

**DETERMINATION AND FINDINGS
FOR
SOLE SOURCE PROCUREMENT**

1. **Authorizationⁱ**

- D.C. Code § 34-801
- D.C. Code § 34-804
- 15 D.C.M.R. § 3700

2. **Minimum Need**

The Office of the People’s Counsel for the District of Columbia (“OPC” or “Office”) requests an extension of the continued services of McNees Wallace & Nurick, LLC for the purpose of providing expert legal assistance to consult OPC on general utility matters specific to water services.

3. **Estimated Fair and Reasonable Price**

The total contract (“not –to-exceed”) price is \$17,000.

4. **Facts That Justify a Sole Source Procurement**

- A. The Office of the People’s Counsel is an independent agency of the District of Columbia Government. By law, it is the advocate for consumers of natural gas, electric, water and landline telephone services in the District. District of Columbia law designates the Office as a party to all utility-related proceedings before the District of Columbia Public Service Commission (“PSC” or “DC PSC” or “Commission”). The Office also represents the interests of District ratepayers before federal regulatory agencies. The Office is authorized to investigate the operation and valuation of utility companies independently of any pending proceedings.
- B. The Office of the People’s Counsel already has an established executed contract in place with McNees Wallace & Nurick, LLC to retain their services in providing OPC with expert legal assistance and advice on a myriad number of water utility issues. At this time OPC needs to execute a contract amendment to further retain and renew the services of McNees Wallace & Nurick, LLC for the remainder of the fiscal year. Due to the complexity of these on-going issues and because McNees Wallace & Nurick, LLC is already apprised of the tasks at hand, OPC feels confident that sole source procurement is necessary to ensure adequate legal representation remains consistent in overseeing the interests of DC ratepayers at this time.
- C. McNees Wallace & Nurick, LLC has a longstanding working relationship with OPC throughout the last decade and has familiarized itself with the tasks at hand currently facing OPC since expanding its charter within the past year to incorporate District water consumers in its advocacy efforts. Their continued assistance is imperative to ensuring

favorable outcomes on behalf of all District utility ratepayers of water services in on-going issues regarding the bolstering of District regulation reform as well as assisting in a current rate case proceeding. In particular, McNees Wallace & Nurick, LLC's contract with OPC needs to be renewed so as to finalize and/or accomplish the following:

- Continued legal representation assisting the Office in its legislative efforts to strengthen DC regulations and enabling statutes;
- Assist the Office in the current 2020 DC Water Rate Case proceeding. Their efforts may include, but are not limited to drafting testimony, comments, as well as providing discovery as needed;
- Provide expert legal assistance to the Office in responding to inquiries from the Council of the District of Columbia, as needed; and
- Provide additional legal services to the Office relating to issues specific to DC Water services strictly on an as needed basis.

D. McNees Wallace & Nurick, LLC has extensive experience assisting OPC in offering legal services regarding public utility regulation. In addition, as the procedural schedule for the aforementioned issues are generally already fixed and as many issues are already in play, OPC cannot afford to retain and/or compete the services that McNees Wallace Nurick, LLC is currently already providing. Based on the nature and complexity of the issues at hand and based on the familiarity of the tasks to be performed within the timeframe required; OPC believes it is justified in awarding a sole source contract to McNees Wallace & Nurick, LLC.

E. It is for the reasons outlined herein that it is recommended that a sole source contract be awarded to McNees Wallace & Nurick, LLC.

5. **Certification by the Contracting Officer**

I hereby certify that the above facts are accurate and complete.

Christopher K. Sellers
Contracting Officer

Date

DETERMINATION

Based on the above findings and in accordance with the District of Columbia procurement regulations: *DC Law: 34-804; DC Law: 34-801; and 15 D.C.M.R. §3700*, I hereby determine that the award of a sole source contract for the services described herein is in the best interest of the Office of the People’s Counsel.

Eric B. Scott, Esq.
Chief Operating Officer

Date

ⁱ Procurement authority is vested in the Commission pursuant to § 13(c) (2) of the Residential Real Property Seller Disclosure, Funeral Services Date Charge, and Public service Commission Independent Procurement Authority Act of 1998 (D.C. Law 12-263). The Commission is statutorily exempt from the D.C. procurement rules as set forth in D.C. Official Code § 1-1181 et seq.

D.C. Code § 34-804, hereby established within the Public Service Commission of the District of Columbia, as established by D.C. Code § 34-801, as Office to be known as the “Office of the People’s Counsel.” The Office shall be a party, as of right, in any investigation, valuation, revaluation, or proceeding of any nature by the Public Service Commission of or concerning a public utility operating in the District of Columbia.

15 D.C.M.R. § 3700: Public Utilities and Cable Television – Public Service Commission Rules of Practice and Procedure.