

Environment Committee

Meeting date: September 14, 2021

Management Committee

Meeting date: September 22, 2021

For the Metropolitan Council meeting of October 13, 2021

Subject: PFAS Legal Services Contract, Contract 21P096

District(s), Member(s): All districts and members

Policy/Legal Reference: FM14-2 - Expenditures for the Procurement of Goods and Services Policy; Minn. Stat. § 473.129, subd. 3.

Staff Prepared/Presented: Daniel Abelson, 651-602-1713; David Brown, 651-602-1072

Division/Department: MCES c/o Leisa Thompson, 651-602-8101; Office of General Counsel c/o Ann Bloodhart, 651-602-1105

Proposed Action

That the Metropolitan Council authorizes its Regional Administrator to negotiate and execute a contract for PFAS legal services, projects 807849 and 808941, contract 21P096, to Barnes & Thornburg LLP for legal services including legal advice and consultation on PFAS-related issues in an amount not to exceed \$5,000,000.00.

Background

MCES solicited proposals for legal services including legal advice and consultation on per- and polyfluoroalkyl substances (PFAS) related issues including legal strategy and potential regulatory impacts. This area of law is complicated, evolving, and multi-faceted. As such, the contract term is for five years to cover the potential myriad of issues the Council may face with respect to PFAS.

A Request for Proposals was issued on May 12, 2021. A pre-proposal meeting was hosted by Council staff on May 27, 2021, that outlined the solicitation requirements, discussed project specifications and responded to plan holder inquiries. There were twenty-three registered plan holders, nineteen law firms, three consultants, one plan room, and four plan holders identified as minority, woman, small or disadvantaged business enterprises. The Office of Equal Opportunity did not assign any Metropolitan Council Underutilized Business (MCUB) / Disadvantaged Business Enterprise (DBE) goals for this highly specialized project.

Rationale

The Council received eight proposals on June 14, 2021, to be evaluated for the consideration of contract award. Evaluation consensus meetings were held by the evaluation panel on July 14 and 15, 2021, after which the panel decided to interview the three highest ranked proposers on July 23 and 26, 2021. After the interviews, the panel reached consensus that Barnes & Thornburg LLP was the highest ranked and most technically qualified firm to perform the services required for this project. The services from this contract will be assigned on an as-needed basis and authorized by the Council. The execution of a professional services contract in excess of \$500,000 requires Council approval.

Office of Equal Opportunity

The Office of Equal Opportunity (OEO) thoroughly reviewed this procurement for opportunities to include MCUB firms. OEO identified legal services, technical

experts and consultants as potential subcontracting opportunity on this contract. Several conversations with the Council's General Counsel staff provided OEO with the details of the complexity of this work and the specific expertise that would be needed to perform in these areas. With the information given, OEO researched and assessed the marketplace but could not identify any MCUB firms that could provide the services required in this contract and therefore did not assign an MCUB goal.

Thrive Lens Analysis

This action advances the Thrive outcome of stewardship and prosperity by efficiently and effectively investing public financial resources to provide, maintain, and advance the region's wastewater infrastructure which protects the region's natural resources.

Funding

Funding is provided in the 2021 Authorized Capital Program.

Known Support / Opposition

There is no known opposition.