



**MWD**

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

8-7

April 28, 1998

To: Board of Directors (Legal and Claims Committee--Action)  
(Engineering and Operations Committee--Action)

From: *ben* General Manager Edward J. Meenan

Submitted by: *JM* Chief Engineer Jay Hoyle

Subject: Authorize Payments of Insurance Premiums for the Eastside Reservoir Project and Amend Existing Owner Controlled Insurance Program (OCIP) Administrative Agreement No. 4571

### RECOMMENDATION(S)

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To complete the insurance premium deposits and administrative services for the Board approved Owner Controlled Insurance Program (OCIP) and services for the Eastside Reservoir Project (ESRP) for the remaining years, it is recommended that your Board authorize the General Manager to:

1. Expend \$16,743,615 of previously appropriated funds to pay the insurance premium deposits for the remaining years of the ESRP OCIP; and
2. Amend Administrative Agreement No. 4571 with Sedgwick/Dickerson (Sedgwick) adding \$1,751,000 from the existing appropriation to cover additional safety personnel and an additional shift of first aid services for a total OCIP administrative cost of \$4,511,000 for the project.

### EXECUTIVE SUMMARY

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The funds requested are included in the budget and are appropriated for the Eastside Reservoir Project. The Board approved a multi-year insurance agreement with the Hartford Insurance Company (Hartford) in October 1994, and authorized the payment of the first three years of insurance premium deposits. The program has achieved a \$22 million savings over a traditional contractors insurance program and has the prospect of achieving more savings from favorable claims experience.

The Board action allows the General Manager to fulfill the terms of the insuring agreement by paying the premiums during the remaining three years of the project and to amend OCIP Administrative Agreement No. 4571 in support of our commitments to the Project Labor Agreement and project safety program.

## JUSTIFICATION

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The Owner-Controlled Insurance Program for the ESRP is a multi-year agreement to provide a project based insurance program covering all contractors. It is designed to create a comprehensive safety program for all contractors, support a Project Labor Agreement with provisions for the use of a workers' compensation alternative dispute resolution (ADR) process under California Labor Code Section 3201.5, deliver higher liability insurance limits, and provide unified claims management for all contractors. The cumulative impact of the OCIP results in lowering the cost of insurance premiums, claims management and settlements. This program provides more safety and claims and insurance controls while returning the savings (based upon favorable claims experience) to Metropolitan versus the contractor.

Staff is requesting authority to expend the funds from the existing appropriation for the OCIP and administrative fees for the remainder of the construction project. Exhibit A outlines the OCIP premium deposits and administrative costs based upon the Project's first three years, requested expenditures in this Board report, and the total expected expenditures based upon the OCIP with Hartford.

## ALTERNATIVE TO PROPOSED ACTION

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### 1) Use Metropolitan Staff

Using Metropolitan staff for the remainder of the ESRP instead of adding funds to the OCIP Administrator's contract, could result in substantial costs to Metropolitan, including:

- Loss of the claims dividend benefits, projected to range from \$12-17 million if a 55% or 40% loss ratio, respectively, is achieved; and
- Additional staff costs to manage the insurance program.

Cancellation of this program would then create a disruption in services for the contractors, breach the Project Labor Agreement and alter existing Metropolitan construction specifications.

### 2) Reissue Request For Proposal

If the OCIP was to be renegotiated with another insurance company, Metropolitan would experience the following:

- Loss of claims dividend benefits,
- Initiation of a 180 day notice to Hartford for the cancellation of the existing policy, resulting in a "new" construction policy period of approximately 1-1/2 years,
- Alteration of the Project Labor Agreement which would require negotiation for changes,
- Closure of the existing program while incurring new costs to cover potential gaps in limits, terms and conditions; and disruption of services to the contractors at the site, and

- Additional claims and insurance policy administration costs for contractors and an increase in overall construction costs.

## **ACTIONS AND MILESTONES**

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- Achieved \$22.2 million premium savings by approving an Owner-Controller Insurance Program over a traditional contractors insurance program with the prospect of achieving more savings from favorable claims experience. As of end of the third year, the workers' compensation incurred-loss ratio to expected paid premiums is 29.8%.
- Additional premium savings (in excess of \$350,000) have been returned to Metropolitan as a result of favorable claims experience for the first two program years. Additional returns are expected as the claims mature.
- Annual premium payments for workers' compensation and general liability are now paid quarterly without penalties.
- The project safety rate for lost time injuries of 2.91 is below the national 3.90 average.
- A status report on workers' compensation claims experience and comparison with other OCIPs in California was presented to the Special Audit Committee in October 1997.
- The Internal Auditor completed an independent review of the OCIP administrative contract. The results of the review were presented at the Special Audit Committee in October 1997.
- The fourth Stewardship report is being provided to the Board in May 1998.

## **CEQA COMPLIANCE / ENVIRONMENTAL DOCUMENTATION**

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All California Environmental Quality Act (CEQA) requirements have been satisfied for the proposed action. In October 1991, your Board certified the Final Environmental Impact Report for the ESRP. This action satisfied the provisions of CEQA, and no further environmental documentation or reviews are necessary for your Board to take action on these recommendations.

## **CONTRACT SUMMARY**

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<b>Contract Status:</b>	<b>Amendment No. #3</b>	<b>Type of Selection:</b>	<b>Competitive Proposals, RFP. No. 102</b>
<b>Contract Form:</b>	<b>Professional Services</b>	<b>Contractors Requesting Plans:</b>	<b>10</b>
<b>Contract Type:</b>	<b>Time &amp; Materials</b>	<b>Proposals Submitted:</b>	<b>4</b>
<b>Evaluation Criteria:</b>	Evaluation based on qualifications, expertise, methodology, and cost effectiveness.		

## **MBE/WBE/OBE - CONSULTANT SERVICES**

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This contract was initiated before the Business Outreach Program was developed. The original RFP set 12% MBE and 4% WBE as the Anticipated Level of Participation (ALP). The vendor offered the following certified MBE contractors: Dickerson and McAllister joint venture partnership and Cordoba Corporation. The joint venture constituted a total of 24.8% participation and Cordoba constituted 6.7% participation for a total of 31.5% MBE participation.

	<b>MBE</b>	<b>WBE</b>
<b>ALP</b>	12%	4%
<b>Actuals</b>	31.5%	0

## **DETAILED REPORT**

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The OCIP for the ESRP provides a comprehensive insurance claims and safety program for the duration of the ESRP. This program is designed to maximize the limits of insurance coverage for the construction period, create a project safety program for all contractors, and reduce the cost of catastrophic insurance coverage, claims management and settlements.

The Board approved the existing program which was selected through a competitive process for both the insurance program and the OCIP Administrator. Sedgwick was selected as the most qualified candidate out of four respondents, and Hartford was selected as the most reasonably priced out of four insurance proposals. The Project Labor Agreement acknowledged the use of the OCIP.

In November 1993, the Board approved the creation of an Owner Controlled Insurance Program (OCIP) for Eastside Reservoir Project. After the selection of Sedgwick as OCIP Administrator, final insurance proposals were presented to the Board in August 1994. The Board approved the placement of the OCIP with Hartford and authorized revision No. 12 to Appropriation No. 15123, for \$19,600,000. This Board request to expend \$16,743,615, when added to the earlier authority of \$19,600,000, results in a total expected expenditure for insurance of \$36,343,615 as shown in Attachment A.

In February 1994, the Board authorized the General Manager to enter into a three-year contract with Sedgwick to provide broker/administrator services in support of the ESRP OCIP at a fee not to exceed \$1.38 million. Negotiations resulted in a contract for \$1.26 million, commencing February 10, 1994.

In February 1996, the Board authorized the General Manager to extend this contract through the year 2000 at an additional fee, not to exceed \$1.5 million, for a total fee of \$2.76 million for the project term.

Based upon Metropolitan's commitment to project safety, the following changes have been implemented: one safety program manager was added, construction surveys were conducted, and first aid clinic hours were extended to support the additional work-shift required by the project. These additions to the Sedgwick contract result in an increase of \$1,751,000 to the Board approved amount of \$2,760,000, for a total fee of \$4,511,000 for the project term. The service

additions allow Metropolitan to have two full-time construction safety personnel on site, maximize the use of the existing first aid clinic (to support drug testing and workers' compensation treatment), and to conduct special studies to improve safety programs for the duration of the project. These additions are deemed necessary to ensure the safety of the ESRP.

Staff is continuing to review the performance of Hartford and to evaluate both the exposures and the existing claims experience.

The Eastside Reservoir Project appropriation the Board approved in February remains unchanged at \$1,972,100,000.

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Attachment(s)

**OCIP Premium and OCIP Administrative Payment Schedule  
Based upon Hartford Insurance Program**

<b>Three Year OCIP Estimated Expenses 1993-97</b>		<b>Requested Expenditures</b>	<b>Included in Existing Appropriation</b>
<b>Categories of Coverage</b>	<b>First Three Year Deposits*</b>	<b>Remaining Year Deposits**</b>	<b>Total Expected Expenditures</b>
Workers' Compensation	\$11,600,000	\$15,648,591	\$27,248,591
General Liability	1,520,511	0	1,520,511
Fund Deductible	100,000	0	100,000
	375,000	0	375,000
Claims Security Deposit	750,000	250,000	1,000,000
Builder's Risk plus deductible	1,025,684	803,474	1,829,158
Excess Liability	4,228,805	41,550	4,270,355
<b>Total OCIP Insurance Deposits</b>	<b>\$19,600,000</b>	<b>\$16,743,615</b>	<b>\$36,343,615</b>
Administrative Fees (Sedgwick)**	2,760,000	1,751,000	\$4,511,000
<b>Total</b>	<b>\$22,360,000</b>	<b>\$18,494,615</b>	<b>\$40,854,615</b>

\* Earlier Board actions based upon core services

\*\* Addition of premium deposits and administrative fees for the remainder of the ESRP