



Detroit Water and Sewerage Department

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Legislation Details (With Text)

File #: 21-0604 **Version:** 1 **Name:**

Type: Contract **Status:** Passed

In control: Financial Services

On agenda: 9/15/2021 **Final action:** 9/15/2021

Title: The Board of Water Commissioners for the City of Detroit Water Sewerage Department approves DWSD Contract No. 6003769 (LS-1906) with Bush Seyferth, PLLC for Legal Services for Representation in Litigation Related to the June and July 2021 Rain Events, in the amount of \$500,000 for a term of two (2) years. This authorizes the Director to take such other action as may be necessary to accomplish the intent of this vote.

Indexes: Board of Water Commissioners, Finance Committee

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
9/15/2021	1	Board of Water Commissioners	approved	Pass
9/1/2021	1	Finance Committee	recommended for approval	Pass

The Board of Water Commissioners for the City of Detroit Water Sewerage Department **approves DWSD Contract No. 6003769 (LS-1906) with Bush Seyferth, PLLC for Legal Services for Representation in Litigation Related to the June and July 2021 Rain Events, in the amount of \$500,000 for a term of two (2) years.** This authorizes the Director to take such other action as may be necessary to accomplish the intent of this vote.

Agenda of September 1, 2021

Item No. 21-0604

Contract No: 6003769 (LS-1906)

Contractor: Bush Seyferth, PLLC

Address: 100 W Big Beaver Road, Suite 400, Troy, MI 48084

Contract Amount: \$500,000

Contract Term: 8/15/21 - 8/14/23 (2 years)

TO: The Honorable
Board of Water Commissioners
City of Detroit, Michigan

FROM: Gary Brown, Director
Water and Sewerage Department

RE: Legal Representation for Litigation Related to the June 25th & 26th and
July 2021 Rain Events
Bush Seyferth, PLLC

MOTION

Upon recommendation of General Counsel, Debra N. Pospiech, Esq. the Board of Water Commissioners for the City of Detroit Water and Sewerage Department **approves DWSD Contract No. 6003769 (LS-1906) with Bush Seyferth, PLLC for Legal Services for Representation in Litigation Related to the June and July 2021 Rain Events, in the amount of \$500,000 for a term of two (2) years.** This authorizes the Director to take such other action as may be necessary to accomplish the intent of this vote.

BACKGROUND / JUSTIFICATION

The historic rainfalls of June 25 and 26th 2021 contributed to a substantial amount of flooding and sewage backups in the City of Detroit and surrounding suburbs. On July 16th another rain event occurred that caused flooding and backups in a smaller section of the City. Under the Governmental Liability for Negligence Act (Act 170 of 1964), a governmental agency is immune from tort liability for the overflow or backup of a sewage disposal system unless:

1. The sewage disposal system had a defect.
2. The governmental agency knew, or in the exercise of reasonable diligence should have known, about the defect.
3. The governmental agency, having the legal authority to do so, failed to take reasonable steps in a reasonable amount of time to repair, correct, or remedy the defect.
4. The defect was a substantial proximate cause of the event and the property damage or physical injury (50% or more of the cause).

To date, your General Counsel is aware of six (6) class action lawsuits filed under numerous different counts in Wayne County Circuit Court stemming from the June 25th and 26th, 2021 rain event, as follows:

- | | |
|---|-----------------------|
| • Douglas Bulka v. Great Lakes Water Authority | Case No. 21-008745-CZ |
| • Shannon Adams v. City of Detroit | Case No. 21-008745-CZ |
| • Ray Lessl v. Great Lakes Water Authority | Case No. 21-008800-CZ |
| • Craig Walworth v. Great Lakes Water Authority | Case No. 21-008805-CZ |
| • Marlette Lanell v. City of Grosse Pointe Park | Case No. 21-009030-CZ |
| • Michelle Busuita v. DTE Energy | Case No. 21-009198-NZ |

The City of Detroit and/or Detroit Water and Sewerage Department (DWSD) have been named or will likely be named in each case. The City/DWSD requires the services of an outside law firm to handle the defense of these cases. The City's Corporation Counsel, Lawrence Garcia; Deputy Corporation Counsel, Charles Raimi, and DWSD's General Counsel interviewed several firms and have chosen Bush Seyferth, PLLC as the firm suitable to represent the City/DWSD in these matters.

PROCUREMENT METHOD

Competitive solicitation is not required per Item 6 under Judge Sean F. Cox's order dated October 5, 2012, in

Case No. 77-71100.

The DWSD General Counsel is requesting \$500,000 in initial funding for two years, on this contract for legal services given the number of cases and claims involved.

Clearances have been submitted by the contractor and are currently pending with the City of Detroit.

SUMMARY

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|--------------------------------|--|
| A. Contract No.: | 6003769 (LS-1906) |
| B. | Contractor: Bush Seyferth, PLLC |
| C. | Contract Term: 8/15/21 - 8/14/23 |
| D. Contract Amount: | \$500,000 |
| E. Fiscal Year (FY) Breakdown: | FY 21-22: \$250,000
FY 22-23: \$250,000 |
| F. Funding Source | O&M Funds |
| G. GL String: | 5820-20179-493101-613100-000225-15805-0000-000000 100% (Sewer) |

This contract was walked on to the BOWC Finance Committee agenda on September 1, 2021.
Per the DWSD procurement protocol, no additional approvals are required at this time.