liquidated damages and not as a penalty, the entire amount of the bid security in full settlement of all damages, or the Commission shall be entitled to exercise any and all equitable remedies it may have against the defaulting bidder for specific performance. Bidder, by submitting a proposal, specifically agrees to this provision.

## 8. **Surety and Insurance Commitments**

Proposals may be rejected unless accompanied by:

- (i) A letter from a surety company, licensed to do business in the State of Illinois with a general rating of A minus and a financial size category of Class X or better in Best's Insurance Guide, stating that it will execute bonds in the form included with the Contract Documents upon award of the Contract to the bidder.
- (ii) A letter from the bidder's insurance representative certifying that said insurer has read the insurance requirements set forth in the Contract Documents and will issue the required policies at the time requested upon award of the Contract to the bidder.

If a proposal deficient in required surety and insurance commitments is not rejected, the Commission may demand correction of any deficiency and award a Contract to the bidder upon satisfactory compliance with this Instruction.

9. **Filing of Proposal**

One copy of each proposal, properly signed, together with the bid security, surety and insurance commitment letters and all other documents required to be bound thereto, shall be enclosed in a sealed envelope or package addressed and delivered to the office designated in the Invitation for Bids. Sealed envelopes or packages containing proposals shall be identified as such and shall be marked with the title of the Contract and the bidder's full legal name. Any documents designated in the proposal form, including any Addenda officially issued by the Commission, will be considered part of the proposal whether attached or not. The proposal shall not be removed from these bound documents.

10. **Withdrawal of Proposal**

Any proposal may be withdrawn at any time prior to the opening of bids, provided that a request in writing, executed by the bidder in the manner specified in Section 6 of these Instructions, for the withdrawal of such bid is filed with the Commission prior to the opening of bids. The withdrawal of a bid prior to bid opening will not prejudice the right of the bidder to file a new proposal. No proposal may be withdrawn without the consent of the Commission for a period of sixty (60) calendar days after the opening of bids. Any proposal may be withdrawn at any time following the expiration of the sixty (60) calendar day period set forth above, provided that a request in writing, executed by the bidder in the manner specified in Section 6 of these Instructions, for the withdrawal of such bid is filed with the Commission after the sixtieth day following bid opening. If no such request is filed, the bid acceptance date shall be deemed extended until such a request is filed or the Commission executes all Contracts awarded hereunder.

11. **Public Opening of Proposals**

Proposals will be opened and the prices bid will be read aloud publicly at the time and place indicated in the Invitation for Bids or as soon thereafter as possible. Bidders or their agents are invited to be present.

12. **Confidentiality**

The Commission shall not disclose, outside the bidding process, at any time, either during or subsequent to the bidding process, nor permit any of its employees, agents or representatives to so disclose, any information, knowledge or data of bidder that the Commission receives or obtains during the bidding process relating to business, commercial or financial information or other confidential or proprietary matters of bidder, unless such disclosure will not cause competitive harm, or such confidential information was actually known to the Commission, its employees, agents or representatives prior to submission of any proposal, or was properly obtained or evolved independently therefrom, or bidder consents to such disclosure. Bidder shall identify any information

submitted in the bidding process that is considered by it to be confidential or proprietary. Notwithstanding the foregoing, bidder, by its submission of a proposal, acknowledges that the Commission is subject to the Illinois Freedom of Information Act 5 ILCS 140/1 et seq., and that no disclosure made in good faith by the Commission pursuant to such Act shall be deemed to violate this paragraph.

13. **Qualification of Bidders**

(a) **Factors.** Price shall not be the dominant factor in making any awards but, rather, it is the intention of the Commission to award one or more Contracts to bidders who furnish satisfactory evidence that they understand the scope of the Work under this Contract and that they have the requisite experience, ability, capital, facilities, plant, organization and staffing to enable them to commence the Work within the minimum response time set forth in the Contract Documents and to perform the Work successfully and promptly.

(b) **Most Favorable Bidders.** A preliminary determination as to eligibility of up to three bidders (herein referred to as "the most favorable bidder(s)") who shall be eligible for further consideration shall be made on the basis of the dollar amount of the bids, the Commission's prior experience with the bidders, the Commission's knowledge of the bidders' performance on other relevant projects, and all other relevant facts or matters mentioned in the Contract Documents or that the Commission may legally consider in making its determination. The making of such a preliminary determination shall not waive the Commission's right to reject any and all bids nor waive such other rights as are set forth in Section 15 of these Instructions.

(c) **Final Determination.** The final determination of the successful bidders among the most favorable bidders shall be made on the basis of the above-mentioned facts and matters and any additional information that may be required of all or any one or more of the most favorable bidders. In the event the Commission requests additional information, the responding bidder must provide the requested information within two (2) workdays after receipt of any such request or within such longer period as the Commission may specify in its request. Failure to so answer shall be grounds for the imposition of liquidated damages at the Commission's option, all as is more specifically set forth in Section 7 above.

14. **Disqualification of Bidders**

(a) **More Than One Proposal.** More than one proposal for the Work described in these Contract Documents from an individual, firm or partnership, a corporation or an association under the same or different names, may not be considered. Reasonable grounds for believing that any bidder is interested in more than one proposal for the Work contemplated may cause the rejection of all proposals in which such bidder is interested.

(b) Collusion. If there are reasonable grounds for believing that collusion exists among the bidders, the proposals of the participants in such collusion will not be considered.

(c) Default. If a bidder is or has been in default on a contract with the Commission or in the payment of monies due the Commission, its proposal will not be considered.

(d) Deficiencies. The Commission expressly reserves the right in its sole and absolute discretion to disqualify bidders if:

- (i) the proposal does not contain a price for each pay item requested,
- (ii) the proposal form is other than that furnished by the Commission or if the form is altered or any part thereof detached,
- (iii) there are omissions, alterations, unauthorized additions, conditional or alternate bids, or irregularities of any kind that may tend to make the proposal incomplete, indefinite or ambiguous as to its meaning, including, but not limited to, conditional surety and insurance commitment letters and unsigned or improperly signed proposals,
- (iv) the bidder adds any provisions reserving the right to accept or reject an award or to enter into a contract pursuant to award, or
- (v) if the proposal is prepared with other than ink or typewriter.

If the deficient bidder is not disqualified, the Commission may demand correction of any deficiency and award a Contract to the bidder upon satisfactory compliance with these General Instructions to Bidders.

## 15. Award of Contract

(a) Reservation of Rights. The Commission reserves the right to accept any proposal that is, in its judgment, the best bid(s) and most favorable to the interests of the Commission and to the public; to reject the low bid; to accept more than one bid; to reject any and all bids; to accept and incorporate corrections, clarifications or modifications following bid opening when to do so would not, in the Commission's opinion, prejudice the bidding process or create any improper advantage to any bidder; and to waive irregularities and informalities in any proposal submitted or in the bidding process; provided, however, that the waiver of any prior defect or informality shall not be considered a waiver of any future or similar defects or informalities and bidders should not rely upon, or anticipate, such waivers in submitting their proposals. Proposals received after the specified time of opening will be returned unopened.

(b) Offers. All bids are offers only and no bids shall be deemed rejected, notwithstanding acceptance of any bid, until a Contract Agreement has been executed by the Commission and any and all successful bidders.

(c) Time of Award. It is expected that the award of the Contract, if it be awarded, will be made within sixty (60) calendar days following the opening of bids. Should administrative difficulties be encountered after bid opening, including the annulment of any award, that may delay an award or subsequent award beyond the sixty (60) day period, the Commission may accept any bid for which the bid acceptance date has been extended as provided in Section 10 of these Instructions in order to avoid the need for readvertisement. No bidder shall be under any obligation to extend the period. Failure of one or more of the bidders or their sureties to extend the period shall not prejudice the right of the Commission to accept any bid for which the period has been extended.

16. **Effective Date of Award**

If one or more Contracts are awarded by the Commission, an award shall be effective when a Notice of Award in the form included in the Contract Documents has been issued to the applicable successful bidder. The Notice of Award shall set forth the Closing Date, by which date all conditions precedent to execution of the Contract Agreement as defined in Section 18(b) below shall be completed, unless extended as provided below. Five copies of the Contract Documents will be prepared by the Commission and submitted with the Notice of Award.

17. **Penalty for Collusion**

If at any time it shall be found that any person, firm or corporation to whom a Contract has been awarded has, in presenting any bid or bids, collided with any other party or parties, then the successful bidder and its sureties shall be liable to the Commission for all loss or damage that the Commission may suffer thereby, and any Contract so awarded shall, at the Commission's option, be null and void.

18. **Closing**

(a) Closing Date. The successful bidder(s) shall satisfactorily complete all conditions precedent to Closing within fourteen (14) calendar days following the effective date of award or within such extended period as the Commission may, in the exercise of its sole discretion, authorize, either before or after issuance of the Notice of Award. See Section 16 above. The "Closing Date" shall be the date set forth in the Notice of Award, or such extended date as the Commission may, in the exercise of its sole discretion, authorize thereafter.

(b) Conditions Precedent to Closing. The successful bidder(s) shall date all copies of the Contract Agreement as of the Closing Date set forth in the Notice of Award and shall duly execute them in accordance with the provisions of Section 6 above. The successful bidder(s) shall insert five executed copies of the Power(s) of Attorney or authorizing resolution(s), if any.

Failure to timely file the executed Contract Agreement, the authorizing resolution(s), or the Power(s) of Attorney shall be grounds for the imposition of liquidated damages as more specifically set forth in Section 7 above. If the submitted

Contract Agreement fails to comply with the Contract Documents or is not timely filed, the Commission may, in its sole discretion, annul the award or allow the successful bidder an opportunity to correct the deficiencies. In no event will the Commission execute the Contract Agreement until any and all such deficiencies have been cured or the Commission has received adequate assurances of complete and prompt performance as determined by the Commission.

(c) Closing. At the Closing, and provided that all documents required to be filed prior to the Closing have been reviewed and determined by the Commission to be in compliance with the Contract Documents or adequate assurances of complete and prompt performance have been received, the Commission shall execute all copies of Contract Agreement, retain three copies of the completed Contract Documents, and tender two copies to the successful bidder(s) at the Closing. Any successful bidder or its agent are invited to be present at the Closing.

19. **Failure to Close**

(a) Annulment of Award. Failure of a successful bidder to comply with the conditions precedent to Closing shall be just cause for the annulment of the award.

(b) Subsequent Awards. Upon annulment of an award, the Commission may then award a Contract to any other bidder as the Commission, in its judgment, deems to be in its best interest, advertise anew for bids, or forego obtaining a replacement.

20. **Time of Starting and Completion**

(a) Commencement. Work shall generally be required to be commenced within twenty-four (24) hours following issuance of any Work Authorization Order by the Commission. Longer or shorter response times may be required depending upon the urgency with which the Work is desired to be performed. The successful bidder or bidders shall not dispute or complain of any minimum response times set forth in any Work Authorization Order nor shall any minimum response times set forth in any Work Authorization Order constitute the basis of a claim for damages or entitle the successful bidder or bidders to any compensation or damages therefore, other than as reflected in the rates and fees bid.

(b) Completion. Work shall be diligently and continuously prosecuted to completion. With respect to Work Authorization Orders with a minimum response time of three (3) hours or less, the Work ordered shall be deemed to be "Priority Work" requiring Work to be prosecuted twenty-four hours per day until completion and entitling the successful bidder to the additional compensation set forth in Paragraph D, entitled "For Priority Work," of the Bidder's Proposal.

(c) Coordination and Delays. Bidders are directed to the fact that the Work to be done under this proposal is only a part of constructing and maintaining a water supply system from the City of Chicago to the Commission's Charter Customers and others located throughout DuPage County, that contracts have been or will be let for other portions of the Commission's Waterworks System, and that the successful

operation of the Commission's Waterworks System is dependent upon the completion of the Work under this proposal being coordinated with the work to be done by others. It is essential that all parties interested in the Commission's Waterworks System cooperate, but the Commission cannot guarantee that no interference or delay will be caused by reason of work being performed by others. Prospective bidders may examine at the office of the Commission available specifications, drawings and data regarding materials and equipment to be furnished and work to be performed under separate contracts awarded by the Commission. Interference and delay shall not be the basis of claims against the Commission.

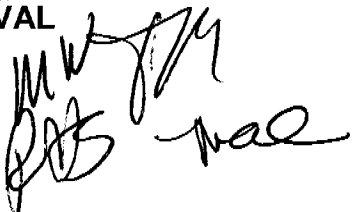
21. **Non-Discrimination**

The successful bidder(s) shall comply with the provisions of the Illinois Human Rights Act, as amended, 775 ILCS 5/1-101 et seq., and the provisions of 775 ILCS 10/1 et seq. as though they were inscribed upon the face of the Contract Documents and such provisions are by this reference incorporated herein and made a part hereof.



DATE: February 3, 2011

## REQUEST FOR BOARD ACTION

<b>AGENDA SECTION</b>	Omnibus Vote Requiring Super-Majority or Special Majority Vote	<b>ORIGINATING DEPARTMENT</b>	Operations
<b>ITEM</b>	A Resolution Directing Advertisement for Bids on a Contract for High Lift Pump Motor Re-Build—Phase II  Resolution No. R-4-11	<b>APPROVAL</b>	
Account Number: 01-60-6621			
<p>Pursuant to Resolution No. R-53-10, the Board awarded a contract to Dreisilker Electric Motor, Inc. for the removal, disassembly, inspection, identification of potential repairs, repairs (if ordered by the Commission), and reinstallation of the Commission's 800 HP High Lift Pump Motor #5. The repairs indentified by Dreisilker—rewinding and repairing the armature—were un-identifiable until the motor had been disassembled and inspected. Dreisilker estimated the cost of rewinding and repairing the armature at not to exceed \$21,760.00. Because adding this repair work to the Dreisilker contract by change order would have added 50% or more to the original contract price (\$7,940.00), the Commission is required by the Public Works Contract Change Order Act to bid the repair work.</p> <p>As such, Resolution No. R-4-11 would authorize the advertisement for bids on a contract for rewinding and repairing the armature of the Commission's 800 HP High Lift Pump Motor #5, and would establish all requirements necessary for the bidding, for the awarding of the contract, and for the approval of the contractor's bonds, all as required by state statute. The repaired motor would then be repainted and reinstalled by Dreisilker under the Phase I contract.</p>			
<b>MOTION:</b> To adopt Resolution No. R-4-11.			

## DUPAGE WATER COMMISSION

## RESOLUTION NO. R-4-11

A RESOLUTION DIRECTING ADVERTISEMENT  
FOR BIDS ON A CONTRACT FOR  
HIGH LIFT PUMP MOTOR RE-BUILD—PHASE II

BE IT RESOLVED by the Board of Commissioners of the DuPage Water Commission as follows:

SECTION ONE: Advertisement for Bids. The Acting General Manager is hereby authorized and directed to advertise for bids on a contract for rewinding and repairing the armature of the Commission's 800 HP High Lift Pump Motor #5 (the "Contract") in accordance with the requirements of 65 ILCS 5/11-135-5.

SECTION TWO: Notice Inviting Bids. The Notice inviting bids on the Contract shall be in substantially the form of the "Request for Proposals" attached hereto as Exhibit A and by this reference incorporated herein and made a part hereof.

SECTION THREE: Requirements for Bidding. Sealed envelopes or packages containing proposals for the performance of the Contract shall be submitted to the Commission in accordance with the "Instructions to Bidders" substantially in the form attached hereto as Exhibit B and by this reference incorporated herein and made a part hereof.

SECTION FOUR: Awarding of Contract. The Commission will award the Contract to a bidder whose proposal is found to be in the best interests of the Commission. The bidder who is to receive an award shall be determined in accordance with Article VIII of the Commission By-Laws and the Instructions to Bidders substantially in the form attached hereto as Exhibit B.

SECTION FIVE: Approval of Bonds. The approval of the contractor's faithful performance bond shall be subject to the requirements set forth under the subheading

Resolution No. R-4-11

“Performance and Payment Bonds” in the Request for Proposals attached hereto as Exhibit A.

SECTION SIX:     Effective Date. This resolution shall be in full force and effect from and after its adoption.

AYES:

NAYS:

ABSENT:

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Clerk

Board/Resolutions/R-4-11.docx

EXHIBIT A

**DuPAGE WATER COMMISSION**  
**REQUEST FOR PROPOSALS**

**OWNER:**

DuPage Water Commission  
600 East Butterfield Road  
Elmhurst, Illinois 60126-4642

1. **Invitation to Bid**

Owner will receive sealed proposals for the Work described in detail in the Contract/Proposal form attached to the Request for Proposals and generally described as follows:

**HIGH LIFT PUMP MOTOR RE-BUILD—PHASE II**

TO BE SUBMITTED TO DuPage Water Commission, 600 East Butterfield Road, Elmhurst, Illinois 60126-4642, Attention BEFORE 1:00 P.M., March 3<sup>rd</sup>, 2011 at which time, or as soon thereafter as possible, all Bidder's Proposals will be publicly opened and read aloud.

2. **Defined Terms**

All terms capitalized in this Request for Proposals and in the other documents included in the Bid Package are defined in the documents included in the Bid Package, as hereinafter defined, and shall have such defined meanings wherever used.

3. **The Bid Package**

The Bid Package consists of the following documents, all of which are by this reference made a part of this Request for Proposals as though fully set forth herein:

- (1) Request for Proposals;
- (2) Instructions to Bidders;
- (3) Addenda, if issued;
- (4) Bidder's Contract/Proposal, including all of its Attachments and Appendices, if any;
- (5) Other Information Submitted by Bidder, if requested; and
- (6) Owner's Notification of Acceptance.

4. **Inspection and Examination**

A copy of the Bid Package may be obtained at the office of Owner as listed above. In making copies of the Bid Package available to prospective Bidders, Owner does so only for the purpose of obtaining Bidder's Proposals and such provision does not confer a license or grant for any other use.

Each prospective Bidder shall, before submitting its Bidder's Proposal, carefully examine the Bid Package. The Bidder whose Bidder's Proposal is accepted will be responsible for all errors in its Contract/Proposal including those resulting from its failure or neglect to make a thorough examination and investigation of the Bid Package.

5. **Bid Security, Bonds and Insurance**

A. **Bid Security.** Each Bidder's Proposal shall be accompanied by a security deposit of at least ten percent of the Total Contract Price named in the Schedule of Prices section of the Contract/Proposal form in the form of (1) a Cashier's Check or Certified Check drawn on a solvent bank insured by the Federal Deposit Insurance Corporation and payable without condition to Owner or (2) a Bid Bond, on a form provided by, or otherwise acceptable to, Owner, from a surety company acceptable to Owner.

B. **Performance and Payment Bonds.** The successful Bidder will be required to furnish a Performance Bond and a Labor and Material Payment Bond, on forms provided by, or otherwise acceptable to, Owner, from a surety company acceptable to Owner, each in the penal sum of the Contract Price, within 10 days following Owner's acceptance of the successful Bidder's Contract/Proposal.

C. **Insurance.** The successful Bidder will be required to furnish certificates of insurance as required by the Contract/Proposal within 10 days following Owner's acceptance of the successful Bidder's Contract/Proposal.

DATED this 14<sup>th</sup> day of February, 2011.

DUPAGE WATER COMMISSION

By: /s/ Terrance McGhee  
Acting General Manager

EXHIBIT B

## INSTRUCTIONS TO BIDDERS

### Inspection and Examination

Each bidder shall, before submitting its proposal, carefully examine the Contract/Proposal form attached to this Request for Proposals. The bidder whose Contract/ Proposal is accepted will be responsible for all errors in its proposal, including those resulting from its failure or neglect to make a thorough examination and investigation of the Contract/Proposal.

### Preparation of Proposals

All proposals for the Work shall be made only on the blank Contract/Proposal form attached to this Request for Proposals, Point of Destination Dreisilker Electric Motor, Inc., 352 Roosevelt Road, Glen Ellyn, Illinois, 60137, and shall be complete with a price for each and every item named in the Schedule of Prices section of the Contract/Proposal form. All proposals shall be dated on page 4 of the Contract/Proposal form and shall be signed on page 5 of the Contract/Proposal form by an authorized official. All proposals shall be accompanied by a cashier's or certified check, or bid bond in form and from a surety satisfactory to Owner, in amount equal to at least ten percent of the Total Contract Price named in the Schedule of Prices section of the Contract/Proposal form. Proposals that contain omissions, erasures, alterations, or additions not called for, conditional or alternate bids unless called for, or that contain irregularities of any kind may be rejected.

### Clarifications

Owner reserves the right to make clarifications, corrections, or changes in this Request for Proposals at any time prior to the time proposals are opened. All bidders or prospective bidders will be informed of said clarifications, corrections, or changes. If any prospective bidder has questions about this Request for Proposals, contact Mike Weed, Operations Supervisor, at 630-834-0100 between the hours of 6:00 AM and 3:00 PM.

### Delivery of Proposals

Each proposal shall be submitted in a sealed envelope plainly marked with the title of the contract and bidder's full legal name and shall be addressed and delivered to the place and before the time set forth above. Proposals may be delivered by mail or in person. Proposals received after the time specified above will be returned unopened.

### Opening of Proposals

Proposals will be publicly opened and read at the time and place specified above. Bidders, their authorized agents, and interested parties are invited to be present.



Withdrawal of Proposals

No proposal shall be withdrawn for a period of 60 days after the opening of any proposal.

Rejection of Proposals

Proposals that are not submitted on the Contract/Proposal form or that are not prepared in accordance with these Instructions to Bidders may be rejected. If not rejected, Owner may demand correction of any deficiency and accept the deficiently prepared proposal upon compliance with these Instructions to Bidders.

Acceptance of Proposals

Proposals submitted are offers only and the decision to accept or reject is a function of quality, reliability, capability, reputation, and expertise of the bidders.

Owner reserves the right to accept the proposal that is, in its judgment, the best and most favorable to the interests of Owner and to the public; to reject the low price proposal; to accept any item of any proposal; to reject any and all proposals; and to waive irregularities and informalities in any proposal submitted or in the request for proposal process; provided, however, the waiver of any prior defect or informality shall not be considered a waiver of any future or similar defect or informality. Bidders should not rely upon, or anticipate, such waivers in submitting their proposal.

Upon acceptance of the successful Bidder's proposal by Owner, the successful Bidder's proposal, together with Owner's notification of acceptance in the form attached to this Request for Proposals, shall become the contract for the Work.

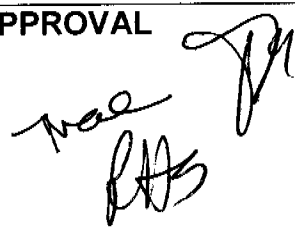
DATED this 14<sup>th</sup> day of February, 2011.

DUPAGE WATER COMMISSION

By: /s/ Terrance McGhee  
Acting General Manager

DATE: February 3, 2011

## REQUEST FOR BOARD ACTION

<b>AGENDA SECTION</b>	Omnibus Vote Requiring Super-Majority or Special Majority Vote	<b>ORIGINATING DEPARTMENT</b>	Facilities Construction / Safety Coordinator
<b>ITEM</b>	A Resolution Approving a First Amendment to Task Order No. 2a under the Master Contract with Stantec Consulting Services Inc.  Resolution No. R-5-11	<b>APPROVAL</b>	
Account Number: 01-60-6627			
<p>The Commission entered into a master contract with Stantec Consulting Services Inc., formerly known as Jacques Whitford Company, Inc., dated September 12, 2008, for professional consulting services in connection with such discrete projects as are delineated and described in Task Orders to be approved by the Commission. Pursuant to Resolution No. R-44-08, the Commission approved Task Order No. 2 to the Master Contract for indeterminate Environmental, Health, and Safety (EHS) Auditing and Industrial Hygiene Consulting Services as may be assigned by the General Manager and confirmed by an authorized officer of Stantec, at a cost not-to-exceed \$5,000.00 per assignment. Task Order No. 2a, issued by the Acting General Manager on September 7, 2010, authorized the Consultant to provide OSHA-based initial noise surveying services and reporting within the new Generator Facilities and the existing DuPage Pumping Station Facilities at a cost not to exceed \$4,100.00. During the sound and noise surveying, cursory results indicated that several areas within the DuPage Pumping Station's Motor Room, Pump Room, and Meter Shop would require more in depth noise surveying and personnel monitoring than initially anticipated. Additionally, Staff is requesting that Stantec review Commission policies related to the Noise Conservation for compliance with OSHA regulation and Best Management Practices and provide other related consultation and advice.</p> <p>The First Amendment to Task Order No. 2a would add the additional noise surveying in the DuPage Pumping Station's Motor Room, Pump Room and Meter Shop and the Noise Conservation policy consultation and advice to the scope of services, extend the completion date for the services to be provided, and increase the not-to-exceed cost of the work from \$4,100.00 to \$7,800.00.</p>			
<b>MOTION:</b> To adopt Resolution No. R-5-11.			

## DUPAGE WATER COMMISSION

## RESOLUTION NO. R-5-11

A RESOLUTION APPROVING A FIRST AMENDMENT TO  
TASK ORDER NO. 2a UNDER THE MASTER CONTRACT WITH  
STANTEC CONSULTING SERVICES INC.

WHEREAS, the DuPage Water Commission (the "Commission") entered into a master contract with Stantec Consulting Services Inc., formerly known as Jacques Whitford Company, Inc., dated September 12, 2008, to provide, from time to time, for professional consulting services in connection with such discrete projects as are delineated and described in Task Orders to be approved by the Commission (the "Master Contract"); and

WHEREAS, the Master Contract sets forth the terms and conditions pursuant to which the Commission will obtain from time to time, and the Consultant will provide from time to time, professional consulting services for such discrete projects as are delineated and described in Task Orders to be approved by the Commission and the Consultant; and

WHEREAS, pursuant to Resolution No. R-44-08, the Commission approved Task Order No. 2 to the Master Contract, for indeterminate Environmental, Health, and Safety (EHS) Auditing and Industrial Hygiene Consulting Services as may be assigned by the General Manager and confirmed by an authorized officer of the Consultant at a cost not-to-exceed \$5,000.00 per assignment; and

WHEREAS, on September 7, 2010, the Acting General Manager issued Task Order No. 2a authorizing initial Sound and Noise Surveying Services within the new Generator Facilities and the existing DuPage Pumping Station Facilities at a cost not to exceed \$4,100.00; and

Resolution No. R-5-11

WHEREAS, the Commission and the Consultant desire to amend Task Order No. 2a to the Master Contract to add additional noise surveying tasks in the DuPage Pumping Station's Motor Room, Pump Room, and Meter Shop and consultation and advice on the Commission's Noise Conservation policies to the scope of services, to extend the completion date for the services to be provided, and to increase the not-to-exceed cost of the work to \$7,800.00, the Board of Commissioners of the DuPage Water Commission hereby finding and determining, based upon the representations of staff and the Consultant, that the circumstances said to necessitate the changes were not reasonably foreseeable at the time Task Order No. 2a was signed, the changes are germane to Task Order Task Order No. 2a as signed, and/or the changes are in the best interest of the DuPage Water Commission and authorized by law; and

WHEREAS, the Consultant has approved the First Amendment to Task Order No. 2a attached hereto and by this reference incorporated herein and made a part hereof as Exhibit 1;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the DuPage Water Commission as follows:

SECTION ONE: The foregoing recitals are incorporated herein and made a part hereof as findings of the Board of Commissioners of the DuPage Water Commission.

SECTION TWO: The First Amendment to Task Order No. 2a attached hereto as Exhibit 1 shall be and hereby is approved.

Resolution No. R-5-11

SECTION THREE: This Resolution shall constitute the written determination required by Section 33E-9 of Article 33E of the Criminal Code of 1961 and shall be in full force and effect from and after its adoption.

AYES:

NAYS:

ABSENT:

ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2011.

\_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Clerk

Board/Resolutions/ R-5-11.docx

EXHIBIT 1

**FIRST AMENDMENT TO  
TASK ORDER NO. 2a**

In accordance with Section 1.1 of the Master Contract between the DuPage Water Commission ("Owner") and Stantec Consulting Services Inc., formerly known as Jacques Whitford Company, Inc. ("Consultant"), for Professional Consulting Services dated September 12, 2008 (the "Contract"), Owner and Consultant agree to amend, effective as of February 11, 2011, Task Order No. 2a to the Contract for Sound and Noise Surveying Services at the DuPage Pumping Station ("Task Order No. 2a") as follows:

**1. Services of Consultant:**

Section 2, entitled "Services of Consultant," of Task Order No. 2a shall be, and it hereby is, amended in its entirety so that said Section 2 shall hereafter be and read as follows:

**"2. Services of Consultant:**

Perform sound and noise sampling at the DuPage Pumping Station's Emergency Generator Facilities, Pump Room, Motor Room, and Meter Shop as per Stantec proposal dated August 27, 2010.

Complete sound and noise sampling at the DuPage Pumping Station's Pump Room, Motor Room, and Meter Shop as per Stantec proposal dated January 24, 2011.

Review, consult, and advise on Owner's Hearing Conservation Plan and Policy to determine compliance with applicable OSHA standards and also Best Management Practices as per Stantec proposal dated January 24, 2011."

**2 Completion Date:**

Section 5, entitled "Completion Date," of Task Order No. 2a shall be, and it hereby is, amended in its entirety so that said Section 5 shall hereafter be and read as follows:

**"5. Completion Date:**

April 1, 2011"

**3. Contract Price:**

Section 8, entitled "Contract Price," of Task Order No. 2a shall be, and it hereby is, amended in its entirety so that said Section 8 shall hereafter be and read as follows:

“8. **Contract Price:**

For providing, performing, and completing all Services, an amount equal to Consultant’s Direct Labor Costs for all Services rendered by principals and employees engaged directly on the Project, plus an amount equal to the actual costs of all Reimbursable Expenses.

Notwithstanding the foregoing, the total Contract Price shall not exceed \$7,800.00 except as adjusted by a Change Order issued pursuant to Section 2.1 of the Contract.”

In all other respects, Task Order No. 2a to the Contract shall remain in full force and effect, and Task Order No. 2a to the Contract shall be binding on both parties as hereinabove amended.

DUPAGE WATER COMMISSION

By: \_\_\_\_\_  
Terrance McGhee  
Acting General Manager

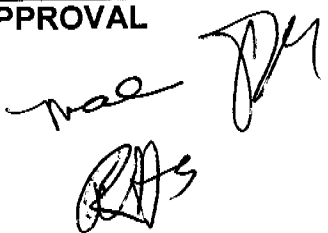
STANTEC CONSULTING SERVICES , INC.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



DATE: February 3, 2011

## REQUEST FOR BOARD ACTION

<b>AGENDA SECTION</b> Omnibus Vote Requiring Super-Majority or Special Majority Vote	<b>ORIGINATING DEPARTMENT</b> Facilities Construction/Safety Coordinator
<b>ITEM</b> A Resolution Approving and Ratifying Certain Contract PSC-5/08 Change Orders at the February 10, 2011, DuPage Water Commission Meeting  Resolution No. R-6-11	<b>APPROVAL</b> 
<p>Account Number: 01-60-8202.01</p> <p>Resolution No. R-6-11 would approve the following Contract PSC-5/08 Change Order:</p> <p><b>Change Order No. 3 to Contract PSC-5/08 (Photovoltaic System at the Lexington Pumping Station).</b> Change Order No. 3 would increase the Contract Price by \$4,111.00 for extending two (2) spare 4-inch conduits in underground duct bank, from the North wall of the 30 MG Reservoir to the North wall of the Generator Electric Building.</p> <p>The City of Chicago requested that this work be performed to reduce the cost of the eventual expansion of photovoltaic system by the City. Because the Commission has reached its \$4,000,000.00 maximum cost participation under the Intergovernmental Agreement with the City of Chicago, 100% of the cost of this additional work will be borne by the City.</p> <p>The Chicago Department of Water Management approved the issuance of the Change Order on January 13, 2011, and the work was performed to reduce the cost impact to the City by having the duct bank and conduits installed before concrete slabs and concrete pavement had been poured along the path of the duct bank.</p> <p>Approval of this negotiated Change Order would increase the Contract Price by \$4,111.00, but does not authorize or necessitate an increase in the Contract Price that is 50% or more of the original Contract Price nor, based upon the Contractor's sworn certification, authorize or necessitate an increase in the price of any subcontract under the Contract that is 50% or more of the original subcontract price.</p>	
<b>MOTION:</b> To adopt Resolution No. R-6-11.	

DUPAGE WATER COMMISSION

RESOLUTION NO. R-6-11

A RESOLUTION APPROVING AND RATIFYING  
CERTAIN CONTRACT PSC-5/08 CHANGE ORDERS AT THE  
FEBRUARY 10, 2011, DUPAGE WATER COMMISSION MEETING

BE IT RESOLVED by the Board of Commissioners of the DuPage Water Commission as follows:

SECTION ONE: The Contract PSC-5/08 Change Orders set forth on Exhibit 1, attached hereto and by this reference incorporated herein and made a part hereof, shall be and hereby are approved and, if already issued, ratified because the Board of Commissioners of the DuPage Water Commission has determined, based upon the representations of staff and the Contractor, that the circumstances said to necessitate the changes were not reasonably foreseeable at the time Contract PSC-5/08 was signed, the Contract PSC-5/08 Change Orders are germane to Contract PSC-5/08 as signed and/or the Contract PSC-5/08 Change Orders are in the best interest of the DuPage Water Commission and authorized by law.

SECTION TWO: This Resolution shall constitute the written determination required by Section 33E-9 of Article 33E of the Criminal Code of 1961 and shall be in full force and effect from and after its adoption.

AYES:

NAYS:

ABSENT:

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

ATTEST

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Clerk

Exhibit 1

Resolution No. R-6-11

1. Change Order No. 3: Contract PSC-5/08 (Photovoltaic System at the Lexington Pumping Station) in the amount of \$4,111.00.

DUPAGE WATER COMMISSION  
CHANGE ORDER

SHEET 1 OF 3

PROJECT NAME: Photovoltaic System at the  
Lexington Pumping Station

CHANGE ORDER NO. 3

LOCATION: Chicago, Illinois

CONTRACT NO. PSC-5/08

CONTRACTOR: Divane Bros. Electric Co.

DATE: February 11, 2011

I. A. DESCRIPTION OF CHANGES INVOLVED:

Extend two (2) spare 4-inch conduits in underground duct bank, from the North wall of the 30 MG Reservoir to the North wall of the Generator Electric Building, in accordance with Engineer's recommendation dated May 18, 2010.

B. REASON FOR CHANGE:

Requested by the City of Chicago.

C. REVISION IN CONTRACT PRICE:

\$4,111.00 (Negotiated)

II. CHANGE ORDER CONDITIONS:

1. The Completion Date established in the Contract, as signed or as modified by previous Change Orders, is hereby extended by 0 Days, making the final Completion Date October 21, 2010.
2. Any Increased Work to be performed under this Change Order shall be provided, performed, and completed in full compliance with, and as required by or pursuant to, the Contract, including any Specifications and Contract Drawings for the Increased Work and for Work of the same type as the Increased Work, and as specified in the preceding "Description of Changes Involved."
3. Unless otherwise provided herein, all Work included in this Change Order shall be guaranteed and warranted as set forth in, and Contractor shall not be relieved from strict compliance with, the guaranty and warranty provisions of the Contract.
4. All Work included in this Change Order shall be covered under the Bonds and the Required Coverages specified in the Contract. If the Contract Price, including this Change Order, exceeds the Contract Price set forth in the Contract, as signed, by twenty percent (20%), Contractor shall submit to Owner satisfactory evidence of such increased coverage under the Bonds if requested by Owner.

III. ADJUSTMENTS IN CONTRACT PRICE:

1.	Original Contract Price	\$	<u>7,996,000.00</u>
2.	Net addition ( <del>reduction</del> ) due to all previous Change Orders Nos. <u>1</u> to <u>2</u>	\$	<u>250,000.00</u>
3.	Contract Price, not including this Change Order	\$	<u>8,246,000.00</u>
4.	(Addition) ( <del>Reduction</del> ) to Contract Price due to this Change Order	\$	<u>4,111.00</u>
5.	Contract Price including this Change Order	\$	<u>8,250,111.00</u>

RECOMMENDED FOR ACCEPTANCE:

CONSULTING ENGINEERS: Greeley and Hansen LLC

By: \_\_\_\_\_ (\_\_\_\_\_) \_\_\_\_\_  
Signature of Authorized Representative Date

ACCEPTED: By my authorized signature below, being first duly sworn on oath, I certify on behalf of Contractor that this Change Order does not authorize or necessitate an increase in the price of any subcontract under the Contract that is 50% or more of the original subcontract price.

CONTRACTOR: Divane Bros. Electric Co.

By: \_\_\_\_\_ (\_\_\_\_\_) \_\_\_\_\_  
Signature of Authorized Representative Date

DUPAGE WATER COMMISSION:

By: \_\_\_\_\_ (\_\_\_\_\_) \_\_\_\_\_  
Signature of Authorized Representative Date



**DUPAGE WATER COMMISSION**  
**HEALTH INSURANCE PLAN FOR RETIRED EMPLOYEES**

Actuarial Valuation Report

For the Year

Beginning May 1, 2010

And Ending April 30, 2011

---

*Timothy W. Sharpe, Actuary, Geneva, IL (630) 262-0600*

## TABLE OF CONTENTS

	<u>Page</u>
Introduction	3
Membership	4
Schedule of Funding Progress	4
Annual OPEB Cost and Net OPEB Obligation	5
Three-year Trend Information	5
Annual Required Contribution	5
Funding Policy and Actuarial Assumptions	6
Department Summary	7



GASB STATEMENTS NO. 43 & 45 DISCLOSURE INFORMATION

The Governmental Accounting Standards Board (GASB) issued Statements No. 43 & 45 that established generally accepted accounting principles for the annual financial statements for postemployment benefit plans other than pension plans. The required information is as follows:

Membership in the plan consisted of the following as of:

	<u>April 30, 2010</u>	<u>April 30, 2009<sup>1</sup></u>
Retirees and beneficiaries receiving benefits	1	0
Terminated plan members entitled to but not yet receiving benefits	0	0
Active vested plan members	18	18
Active nonvested plan members	<u>17</u>	<u>19</u>
Total	<u>36</u>	<u>37</u>
Number of participating employers	1	1

SCHEDULE OF FUNDING PROGRESS

Actuarial Valuation Date	Actuarial Value of Assets (a)	Actuarial Accrued Liability (AAL) -Entry Age (b)	Unfunded AAL (UAAL) (b-a)	Funded Ratio (a/b)	Covered Payroll (c)	UAAL as a Percentage of Covered Payroll ((b-a)/c)
04/30/08	0	67,267	67,267	0.0%		
04/30/09 <sup>1</sup>	0	67,267	67,267	0.0%		
04/30/10	0	78,076	78,076	0.0%		

<sup>1</sup> Results from prior year.

GASB STATEMENTS NO. 43 & 45 DISCLOSURE INFORMATION (Continued)

ANNUAL OPEB COST AND NET OPEB OBLIGATION

	<u>April 30, 2010</u>	<u>April 30, 2009</u>
Annual required contribution	8,760	8,760
Interest on net OPEB obligation	2,076	1,922
Adjustment to annual required contribution	<u>(1,339)</u>	<u>(1,240)</u>
Annual OPEB cost	9,497	9,442
Contributions made	6,370	<u>6,370</u>
Increase (decrease) in net OPEB obligation	3,126	3,072
Net OPEB obligation beginning of year	<u>41,510</u>	<u>38,438</u>
Net OPEB obligation end of year	<u>44,636</u>	<u>41,510</u>

THREE-YEAR TREND INFORMATION

Fiscal Year <u>Ending</u>	Annual <u>OPEB Cost</u>	Percentage of Annual OPEB <u>Cost Contributed</u>	Net OPEB <u>Obligation</u>
04/30/08	13,616	0.0%	38,438
04/30/09	9,442	67.5%	41,510
04/30/10	9,497	67.1%	44,636

ANNUAL REQUIRED CONTRIBUTION

	<u>April 30, 2011</u>	<u>April 30, 2010<sup>1</sup></u>
Service Cost	4,783	5,941
Amortization	2,603	2,402
Interest	<u>369</u>	<u>417</u>
Annual required contribution	<u>7,755</u>	<u>8,760</u>

<sup>1</sup> Results from prior year.

GASB STATEMENTS NO. 43 & 45 DISCLOSURE INFORMATION (Continued)

FUNDING POLICY AND ACTUARIAL ASSUMPTIONS

The Percentage of Active Employees Assumed to Elect Benefit has been reduced to 20% from 40%, and the Implicit Percentage has been increased to 40% from 20%.

Contribution rates:

Commission

Plan members 0.00%

Actuarial valuation date 04/30/2010

Actuarial cost method Entry age

Amortization period Level percentage of pay, open

Remaining amortization period 30 years

Asset valuation method Market

Actuarial assumptions:

Investment rate of return\* 5.00%

Projected salary increases 5.00%

Healthcare inflation rate 8.00% initial  
6.00% ultimate

Mortality, Turnover, Disability,  
Retirement Ages Same rates utilized for IMRF

Percentage of Active Employees  
Assumed to Elect Benefit 20%

Employer Provided Benefit Explicit: None  
Implicit Benefit: 40% of premium to age 65  
(50% of \$643/mo + 50% of \$1,327/mo)

\* Includes inflation at 3.00%

**DUPAGE WATER COMMISSION**  
**GASB 45 Summary as of April 30, 2010**

Division	Service Cost	Active Liability	Retired Liability	Total Liability	2011 Annual Required Contribution	Expected Payments	Actives	Retirees	Total
All	4,783	58,615	19,461	78,076	7,755	6,370	35	1	36

Discount Rate: 5.0%

Medical Inflation Rate: 8.0% initial, 6.0% ultimate

Future Payroll Increases: 5.0%



# DuPage Water Commission

## MEMORANDUM

TO: Terrance McGhee  
Acting General Manager

FROM: Michael Weed *MW*  
Operations Supervisor

DATE: January 31, 2011

SUBJECT: Janitorial Services – Bid Tabulation

The approved Management Budget for Fiscal Year 2010-2011 includes \$24,000.00 in account number 01-60-6290 for Janitorial Services at the DuPage Water Commission.

The Commission solicited sealed proposals for Janitorial Services at the DuPage Pumping Station by direct invitation, as well as by notice published in the *Chicago Tribune* on December 23, 2010 and by posting notice of the solicitation on the Commission's website starting on December 23, 2010 and ending on January 14, 2011. Sealed proposals were received until 1:00 p.m., local time, January 14, 2011, at which time all proposals were publicly opened and read aloud.

Of the seventeen companies that requested copies of the Request for Proposals (RFP) document, eight proposals were received. Of the eight proposals received, four proposals were incomplete. Of the remaining four proposals (see tabulation below), the proposal of ABC Commercial Maintenance Services, Inc. was found to be in the best interests of the Commission.

Company	Base Bid Result*
ABC Commercial Maintenance Services, Inc.	\$60,516.00
ECO Clean Maintenance, Inc.	\$67,065.60
Perfect Cleaning Service, Inc.	\$111,546.00

\* Base bid price for a three-year contract; excludes unit prices for indeterminate work that may or may not be ordered by the Commission


In accordance with the By-Laws, I am requesting that you award the Contract for Janitorial Services at the DuPage Water Commission to ABC Commercial Maintenance Services, Inc. in the amount set forth in its proposal.



# DuPage Water Commission

## MEMORANDUM

TO: Chairman and Commissioners

FROM: Terry McGhee   
Acting General Manager

DATE: January 20, 2011

SUBJECT: Legal Fees for the Period 01/01/10-12/31/10

Commissioner Murphy requested semi-annual reports on the legal fees incurred by the Commission. For the period January 1, 2010, through December 31, 2010, the Commission incurred \$10,896.00 in General Counsel fees and \$283,399.75 in Special Counsel fees, which fees are identified on the attached chart by month of service and provider. General Counsel fees for the same period in 2009 were \$80,818.00 and Special Counsel fees for the same period in 2009 were \$93,050.00.

Special Counsel fees related to the forensic audit investigation, the \$40MM Certificate of Debt issuance, and the need to obtain specialized public finance disclosure services related thereto, in addition to the negotiation of the Commission's first collective bargaining agreements and other assistance with more routine personnel matters.

	Holland & Knight	Jenner & Block	Chapman and Cutler	Freeborn and Peters	Laner Muchin
January 2010	\$539.50	\$131,800.00			
February 2010	\$319.00	\$53,550.00			
March 2010	\$2,567.00	\$21,100.00			
April 2010	\$94.50			\$11,970.00	
May 2010	\$1,880.50		\$19,500.00	\$4,900.00	
June 2010	\$3,211.00			\$1,505.00	
<b>SUBTOTALS</b>	<b>\$8,611.50</b>	<b>\$206,450.00</b>	<b>\$19,500.00</b>	<b>\$18,375.00</b>	
July 2010	\$862.00				
August 2010	\$1,334.00	\$29,798.50 <sup>1</sup>			\$1,742.50 <sup>2</sup>
September 2010					\$1,435.00 <sup>3</sup>
October 2010					\$3,023.75 <sup>4</sup>
November 2010					\$820.00 <sup>5</sup>
December 2010	\$88.50				\$2,255.00 <sup>6</sup>
<b>TOTALS</b>	<b>\$10,896.00</b>	<b>\$236,248.50</b>	<b>\$19,500.00</b>	<b>\$18,375.00</b>	<b>\$9,276.25</b>

<sup>1</sup> For April—August Work

<sup>2</sup> For the period 7/16/10-8/20/10

<sup>3</sup> For the period 8/21/10-9/20/10

<sup>4</sup> For the period 9/21/10-10/20/10

<sup>5</sup> For the period 10/21/10-11/20/10

<sup>6</sup> For the period 11/21/10-12/20/10



# DuPage Water Commission

## MEMORANDUM

TO: Terry McGhee  
Acting General Manager

FROM: Maureen A. Crowley  
Staff Attorney

DATE: January 20, 2011

SUBJECT: November/December Services Invoice

I reviewed Laner Muchin Dombrow Becker Levin and Tominberg's January 1, 2011, invoice for services rendered during the period November 21, 2010, through December 20, 2010, and recommend it for approval. This invoice should be placed on the February 10, 2011, Commission meeting accounts payable.

H:\Administration\List\MC110101L&MInvoice.docx



November/December 2010  
Laner Muchin


CATEGORY	<u>FEES</u>	<u>HOURS BILLED</u>	<u>AVERAGE HOURLY RATE</u>	<u>ATTORNEYS &amp; PARALEGALS EMPLOYED</u>	<u>MAJOR ACTIVITIES</u>
Labor Relations	\$2,255.00	11.00	\$205.00	O'Brien (11.0@\$205/hr.)	Collective Bargaining and Personnel Matters
	<u>\$2,255.00</u>	<u>11.00</u>	<u>\$205.00</u>		



# DuPage Water Commission

## MEMORANDUM

TO: Terry McGhee  
Acting General Manager

FROM: Maureen A. Crowley   
Staff Attorney

DATE: January 20, 2011

SUBJECT: December Services Invoice

I reviewed Holland & Knight's January 14, 2011, invoice for services rendered during the month of December 2010 and recommend it for approval. This invoice should be placed on the February 10, 2011, Commission meeting accounts payable.

December 2010  
Holland & Knight

CATEGORY	<u>FEES</u>	<u>HOURS BILLED</u>	<u>AVERAGE HOURLY RATE</u>	<u>ATTORNEYS &amp; PARALEGALS EMPLOYED</u>	<u>MAJOR ACTIVITIES</u>
General	\$88.50	0.30	\$295.00	Adams (0.3 hrs @ \$295/hr)	Audit Matters
	<u>\$88.50</u>	<u>0.3</u>	<u>\$295.00</u>		

Administration\Lists\H&K Legal Bill.xls

	<u>General Counsel Fees</u>	<u>Special Counsel Fees</u>	<u>Total Legal Fees</u>
FY 03/04	\$267,208.50	\$125,296.00	\$392,504.50
FY 04/05	\$64,018.50	\$21,300.00	\$85,318.50
FY 05/06	\$13,898.50	\$0.00	\$13,898.50
FY 06/07	\$57,441.50	\$0.00	\$57,441.50
FY 07/08	\$41,640.50	\$0.00	\$41,640.50
FY 08/09	\$49,106.50	\$0.00	\$49,106.50
FY09/10	\$56,938.50	\$311,470.00	\$368,408.50
FY10/11	\$7,376.00	\$64,979.75	\$72,355.75
Thru December		Includes Labor Counsel Work thru 12/20	

Comment [mac1]: J&B Subpoena Work in April 2010 included in FY 10/11

Comment [mac2]: J&B Subpoena Work in April 2010 included in FY 10/11

	<u>General Counsel Fees</u>	<u>Special Counsel Fees</u>	<u>Total Legal Fees</u>
2003	\$332,515.50	(5/03-12/03=\$79,190.75)	(8mo=\$411,706.25)
2004	\$88,703.50	\$67,405.25	\$156,108.75
2005	\$20,708.00	\$21,300.00	\$42,008.00
2006	\$35,439.00	\$0.00	\$35,439.00
2007	\$56,836.00	\$0.00	\$56,836.00
2008	\$31,187.50	\$0.00	\$31,187.50
2009	\$80,818.00	\$93,050.00	\$174,027.50
2010	\$10,896.00	\$283,399.75	\$294,295.75
		Includes Labor Counsel Work thru 12/20	